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MONDAY, AUGUST 15, 1977

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Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
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DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
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	HEW/HSA			HEW/HSA
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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 program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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reminders

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

Rules Going Into Effect August 13, 1977

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Rules Going Into Effect August 14, 1977

CAB—Advanced booking charters; amendment to allow fee for substitution. 36815; 7–18–77

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FCC—FM broadcast station in Zanesville, Ohio; changes in table of assignment. 36259; 7–14–77

Table of assignments, Windsor, N.C., Macomb, Ill., Adel, Ga., and Wellington, Kans. (4 documents). 35651–2; 7–11–77

HEW/FDA—Chromium oxide greens and chromium hydroxide green for use in externally applied drugs and cosmetics, including drugs and cosmetics intended for use in the area of the eye. 36451; 7–15–77

NRC—Petitions for review of Director's denial of enforcement requests. 36239; 7–14–77

Specific licenses to individual physicians and institutions using radioactive material 36240; 7–14–77

SEC—Requirements for dissemination of proxy information to beneficial owners by issuers and intermediary broker-dealers 35953; 7–13–77

DOT/FAA—British Aircraft Corp. BAC 1–11 200 and 400 series airplanes; airworthiness directive. 36243; 7–14–77

Hawker Siddeley Aviation, Ltd. Model HS–748, series 2A airplanes. 36245; 7–14–77

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's LIST OF PUBLIC LAWS.

rules and regulations

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

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

Title 7—Agriculture

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

[Valencia Orange Reg. 567, Amdt. 1]

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

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period August 5–11, 1977. The amendment recognizes that demand for Valencia oranges that may be shipped to regulation was issued. This action will increase the supply of oranges available to consumers.

DATES: Weekly regulation period August 5–11, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–3545).

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of recommendations and information submitted by the Valencia Orange Administrative Committee, established under the marketing agreement, and order, and other available information, it is found that the limitation of handling of Valencia oranges as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the Valencia orange markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit orange handlers to ship a larger quantity of Valencia oranges to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped by 50,000 cartons, in the interest of producers and consumers.

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

(a) *Order as amended.* The provisions in paragraph (b)(1), (i) and (ii) of § 908.867 Valencia Orange Regulation 567 (42 FR 39359) are hereby amended to read as follows:

§ 908.867 Valencia Orange Regulation 567.

* * * * *

(a) * * *

(1) * * *

(i) District 1: 280,000 cartons;

(ii) District 2: 420,000 cartons.

* * * * *

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

Dated: August 10, 1977.

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

[FR Doc.77-23482 Filed 8-12-77;8:45 am]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

1977 Price and Allocation Interpretations

AGENCY: Federal Energy Administration.

ACTION: Notice of interpretations.

SUMMARY: Attached are the interpretations issued by the General Counsel of the Federal Energy Administration (FEA) during the period July 12 through August 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Kathleen Williams, Federal Building, 12th and Pennsylvania Avenue NW., Room 7132, Washington, D.C. 20461 (202–566–2454).

SUPPLEMENTARY INFORMATION: FEA interpretations issued pursuant to 10 CFR Part 205, Subpart F, are published in the FEDERAL REGISTER from time to time in accordance with the editorial and classification criteria set forth in 42 FR 7923, February 8, 1977.

FEA interpretations depend for their authority on the accuracy of the factual statement used as a basis for the interpretation (10 CFR 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom interpretations are addressed and other persons upon whom interpretations are served are entitled to rely on them (§ 205.85(c)). An interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). In addition, interpretations are subject to appeal. The interpretations appended hereto are published today only for general guidance in accordance with the reasons set forth in the FEA notice cited above.

Issued in Washington, D.C., August 10, 1977.

ERIC J. FYGI,
Acting General Counsel, Federal Energy Administration.

APPENDIX

No.	To	Date	Category
1977-22	Sea Horse Marine, Inc.	July 20	Allocation.
1977-23	Beacon Oil Co.	July 27	Price.
1977-24	do.	July 27	Do.
1977-25	Clark Oil & Refining Corp.	July 28	Do.
1977-26	Navajo Refining Co.	July 28	Do.
1977-27	J. M. Owsley	July 28	Allocation.

INTERPRETATION 1977-22

To: Sea Horse Marine, Inc.

Date: July 20, 1977.

Rules Interpreted: §§ 211.51, 211.62, 211.67.

Code: GCW—AI—Crude Oil, def.; Entitlements Program; Waste Crude Oil, Reclamation of.

This is in response to your letter dated August 6, 1976, as supplemented by your letters of November 18, 1976, and May 6, 1977, in which you requested a determination of whether certain material sold by Sea Horse Marine, Inc. ("Sea Horse"), to domestic refiners may be regarded as non-domestic crude oil for purposes of the domestic crude oil allocation program (the "entitlements program") set forth at 10 CFR 211.67.

FACTS

Sea Horse recovers from the tanks of ships which transport crude oil from foreign countries to the United States residual material which adheres to the inside of the tanks when the crude oil is removed from the ships. The tanks are cleaned with water and

some detergent, which is used to dislodge the petroleum, leaving a residue of the cleaning process called petroleum slops. In addition to crude oil, the slops contain water, detergent, and small quantities of other substances such as rust particles. Petroleum slops are classified as waste for purposes of the United States customs service regulations.

Petroleum slops acquired by Sea Horse were formerly sold directly to refiners, which then had to process the material before it could be used as a refinery feedstock. Sea Horse has recently established a facility for removing salt water and heavy non-soluble impurities from the petroleum slops.

After processing, the recovered material is sold to refiners and can then be used as a refinery input in the same manner as crude oil.

ISSUE

The issue presented for interpretation is whether the material recovered from petroleum slops by Sea Horse is properly treated as non-domestic crude oil for purposes of calculating the volume of refiners' crude oil runs to stills and crude oil receipts under 10 CFR 211.51, 211.62, and 211.67.

INTERPRETATION

It is our opinion that the material recovered from petroleum slops by Sea Horse constitutes crude oil for purposes of § 211.51 and is therefore properly included in the volume of a refiner's crude oil runs to stills under § 211.62 for purposes of § 211.67. Further, to the extent that this material is reclaimed from the tanks of ships which have transported crude oil to the United States from foreign sources, the material would not constitute domestic crude oil, and thus would not give rise to any entitlement obligation under § 211.67(b) by virtue of its inclusion in a refiner's crude oil receipts under § 211.62.

Crude oil is defined in § 211.51 as:

* * * a mixture of liquid hydrocarbons including lease condensate that exists in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities.

The petroleum slops, at the time of their acquisition by Sea Horse, have large quantities of water and other materials included therein, and are thus classified as waste pursuant to item 793.000 of the Tariff Schedules of the United States (19 U.S.C. Ch. 4, Subtitle 1). However, the presence of these additional quantities of water and other materials would not prevent the petroleum slops from being considered as crude oil under § 211.51, since in many instances crude oil produced at a lease also contains large quantities of these materials.

In your request, you indicated that Sea Horse has established a facility for removing salt water and heavy non-soluble impurities from the petroleum slops. This processing does not involve any operations similar to those performed by a refinery. By the time of delivery to a refinery, the petroleum slops are sufficiently free of water and other impurities that they can be used directly as feedstock in the same manner as other crude oil.

Because the petroleum slops are obtained from ships which transport foreign crude oil, we believe that the crude oil can properly be characterized as non-domestic crude oil. FEA has previously considered the status of crude oil recovered other than from customary production activities, e.g., separated from contaminated or waste crude oil mixtures, in reference to the FEA Mandatory Petroleum Price Regulations.[1] In the interpretations cited, the source of the waste or reclaimed crude oil was either clearly domestic or unascertainable.

It was concluded in these interpretations that firms which recover crude oil from contaminated waste crude oil mixtures are involved in activities analogous to the production of crude oil, even though the production results from reclamation processes. However, it is our opinion that regardless how the crude oil is actually recovered, it can be characterized according to its origin, as domestic or non-domestic, if the origin is clearly ascertainable.

INTERPRETATION 1977-23

To: Beacon Oil Co.

Date: July 27, 1977.

Rules Interpreted: § 212.83(c)(2).

Code: GCW—PI—Refiner Price Formula "H" Factor.

This is in response to your letter of November 5, 1975, on behalf of Beacon Oil Co. (Beacon) requesting an interpretation of 10 CFR 212.83 with respect to the reallocation of increased product costs among categories of covered products.

The issue raised by Beacon in its request for interpretation was previously considered by Federal Energy Administration (FEA) compliance personnel in FEA Region 9, during the course of an audit of Beacon. FEA regional personnel suggested that Beacon had incorrectly construed 10 CFR 212.83; for this reason Beacon seeks this interpretation. The interpretation sought by Beacon will therefore have an effect upon the conduct and outcome of FEA's audit.

FACTS

Beacon is a refiner subject to the refiner price rules, 10 CFR Part 212, Subpart E. In the period August 1973 to March 1975, Beacon recovered, in sales of No. 2 oils and general refinery products, more than its increased product costs attributable to those product categories. Beacon reallocated these overrecoveries of increased product costs from No. 2 oils and general refinery products to gasoline and maintains that this reallocation is proper under applicable FEA regulations. Beacon had recovered less than its increased product costs attributable to gasoline during this period. Reallocation was accomplished through the use of the "H" factor of the refiner formula. The "H" factor allows a refiner, in certain instances, to transfer available amounts of increased product costs from certain types of covered products to certain different types of covered products. Beacon "offset" and eliminated the overrecoveries in sales of No. 2 oils and general refinery products by attributing the excess recovery for No. 2 oils and general refinery products to its deficient recovery for gasoline. Beacon seeks a determination that its actions were in accordance with FEA price regulations.

ISSUE

May Beacon reallocate overrecoveries of increased product costs resulting from sales of No. 2 oils and general refinery products to underrecoveries of increased product costs resulting from sales of gasoline, through the use of the "H" factor in the refiner formula?

INTERPRETATION

The transfer of increased product costs among covered products is accomplished through the operation of the "H" factor in the refiner formula. During most of the time covered by FEA's audit of Beacon, FEA regulations and the prior Cost of Living Council (CLC) regulations defined the "H" factor as follows:

H^s—The sum of the dollar amounts available in the period "u" (the current month) for inclusion in price adjustments to specific [sic, special] products which pursuant to pargaraph (c)(1)(ii) of this section the refiner elects to include in calculating the base prices of covered products other than special products for the period "u" (the current month).

H_i^s=The portion of the total dollar amount available in the period "u" (the current month) for inclusion in price adjustments to special products of the type "i" which pursuant to paragraph (c)(1)(ii) of this section the refiner elects to include in prices of covered products other than special products for the period "u" (the current month). (10 CFR 212.83(c); 6 CFR 150.356 (c))

NOTE.—No. 2 oils (i=1) and gasoline (i=2) were treated as "special products" during this period.

In November 1974, the definitions of the "H" factors were amended and the following definitions prevailed until March 1975:

H_i^s=*Where* H_i^s is negative, the portion of the total dollar amount available in the period "u" (the current month) for inclusion in price adjustments to special products of the type "i" which pursuant to paragraph (c)(1)(ii) of this section the refiner elects to include in prices of covered products other than special products and crude petroleum (i=3) for the period "u" (the current month); or, where H_i^s is positive (for special products i=2), the portion of the total dollar amount available in the period "u" (the current month) for inclusion in price adjustments to covered products other than special products and crude petroleum (i=3) which pursuant to paragraph (c)(1)(iv) of this section, the refiner elects to include in prices of special product (i=2) for the period "u" (the current month).

H^s=Where H^s is positive, the sum of the dollar amounts available in the period "u" (the current month) for inclusion in price adjustments to special products which pursuant to paragraph (c)(1)(ii) of this section the refiner elects to include in calculating the base prices of covered products other than special products and crude petroleum for the period "u" (the current month); or, where H^s is negative, the portion of the dollar amounts available in the period "u" (the current month) for inclusion in price adjustments to covered products other than special products and crude petroleum (i=3) which pursuant to paragraph (c)(1)(iv) of this section the refiner elects to include in calculating the base prices of special products (i=2) for the period "u" (the current month). (10 CFR 212.83(c))

From the above definitions of the "H" factor, three details relevant to this discussion are evident: (1) the "H" factor only operates where there are 'dollar amounts available for inclusion' in any price adjustments, (2) no costs were permitted to be transferred to gasoline (i=2), by the use of the "H" factor, prior to November 1974; and (3) between November 1974 and March 1975, costs could not be directly transferred from No 2 heating oil and No. 2-D diesel fuel (i=1) to gasoline (i=2), by the use of the "H" factor.

The measurement of those costs that are "available" to a firm begins with that firm's "increased product costs." During the time period in question, August 1973 to March 1975, FEA and CLC regulations defined increased product costs as:

the sum of (1) the difference between the total cost of the crude petroleum during the month of measurement and the total cost of crude petroleum during the month of May, 1973 plus (2) the difference between the total cost of petroleum product during the month of measurement and the total

[1] Liquid Waste Disposal Co., Interpretation No. 74-11, July 17, 1974; Petro U.S., Inc., Interpretation No. 74-20, November 4, 1974.

cost of petroleum product during the month of May, 1973. (10 CFR 212.83; 6 CFR 150.356)

The sum of the two cost differentials identified in the quoted definition constitutes the "available" increased product costs referred to in the descriptions of the "H" factors. These two cost differentials are the "A" and "B" factors found in § 212.83, and, to the extent that these costs are not recovered in a month's sales, they may be carried forward for application in a subsequent month. When so carried forward, these costs are reflected in the "G" factor of § 212.83, but consist, nevertheless, of the two fundamental cost elements set forth in the definition. The "H" factor, by itself, has no value unless, and only to the extent that, the refiner "elects" to distribute these "available" increased product costs in accordance with the conditions applicable to the "H" factor.

Where the "H" factor allows the transference of "available" increased product costs, those costs are the increased cost of crude petroleum (the "A" factor in the refiner formulae), the increased cost of purchased petroleum products (the "B" factor) and such amounts of these two cost increases as were not previously recovered (the "G" factor).

Beacon's interpretation request reveals that Beacon did not experience unrecouped increased product costs to reflect in its "G" factor for No. 2 oils and general refinery products. Instead, Beacon experienced excessive recoveries for these products, which are involved in Beacon's purported use of the "H" factor to transfer a negative value from one product category to another. Beacon apparently perceived these overrecoveries as "available" for inclusion in price adjustments.

Between August 1973 and March 1975, CLC and FEA regulations generally provided that

* * * [I]f in any month beginning with October 1973, a firm charges prices for a [covered product] which result in the recoupment of more total revenues than the entire month of increased product costs calculated for that product pursuant to the general formula and allowable under paragraph (c)(1)(i) of this section, the amount of excess product costs recouped must be subtracted from the May 15, 1973 selling prices to compute the base price for that [covered product] for the subsequent month. (10 CFR 212.83(d)(1))

According to this provision, the overrecoveries of increased product costs (reflected in the "G" factor), resulting from Beacon's sales of No. 2 oils or general refinery products must be eliminated from the succeeding month's cost computations for that particular respective product type and are not, therefore, "available" for inclusion in price adjustments. This required disposition of the overrecoveries which appear in the "G" factor precludes the reallocation of those overrecoveries under the "H" factor because it removes these amounts from the formulae and because it must be made exclusively for the particular covered product type in which the overrecoveries occurred.

The terms and functions of the "H" factor are simple and direct. They do not allow a refiner to reallocate overrecoveries in sales of a certain type of covered product to underrecoveries in sales of a different type of covered product.

Two additional details pertinent to the proper use of the "H" factor were noted earlier. These pertain to the direction and timing of reallocation of "available" costs. We must note in this regard that, under the description of the "H" factor, even if Beacon had available increased product costs in No. 2 oils and in general refinery products, those costs could not be transferred to gasoline prior to November 1974. After November 1974, increased product costs available in No. 2 oils could have been transferred to gasoline only in months subsequent to the month in which those costs were transferred to general refinery products.

In its Request for Interpretation, Beacon presents an argument that overrecoveries are actually negative increased product costs. Beacon asserts that the transference of increased product costs is not restricted solely to positive amounts and that therefore the transference of negative amounts is permitted. This argument is based upon an incorrect view of FEA regulations. Those regulations give precise instructions on the disposition of overrecoveries, viz., that overrecoveries are to be subtracted from the May 15, 1973 selling prices of the covered product involved to compute base prices for that same covered product for the subsequent month (10 CFR 212.83(d), supra). "Negative" increased product costs are a theoretical construct advanced here by Beacon in a manner that conflicts with the requirements of FEA regulations. To do so would frustrate the purpose of the prohibition against the transfer of increased costs to, for example, No. 2 oils. This is because the transfer of a negative value from No. 2 oils to gasoline obviously would have the same impact as the transfer of a positive value from gasoline to No. 2 oils.

It is our interpretation that the "H" factor of the formulae set forth in § 212.83 does not authorize the reallocation undertaken by Beacon as described herein.

INTERPRETATION 1977-24

To: Beacon Oil Co.

Date: July 27, 1977.

Rules Interpreted: §§ 210.91, 212.91

Code: GCW-PI—Five Percent Rule; Reporting Requirements, Refiner

This is in response to your letter of November 17, 1975 on behalf of Beacon Oil Company (Beacon) requesting an interpretation of 10 CFR 212.91 with respect to those entities of a refiner which may be treated as resellers under the Federal Energy Administration (FEA) Mandatory Petroleum Price Regulations.

The issue raised by Beacon in its request for interpretation was previously considered by FEA compliance personnel in FEA Region 9, during the course of an audit of Beacon. FEA regional personnel suggested that Beacon had incorrectly construed § 212.91; for this reason Beacon seeks this interpretation. The interpretation sought by Beacon will therefore have an effect upon the conduct and outcome of FEA's audit.

FACTS

Beacon is a refiner subject to the refiner price rules, 10 CFR Part 212, Subpart E. In addition to its refining operations, Beacon engages in the purchase and resale of covered products at various terminal facilities owned by it.

Beacon maintains its refinery in Hanford, California from which it sells the covered products that it refines. In addition to the refinery, Beacon owns and operates six separate terminals, at locations other than Hanford, from which it resells covered products that it has purchased from other refiners located outside of Hanford. Beacon states, in its request, that these terminals serve different customers than those served at Hanford and that the terminals have historically maintained different prices from those in effect at Hanford. In addition, Beacon asserts that none of the products sold at the terminals is purchased from the Hanford refinery.

Since August 1973 when petroleum price controls were imposed by the Cost of Living Council, Beacon has treated these six terminals as a separate operation from its refining operation, and has established prices for terminal sales as if those sales were subject to Subpart F of Part 212, Title 10 CFR, the reseller price rules, and not Subpart E, the refiner price rules.

ISSUE

May Beacon treat all of its terminal facility operations together as a single reseller "entity" under 10 CFR Part 212, Subpart F, instead of as part of the Beacon refiner "firm," subject to Subpart E? If it may treat the terminals as a reseller entity, may Beacon nevertheless include the cost of products purchased by its reseller entity as part of the total cost of products purchased by the Beacon refiner "firm" for purposes of Part 212 and in its refiner cost allocation reports (Form FEO-96 and Form-FEA-P110-M-1)?

INTERPRETATION

Beacon, as a refiner, is subject to the refiner price regulations of 10 CFR Part 212, Subpart E. 10 CFR 212.81 provides that Subpart E applies to each sale of a covered product which is purchased or refined by a refiner except as provided in Subparts F and K. Subpart F, FEA Reseller and Retailer regulations, applies:

to each sale of a covered product (other than the first sale of crude oil) by resellers, reseller-retailers, and retailers, and to each sale of crude oil (other than the first sale) by a refiner. For purposes of this subpart, "reseller" includes any entity of a refiner (other than an entity that operates in Puerto Rico) that is engaged in the business of purchasing and reselling covered products, provided that the entity does not purchase more than 5 percent of such covered products from the refiner including any entities that it directly or indirectly controls and provided further that the entity has consistently and historically exercised the exclusive price authority with respect to sales by the entity. (10 CFR 212.91)

Beacon maintains that its six terminal operations qualify for treatment as a reseller "entity" of Beacon, in accordance with the language quoted from § 212.91, because the terminals are properly considered as an "entity of a refiner [Beacon * * *" that does not purchase from that refiner [Beacon] more than 5 percent of the covered products that it resells, and because the terminal facilities have consistently and historically exercised exclusive price authority with respect to their sales. If, as Beacon maintains, the terminals are a separate "entity," cognizable under the quoted language of § 212.91, then Beacon may treat its terminals as a reseller subject to Subpart F, provided that the specific requirements of § 212.91 are met. If the terminals are not an "entity" as so described, then the terminal operations are subject to Subpart E. Thus, the threshold question is whether the six separate terminal facilities can be recognized as an "entity of a refiner" under § 212.91.

Before an "entity of a refiner" can be identified, the "refiner" must be described. FEA regulations define the term "refiner," in part, as follows:

"Refiner" means a firm * * * which refines covered products * * * and sells those products to resellers, retailers, reseller-retailers or ultimate consumers * * *. (10 CFR 212.31)

In determining what the "firm" is, the FEA may:

Treat as a firm: (1) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls, * * * (10 CFR 212.31, definition of "Firm")

FEA has chosen to treat as a refiner "firm" for purposes of Subpart E, the "parent and

the consolidated and unconsolidated entities (if any) which it directly or indirectly controls." (10 CFR 212.82).

Having established the refiner "firm" in Subpart E, FEA regulations provide that an entity of a "refiner" (as so defined in Subpart E) may nevertheless be a "reseller" under Subpart F, § 212.91.

The term "entity" is not separately defined in FEA regulations. That term, however, is used in two contexts relevant to this interpretation. First, it appears in the definition of the "firm," which is described in part, as:

Any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity however organized * * * (10 CFR 212.31)

The definition treats corporations, partnerships, sole proprietorships and other business forms as "entities." It also, however, recognizes the existence of separate, unspecified "entities" that may exist irrespective of the manner of organization ("however organized"). Thus a particular type of organization or structure does not per se preclude "entity" status.

In its broad context, therefore, an "entity" can be a business organization structured in a manner different from those business organizations specified in § 212.31. Although the context noted is broad, it is not without limitation. To qualify as an entity, the organization must have the characteristics of being an "entity," i.e., independent of and distinguishable from other operations of the firm. See, e.g., FEA Interpretation 1976-4 (42 FR 7923, February 8, 1977).

To identify necessary characteristics of the entity cognizable under § 212.91, we turn to the second relevant context in which the term "entity" appears: the language of that section. For the purposes of the reseller rule, FEA has determined that an "entity of a refiner" has the requisite characteristics of a reseller where: (1) the entity is engaged in the business of purchase and resale of covered products; (2) it does not purchase more than 5 percent of such covered products from the refiner; and (3) it has consistently and historically exercised exclusive price authority in its sales. If the entity does not meet all of these criteria, its operation cannot be independently recognized under Subpart F. Beacon asserts in its submission that:

The resale operations of Beacon Oil Company are subject to Subpart F since they are entities of a refiner engaged in the business of purchasing and reselling covered products who have consistently and historically exercised the exclusive price authority with respect to their sales, but who do not purchase more than 5 percent of their covered products from the Beacon refinery.

Assuming that Beacon's assertions that its terminal facility operations meet the standards of 10 CFR 212.91 are correct, those operations appear to be an "entity of a refiner" and qualify as a reseller. The burden of proving that reseller status, however, rests with Beacon and this interpretation does not constitute a finding that those operations either meet or fail to meet those standards. Our interpretation states only that if Beacon's terminal operations, taken together, exhibit the necessary characteristics specified in § 212.91, then those operations may be considered a reseller entity of Beacon, subject to Subpart F.

Since Beacon's terminals may, upon a proper showing, be recognized as a "reseller," it is appropriate to consider the second part of Beacon's November 17 request. That request seeks the concurrence of FEA regarding the manner in which Beacon, "[resolved] the apparent conflicts between § 212.93 and (1) the reporting requirements specified in § 212.91 [sic, should be § 210.91] as exercised by FEA in FEO/FEA-96 Forms, and (2) the class of purchaser concept as specified in Rulings 1975-2 and 1974-17."

There are no facts in Beacon's submission which delineates the apparent conflicts that Beacon contends exist in the regulations and rulings it cites. With respect to the "reporting requirements," however, Beacon states that it,

Has reported all sales of covered products on the Form 96, and due to the calculations therein, has applied cost increases equally between the refiner sales and the reseller sales. . . . In performing the calculations pursuant to the instructions [to Form FEO-96], increased costs are rolled-in for both entities.

Beacon claims that this was done pursuant to the instructions to Form FEO-96, which require such data from the parent and all consolidated entities of the refiner be "taken together." Thus, it would appear that although Beacon seeks separate recognition of its terminals under Subpart F, it has, for certain calculations and reports, treated those terminals as an undifferentiated part of the "refiner," subject to Subpart E. This is, indeed, an "apparent inconsistency" between rules and reports, and is addressed in this portion of the interpretation. No other aspect of Beacon's November 17 request is addressed herein, because Beacon's request fails to provide sufficient information upon which any interpretation could be rendered.

The procedure followed by Beacon in preparing "FEO/FEA-96 Forms" is incorrect under FEA regulations, assuming that the terminals are a reseller as discussed above. FEA provides different regulatory structures for refiners and for resellers. The allocation and recovery of increased product costs and increased non-product costs and the determination of other price and cost data are computed differently for refiners than for resellers. It is, therefore, inconsistent to treat an entity as a reseller for some purposes and as a refiner for others. Both Forms FEO-96 and FEA-P110-M-1, its current replacement, are monthly cost allocation reports for "refiners" together with the consolidated and unconsolidated entities of the refiner "firm." Only those consolidated and unconsolidated entities which are part of the refiner "firm" and which are appropriate for inclusion when determining the refiner's product costs and recovery may be used in the refiner's calculations and reported upon those forms. If any entity has been excluded from the refiner "firm" for purposes of FEA regulations, it has been excluded for purposes of reports filed under those regulations. It would be inappropriate to include a reseller in those computations since a reseller is subject to Subpart F for all its calculations and by definition is not a refiner.

Thus, if the terminals are a reseller, its operations are not properly included on Beacon's Forms FEO-96. We, therefore, cannot concur in Beacon's inclusion of any data regarding the resale business of the terminals on its Forms FEO-96.

INTERPRETATION 1977-25

To: Clark Oil & Refining Corp.

Date: July 28, 1977

Rules Interpreted: § 212.85 (c)

Code: GCW-PI—Transportation Costs, Refiner

This is in response to your letter of March 3, 1977, as supplemented by further explanatory data submitted March 10, 1977, requesting on behalf of Clark Oil & Refining Corporation (Clark) an interpretation of the application of 10 CFR 212.85(c)(1) [1] with respect to four factual situations. Upon consideration of all of the information contained in the request, as supplemented, and upon consideration of all the relevant authorities, the Federal Energy Administration ("FEA") has determined that the appropriate interpretation is as follows. The items listed in Question 4 of the March 3, 1977 letter are, in accordance with discussions of March 10, 1977, deemed to be superseded by the items listed in the further supplementary data submitted by Clark on that date.

FACTS

1. Clark Martime Corp. (CMC) is a wholly-owned subsidiary of Clark, whose marine transportation of crude oil to the United States through CMC is, in accordance with §212.85(a),[2] subject to the accounting procedures specified in § 212.85.

2. Clark has historically accounted for crude oil transportation costs predominantly on the basis of actual costs incurred, and therefore is required by § 212.85(b)(1) [3] to

[1] 10 CFR 212.85(c)(1) provides: "A firm using the Net-Cost Method for determination of its transportation costs shall establish its net transportation cost by (i) determining its allowed transportation costs, as specified in subparagraph (2), and (ii) subtracting therefrom, the sum of: (A) Any income received by the firm from unaffiliated entities for the use of vessels (other than 'equity' status vessels where transportation costs are calculated in accordance with paragraph (c)(2)(ii)(A)) whose costs are included in the total allowed transportation costs, plus (B) the product of that firm's cost per ton mile for the fiscal year, determined according to subparagraph (3) of this paragraph, times the total ton-miles of shipping during the fiscal year which does not produce income from unaffiliated companies, does not involve crude oil imported into the United States, and uses vessels (other than 'equity' status vessels where transportation costs are calculated in accordance with paragraph (c)(2)(ii)(A)) whose costs are included in its allowed transportation costs. Transportation costs not otherwise allocated to particular shipments shall be allocated according to subparagraph (3) of this paragraph. The cost of general overhead may not be included, except that a firm may include the salaries of land-based personnel directly and solely engaged in marine transportation of crude oil from foreign ports to the United States."

[2] 10 CFR 212.85(a) provides, in pertinent part: "This section prescribes the standards which refiners shall use to establish the cost of transportation by sea to the United States of imported crude oil, for the purpose of determining the landed cost of that crude oil. For purposes of this section 'firm' means a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls. * * *"

[3] 10 CFR 212.85(b)(1) provides, in pertinent part: "For the purpose of this section, a firm shall utilize either the Net-Cost Method specified in paragraph (c) of this section, or the AFRA Method specified in paragraph (d) of this section, depending on that firm's historical accounting procedures, for the determination of its crude-oil transportation costs. A firm shall utilize the net-cost method if those procedures, have been based predominantly on actual costs; it shall utilize the AFRA method if they have been based predominantly on a nominal-cost approach such as AFRA-Worldscale."

utilize the net cost method specified in § 212.85(c) for determination of its crude oil transportation costs.

3. CMC has term charter agreements for the use of two Very Large Crude Carriers (VLCCs), which were chartered for the primary purpose of transporting purchased foreign crude oil for processing in Clark's domestic refineries. In applying the net cost method, Clark is therefore required to calculate allowed transportation costs in accordance with § 212.85(c)(2)(iii)[4] applicable to charter status vessels.

4. At certain times Clark ships only a small quantity of its own crude oil on the chartered VLCCs, and subcharters some or all of the remaining capacity to other shippers.

5. Clark utilizes transshipment facilities in the Caribbean to offload the VLCCs onto smaller vessels capable of entering U.S. coastal ports, and owns the oil shipped to its own refineries throughout both legs of the trip.

ISSUES

1. Will shipment of a minimum quantity of crude oil owned by Clark for processing in its domestic refinery qualify the costs of a VLCC chartered by Clark for inclusion in "allowed transportation costs" as defined in § 212.85(c)(2)(iii)(A)?

2. Assuming that a chartered VLCC is used primarily in subcharter service to other shippers, would the shipment of a single barrel of crude oil for Clark's own account qualify the costs of the VLCC for inclusion in "allowed transportation costs"?

3. Does the shipment of crude oil by VLCC from a port in the Persian Gulf to a Caribbean port for offloading and transshipment to the United States constitute use of the VLCC in part for shipment of crude oil to the United States?

4. Do the following transshipment expenses qualify as allowed transportation costs under § 212.85(c)(2)(iii)(A): (a) *VLCC leg*—½ percent fee paid in-kind for use of terminal; rental of tanks at terminal; bunkers; cargo, liability, and war risk insurance; port costs, and inspection fees paid on unloading to local authorities; (b) *Transshipment leg*—vessel hire; cargo and liability insurance; inspection fees paid to United States authorities?

INTERPRETATION

1. *Shipment of minimal quantity.* Section 212.85 applies to transportation to the United States of "imported crude oil" (§ 212.85(a)), without any limitation as to threshold quantity. Accordingly, shipments of any amount require that subject firms, historically using accounting methods based predominantly on actual costs, shall calculate allowed transportation costs as provided in § 212.85(c).

2. *Use of Vessel for Subcharter.* In general terms, § 212.85(c)(1) allows the cost of subchartering a vessel to be reflected in the firm's total cost of marine transportation if the subcharter is connected with the use of that vessel for transporting the firm's own crude oil to the United States. It should, however, be noted that shipments of relatively small quantities will be carefully audited by FEA to determine whether such shipments are for the purpose of bona fide crude oil transportation to which subchartering is only incidental, or whether the shipments are designed to facilitate the passthrough of costs (through an increase in costs per ton mile) under § 212.85(c)(1) for shipping not incidental to the importation of a firm's own crude, by nominally incurring "allowed transportation costs" under § 212.85(c)(2). By the latter course, the firm will not be considered to have incurred allowable costs under § 212.85(c)(2), and may possibly raise compliance issues under 10 CFR 210.62(c), which provides that "any practice which constitutes a means to obtain a price higher than is permitted by the regulations in this chapter * * * is a violation of these regulations." In general, FEA will impose certain conditions of reasonableness on subchartering, to avoid abuse through the passthrough of costs not strictly incidental to bona fide crude oil transportation.

Where income is received by Clark from an unaffiliated subcharterer, it must be subtracted from allowed transportation costs, since § 212.85(c)(1) provides that a firm's "net transportation costs" shall be established by subtracting from its allowed costs "any income received by the firm from unaffiliated entities for the use of vessels * * * whose costs are included in the total allowed costs." The expense of the vessel becomes part of the overall pool of net costs for purposes of § 212.85(c)(3),[5] and results in an increase in costs per ton mile distributable as the cost of marine transportation of the crude oil imported by Clark.

For single voyage charters, § 212.85(c)(3) provides that voyage costs incurred under § 212.85(c)(2)(iii)(A), i.e., "payments made by the firm to unaffiliated entities incurred in connection with the use and operation of the vessel plus the cost of any bunker fuel * * *," are not to be allocated on a cost per ton mile basis. Rather, the actual costs are to be reported to FEA in the firm's monthly submission. However, income received from subchartering a portion of the capacity of a single voyage charter is to be treated as "income received by the firm from unaffiliated entities for the use of [the vessel]" under § 212.85(c)(1). The income received will thus serve to decrease the firm's total cost of importing its crude oil.

3. *Shipment in part by VLCC.* Pursuant to § 212.85(c)(2)(i), the calculation of allowed transportation costs applies with regard to "all vessels used in whole or in part by the firm for shipment of its crude oil to the United States." Accordingly, § 212.85 contemplates that vessel costs associated with a particular leg of a trip, which is ultimately completed by other vessels, can be included in allowed transportation costs. Since Clark owns the oil throughout the entire trip, and not merely on the VLCC leg, Clark satisfies the provision in § 212.85(c)(2)(i) that costs (on any leg) will be allowed where a firm ships "its" crude oil to the United States.

4. *Transshipment Costs.*—(a) *VLCC leg.* (i) Under § 212.85(c)(2)(iii)(A), fees paid for use of the terminal and rental of tanks are "payments made by the firm to unaffiliated entities incurred in connection with the use and operation of the vessel," and are therefore allowable costs, since use of the terminal facilities the VLCC leg of the trip. Moreover, such fees are allowable costs under the AFRA method (§ 212.85 (d)(1)(iv)), and in the interests of symmetry will be deemed to be payments to unaffiliated entities for the purposes of § 212.85(c)(2)(iii)(A). Fees paid in-kind are allowable based on the f.o.b. purchase price.

(ii) Section 212.85(c)(2)(iii)(A) states specifically that allowed transportation costs include "bunker fuel which is supplied by the firm to the vessel for the purpose of transporting crude oil to the United States, priced at the current market price at the location where supplied." The cost of bunker fuel supplied by Clark to its chartered vessels will be allowed on this basis.

(iii) Cargo, liability, and war risk insurance, vessel hire, port costs, and inspection fees are all considered to be costs "incurred in connection with the use and operation of the vessel," and are therefore allowable under § 212.85(c)(2)(iii)(A).

(b) *Transshipment leg.* Vessel hire, cargo and liability insurance, and inspection fees are allowable on the same basis applicable to the VLCC leg.

INTERPRETATION 1977–26

To: Navajo Refining Co.

Date: July 28, 1977.

Rules Interpreted: § 210.62, 212.31, Ruling 1977–1.

Code: GCW–PI—Posted Price, def., Normal Business Practices.

This is in response to your November 8, 1976 request for interpretation on behalf of Navajo Refining Company ("Navajo") and Holly Corporation seeking an Interpretation of 10 CFR 212.31 (Definition of "Posted Price"). On May 17, 1977, the Regional Administrator of Federal Energy Administration ("FEA") Region VI issued a Notice of Probable Violation ("NOPV") to Navajo based upon prices paid by Navajo in first sales of domestic crude oil. On April 28, 1977, Navajo supplemented its original request for interpretation with additional documents to be used in conjunction with the information previously submitted in order to provide a more complete basis on which FEA could base its response. On May 27, 1977, Navajo submitted its written response to the NOPV, a copy of which was submitted by Navajo in conjunction with the present request for interpretation.

The Interpretation that follows is based upon all the information available to this office at this time and is intended to address only the issue set forth herein. To the extent that other issues may have arisen, or may arise, in the context of the pending compli-

[4] 10 CFR 212.85(c)(2)(iii)(A) provides: "Allowed transportation costs for a charter-status vessel shall be the sum of all payments made by the firm to unaffiliated entities incurred in connection with the use and operation of the vessel, plus the cost of any bunker fuel which is supplied by the firm to the vessel for the purpose of transporting crude oil to the United States, priced at the current market price at the location where supplied."

[5] 10 CFR 212.85(c)(3) provides: "Nonmonthly charges shall be adjusted to a monthly basis. Except for single voyage charters, or when costs for equity status vessels are calculated as provided in 2(ii)(A), allocation of transportation costs to a shipment of crude oil shall be determined as the product of the number of cargo ton-miles of crude oil transported in that shipment times that firm's 'cost per ton mile' (CTM) estimate for that month. The CTM estimate of a firm for a given month shall be the ratio of:

(i) The firm's best estimate of its net transportation cost for the fiscal year, minus the transportation costs the firm has allocated to shipping for all previous months of the fiscal year to:

(ii) The firm's best estimate of its total shipping quantity in ton-miles for the fiscal year using vessels whose costs are included in that firm's gross transportation costs, minus the number of ton-miles of such shipping for which the firm has allocated costs in all previous months of the fiscal year. Upon determination of its actual net transportation cost for a fiscal year, but not later than 60 days beyond the end of that fiscal year, each firm shall report as an adjustment to its cost the difference between the actual value of its net transportation cost for that fiscal year and the total transportation costs allocated by the firm for the fiscal year. The ratio of the firm's net transportation costs for a fiscal year to the total amount of that firm's shipping in ton-miles for that fiscal year, is that firm's CTM for that fiscal year."

ance action, the resolution of such issues is not governed by this Interpretation.

FACTS

As we understand the facts, Navajo is a small refiner which acquires crude oil primarily in the West Texas/New Mexico field. Beginning on February 1, 1973 and continuing to the present time, Navajo has maintained a "flat" price system whereby crude oil purchased by it is paid for at a single price with no adjustments for differences in gravity. (Prior to February 1 Navajo had used a system of gravity differential adjustments whereby the first sale price was adjusted downward to reflect a penalty for crude oil gravities below 40°.) To illustrate, under a pricing system based upon adjustments for gravity differentials, a specified price (e.g., $12.60 per barrel) is set for crude oil of a specified gravity (often 40° API), and the specified price is adjusted downward by a specified increment (often 2 cents per API degree). Under this example, 40° crude oil would be priced at $12.60 per barrel and 36° crude oil would be priced at $12.52 per barrel (i.e., $12.60 − (4)(.02) = $12.52). Under a "flat" price system, however, all crude oil regardless of gravity is subject to the same price.

Although your request might be construed to urge that FEA make the determination that Navajo's use of run tickets and solicitation letters constituted a "posted price" on September 30, 1975, that construction is unnecessary in light of (and would be inconsistent with) Navajo's admission that the Permian Corporation posting of $12.60 per barrel for upper tier sour grade crude oil constituted the highest posted price for that grade crude oil on September 30, 1975. Accordingly, and inasmuch as determinations such as what constituted the highest posted price on September 30, 1975 are more appropriately reached in the first instance in the context of the pending compliance action, we assume for purposes of this request that the Permian Corporation posting of $12.60 per barrel for upper tier sour grade crude oil constituted the "highest posted price" for that grade crude oil on September 30, 1975.

Navajo states that although the Permian Corporation posting of $12.60 per barrel is one which requires adjustments for crude oil gravities below 40° API, Navajo has determined ceiling prices in first sales of upper tier domestic crude oil on the basis of its historic "flat" pricing system with no adjustments for gravity differentials. The result, as we understand the facts, is that in determining ceiling prices for upper tier crude oil, Navajo has used the Permian Corporation price of $12.60 per barrel for 40° crude oil, which it has then applied to all crude oil purchases with no adjustment for gravity.

ISSUE

The issue addressed by this Interpretation is whether § 212.74 requires upper tier ceiling price determinations to be made with regard to gravity price differential adjustments, where the reference highest posted price on September 30, 1975 utilized such gravity price differential adjustments, but where a particular purchaser in the field has traditionally utilized a system of flat prices, without regard to gravity price differential adjustments.

INTERPRETATION

Assuming for purposes of this Interpretation that the Permian Corporation posting of $12.60 per barrel, which required gravity price differential adjustments, was the highest posted price in the field on September 30, 1975, upper tier ceiling prices based upon that posting are required also to reflect those gravity price differential adjustments.

Section 212.74 provides: (b) Upper tier ceiling price determination. The upper tier ceiling price for a particular grade of domestic crude oil in a particular field is (1) the highest posted price on September 30, 1975, for transactions in that grade of crude oil in that field in September 1975, or if there was no posted price in that field for that grade of domestic crude oil, the related price for that grade of crude oil which is most similar in kind and quality in the nearest field for which prices were posted; less (2) $1.32 per barrel.

"Posted Price" is defined at § 212.31 as: A written statement of crude oil prices circulated publicly among sellers and buyers of crude oil in a particular field in accordance with historic practices, and generally known by sellers and buyers within the field.

As FEA stated in Ruling 1977–1 (42 FR 3628, January 19, 1977), The posted price concept was selected [by the Cost of Living Council] because the ready availability of price bulletins (which were understood to be in normal circulation in May 1973) provided a mechanism whereby producers and purchasers alike could be able to determine the ceiling price for any grade crude oil in any particular field. Moreover, the use of price bulletins avoided the enormous administrative complexity of having to establish ceiling prices that would maintain traditional gravity and quality price differentials.

In adopting the two tier price system on February 1, 1976, applicable to all first sales of domestic crude oil, FEA made it clear that with respect to the lower tier ceiling prices, the CLC rule was being continued:

So as to avoid the many complications that might be involved were the FEA to prescribe a ceiling price without regard to historical prices, including the necessity of having to prescribe adjustments to reflect price differentials for location and quality. *Existing price differentials for old crude oil will, therefore be maintained as of May 15, 1973.* (Emphasis added, 41 FR 4931 at 4935, February 3, 1976.)

For the same reason, FEA adopted an upper tier ceiling price rule that is also based upon posted prices (which were understood to be prevalent in September 1975). The reference in Ruling 1977–1 to "having to establish ceiling prices that would maintain traditional gravity and quality price differentials" does not mean, as you suggest, that the purpose of selecting the posted price mechanism was to eliminate traditional gravity price differentials. Rather, the purpose was to maintain them without administratively having to establish a complex system of ceiling prices which incorporated those differentials where necessary.

Accordingly, when CLC adopted the two tier pricing system in August 1973, it established the ceiling price rule based on the posted price concept. This concept was chosen because posted price bulletins were easily available, were in normal circulation in May 1973, and provided the means for producers and purchasers to determine the ceiling price for any grade of crude oil in any field, without disturbing the price differentials that had been previously determined. Postings in effect on September 30, 1975 were selected as references for upper tier ceiling prices for the same reasons.

FEA recognizes that the use of posted prices as references may result in ceiling prices in particular fields which are based upon gravity differentials, or which are based upon a flat price or which are based upon both. For example, where (on September 30, 1975) two purchasers posted prices for the same field, one a flat price of $12.40, and one a price of $12.40 with price adjustments of 2 cents per degree for each gravity below 40° API, the highest posted price for all crude oil in the field, regardless of gravity, would be $12.40. This is because for any gravity crude oil produced and sold from that field, a posted price of $12.40 was applicable on September 30, 1975. However, where (on September 30, 1975) one purchaser posted a flat price of $12.30, and a different purchaser posted a price of $12.40 with price adjustments of 2 cents per degree for each gravity below 40° API, the $12.40 posting (adjusted downward) would govern for crude oil with a gravity of 35° and above; the flat price of $12.30 would govern for crude oil with a gravity below 35° API. The result is more clearly shown in the following chart:

Posting "A"	°API	Posting "B"
$12.40	40	$12.30
12.38	39	12.30
12.36	38	12.30
12.34	37	12.30
12.32	36	12.30
12.30	35	12.30
12.28	34	12.30
12.26	33	12.30

Contrary to Navajo's interpretation, 10 CFR 210.62 does not require a different result. That section, which deals with "normal business practices" requires suppliers to deal with purchasers of an allocated product according to normal business practices. References in the definition of "posted price" to written statements of crude oil prices circulated publicly among sellers and buyers of crude oil in a particular field in accordance with historic practices, refer to the requirement that for a document to qualify as a posted price, it must have been circulated in accordance with historic practices. Section 210.62, on the other hand, cannot be interpreted to suggest that ceiling prices are to be determined in accordance with historic practices, where such practices would result in prices in excess of those determined under §§ 212.73 and 212.74. This view was considered and specifically rejected by FEA in the first stage rulemaking to implement the Energy Policy and Conservation Act. (See 41 FR 4931 at 4935–36, February 3, 1976.)

INTERPRETATION 1977–27

To: J. M. Owsley.

Date: July 28, 1977.

Rules Interpreted: § 211.51, Ruling 1975–8.

Code: GCW—AI—Wholesale Purchaser-Reseller, def.; Commission Agents or Consignees.

This is in response to your letter of July 12, 1976, requesting an interpretation of the Federal Energy Administration's (FEA) Mandatory Petroleum Allocation Regulations (10 CFR Part 211), concerning your status as a wholesale purchaser-reseller.

FACTS

According to your letter, you are a Union Oil Co. of California ("Union") commissioned distributor in Pomona, Calif., under the terms of a form contract entitled "Commercial Consignment Agreement," Form 795–CA (Rev. 8–67), (the "Consignment Agreement"). The Consignment Agreement establishes a relationship whereby the distributor receives a commission for selling and delivering products to customers that he selects and title to the products remains with Union until sold. The distributor is prohibited from mixing Union's products for sale with other products. The agreement authorizes the distributor to make credit sales for his own account or for the account of Union when authorized in writing, but

provides that sales for his own account, or credit sales made in violation of the written authorization by Union, are made at the distributor's risk. The distributor is fully responsible for Union products and sales revenues in his possession, and Union retains the right to check inventories and inspect and audit the distributor's records and accounts.

Control of the distributor's independent business of selling and distributing Union's products is retained by the distributor. He is required to furnish and bear all expenses connected with necessary facilities and equipment (including his bulk plant and trucks) involved in the storage, handling, and sale of Union's products, and to make provision for, and assume the responsibilities and expenses connected with, all necessary labor. Thus, all expenses incident to the conduct of the distributor's business of selling Union's products are to be paid for by the distributor.

The Consignment Agreement expressly provides that the distributor shall exercise full direction, control, and responsibility over all employees required for the operation of his business, and the distributor is required by the terms of the Consignment Agreement to provide all appropriate employer's liability, workmen's compensation, and public liability insurance for such employees and to indemnify and hold Union harmless for any claims against Union arising therefrom.

ISSUE

The issue presented for interpretation is whether a Union distributor operating pursuant to this agreement qualifies as a wholesale purchaser-reseller as defined in 10 CFR 211.51.

INTERPRETATION

A wholesale purchaser-reseller is defined in § 211.51 as "any firm which purchases, receives through transfer, or otherwise obtains (as by consignment) an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form."

Ruling 1975–8 explains that the phrase "as by consignment" is included in the definition of a wholesale purchaser-reseller to make it clear that firms which obtain and resell or otherwise transfer allocated products are not automatically excluded from the definition solely on the ground that they fail to take legal title to the product. This phrase explicitly recognizes the fact that consignment relationships, under which the consignees perform essentially the same functions as jobbers, have long existed in the petroleum industry and that such consignees should be treated under the allocation regulations in the same manner as jobbers. Therefore, those consignees which have a substantial degree of operational independence in the conduct of their business of transfer and sale of a supplier's products (rather than merely providing a distribution service between a supplier and the supplier's customers or functioning like an employee of the supplier) fully qualify as wholesale purchaser-resellers and are subject to the same benefits and obligations of the allocation program which apply to jobbers.

Ruling 1975–8 notes that there are at least three different situations in the petroleum industry in which firms take possession of allocated products without taking title to the product. Only in those situations where a firm receives product through consignment and is engaged in marketing that product to the consignee's customers, acting generally like a jobber, will the firm qualify as a wholesale purchaser-reseller.

Thus, according to the ruling, a consignee which operates in the same manner as an independent jobber, and thereby qualifies as a wholesale purchaser-reseller, will generally have most (but not necessarily all) of the following characteristics: (a) Appropriate facilities and equipment for the conduct of the business of selling and distributing its supplier's products; (b) responsibility, independent of its supplier, for its internal financial management and physical and administrative operations; (c) responsibility to its supplier and others for expenses and liabilities arising from and connected with the business of transfer and sale of its supplier's products; and (d) independent control over the disposition of the allocated product, including the right to enter into and terminate relationships with customers rather than being restricted to distributing product solely to customers designated by the supplier.

According to the terms of the Consignment Agreement, you retain a substantial measure of functional autonomy in distributing and selling Union products. Although you must account fully to Union for all products and sales revenues received, and such products must be sold at prices authorized by Union, you are fully responsible for conduct of your business and are expected to exercise independent judgment and discretion in its operation. While Union requires you to sell the products under Union's brands and trademarks, it bears no expenses under the Consignment Agreement for the costs of facilities, equipment, labor, employee benefits, or necessary insurance, and implicitly recognizes your distributorship as an independent business. Accordingly, it is our opinion that you are a wholesale purchaser-reseller as defined in 10 CFR § 211.51, and as clarified in Ruling 1975–8.

[FR Doc.77-23501 Filed 8-12-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 14160; Amdts. 1-27 and 45-9]

PART 1—DEFINITIONS AND ABBREVIATIONS

PART 45—IDENTIFICATION AND REGISTRATION MARKING

Nationality and Registration Marks on Fixed-Wing Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment allows a reduction in the size of the required nationality and registration marks on certain fixed-wing aircraft and requires that each suffix letter used in the marks be a Roman capital letter. It is intended to provide relief requested by operators of the aircraft and to ensure needed uniformity of marks.

EFFECTIVE DATE: September 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Raymond E. Ramakis, Flight Standards Service, Safety Regulations Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202–755–8716.

SUPPLEMENTARY INFORMATION: Interested persons have been afforded an opportunity to participate in the making of this amendment by a notice of proposed rule making (Notice No. 74–36) issued on November 12, 1974, and published in the FEDERAL REGISTER on November 21, 1974 (39 FR 40862). Due consideration has been given to all comments received in response to the notice. Except as otherwise discussed in this amendment, the amendment and the reasons for it are identical to the proposal and the reasons set forth in the notice.

Notice 74–36 was issued partly in response to two petitions. The Experimental Aircraft Association (EAA) petitioned for an amendment of § 45.29(b)(1) to allow display of the required nationality and registration marks no more than three inches high either in a horizontal or vertical manner on both sides of the vertical tail surface of fixed-wing small aircraft and 18-inch marks on the underside of the left wing. The Citizens Task Force on Noise Control of Seattle, Wash., petitioned the FAA to provide for under-wing markings, distinguishable by persons with normal vision for a distance of 1,000 feet.

Over 3,000 public comments were received in response to the notice. Almost all of the commentators on the proposed under-wing marks opposed them. The majority of the commentators were concerned about the cost of the under-wing marks. The FAA estimates the minimum total cost to be over 18 million dollars. This cost could be higher due to inflation, since the proposal would allow five years for compliance with the rule.

A number of opposing commentators were of the opinion that the proposed under-wing marks would not be an effective means of positive ground-to-air identification. After further consideration, the FAA agrees with these commentators. In proposing this requirement, the FAA relied on a number of cases in which violators of the Federal Aviation Regulations have been identified by under-wing marks alone or by those marks together with side or tail marks. However, after review of the comments received and all the information available on under-wing marks, it is clear that these marks are useful for identification purposes only under ideal conditions.

For these reasons, the proposed requirement for 18 inch marks on the lower surface of the left wing of fixed-wing aircraft is withdrawn, and the petition of the Citizens Task Force on Noise Control of Seattle, Wash., is denied.

In response to the EAA petition, Notice 74–36 proposed to allow 3 inch marks on the vertical tail surfaces or the sides of the fuselage on small aircraft which cannot exceed 180 knots when using 70 percent of maximum cruising power, if the proposed under-wing marks were displayed. This proposal was consistent with the current position of the Department of Defense that it no longer considers 12 inch marks as necessary for the air-to-air identification of these aircraft when they penetrate or operate in an Air Defense Identification Zone (ADIZ) or Distant Early Warning Identification Zone (DEWIZ).

Over 1,500 comments were directed to this prosopal. The majority of these commentators favored using 3 inch marks without the under-wing marks. In view of the fact that 12 inch marks on the tail or fuselage have proved only minimally successful in ground-to-air identification, the 3 inch marks provision is being adopted without the proposed under-wing requirement.

However, the FAA has determined that the reference to "maximum cruising power" may be confusing, and that it would be more appropriate to use terms used in type certificate data sheets for most small aircraft. Accordingly, the provision, as adopted, references design cruising speed (V_C), maximum structural cruising speed (V_{NO}), and maximum operating limit speed (V_{MO}). When none of these speeds exceeds 180 knots, 3 inch marks may be used on the aircraft. Three inch marks may be used on an aircraft that does not have a V_C, V_{NO}, or V_{MO}, when the maximum cruising speed has been shown to the satisfaction of the Administrator to not exceed 180 knots.

Finally, Notice 74-36 proposed to insert the words "at each location" in the lead-in portion of § 45.29(b), in order to require that the character marks be the same height, width, thickness, and spacing on both sides of the aircraft. For clarity this proposal has been adopted as a new paragraph (g) in § 45.29.

DRAFTING INFORMATION

The principal authors of this document are J. F. Zahringer, Flight Standards Service, and Joseph Dorsey, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, Parts 1 and 45 of the Federal Aviation Regulations (14 CFR Parts 1 and 45) are amended, effective September 14, 1977, as follows:

1. By amending § 1.2 by inserting the following symbol after "V_{NE}" and before "V_R":

§ 1.2 Abbreviations and symbols.

* * * * *

V_{NO} means maximum structural cruising speed.

* * * * *

2. By amending § 45.23(a) to read as follows:

§ 45.23 Display of marks; general.

(a) Each operator of an aircraft shall display on that aircraft marks consisting of the Roman capital letter "N" (denoting United States registration) followed by the registration number of the aircraft. Each suffix letter used in the marks displayed must also be a Roman capital letter.

* * * * *

3. By amending § 45.25 to read as follows:

§ 45.25 Location of marks on fixed-wing aircraft.

(a) The operator of a fixed-wing aircraft shall display the required marks on either the vertical tail surfaces or the sides of the fuselage, except as provided in § 45.29(f).

(b) The marks required by paragraph (a) of this section shall be displayed as follows:

(1) If displayed on the vertical tail surfaces, horizontally on both surfaces of a single vertical tail or on the outer surfaces of a multivertical tail. However, on aircraft on which marks at least 3 inches high may be displayed in accordance with § 45.29(b)(1), the marks may be displayed vertically on the vertical tail surfaces.

(2) If displayed on the fuselage surfaces, horizontally on both sides of the fuselage between the trailing edge of the wing and the leading edge of the horizontal stabilizer. However, if engine pods or other appurtenances are located in this area and are an integral part of the fuselage side surfaces, the operator may place the marks on those pods or appurtenances.

4. By amending § 45.29(b)(1) and adding a new § 45.29(g) to read as follows:

§ 45.29 Size of marks.

* * * * *

(b) *Height.* The character marks must be of equal height and on—

(1) Fixed-wing aircraft must be at least 12 inches high, except that marks at least 3 inches high may be displayed on small aircraft when none of the following exceeds 180 knots TAS:

(i) V_C;

(ii) V_{MO};

(iii) V_{NO}; and

(iv) If V_C, V_{MO}, or V_{NO} has not been determined for the aircraft, the speed shown to be the maximum cruising speed of the aircraft;

* * * * *

(g) *Uniformity.* The marks required by this part for fixed-wing aircraft must have the same height, width, thickness, and spacing on both sides of the aircraft.

(Sections 307(c), 313(a), and 601, Federal Aviation Act of 1958, as amended (49 U.S.C. §§ 1348(c), 1354(a), 1421); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 5, 1977.

LANGHORNE BOND,
Administrator.

[FR Doc.77-23308 Filed 8-12-77;8:45 am]

[Docket No. 75-LA-86; Amdt. 39-3007]

PART 39—AIRWORTHINESS DIRECTIVES

Canadair Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Canadair CL-44D4 and CL-44J airplanes. It requires an inspection for cracks and replacement where necessary of the nose landing gear upper radius rods. The inspection is the result of a reported history of fatigue cracks which if left uncorrected could result in a failure of the radius rod, which may cause a collapse of the nose landing gear.

EFFECTIVE DATE: August 18, 1977. Compliance is in accordance with the schedule set forth in the airworthiness directive.

ADDRESSES: Canadair Service Information Circular No. 151-CL44, Issue 3, of October 26, 1976, may be obtained from the manufacturer at P.O. Box 6087, Montreal, Canada.

FOR FURTHER INFORMATION CONTACT:

L. Lipsius, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, telephone 212-995-2875.

SUPPLEMENTARY INFORMATION: There have been reports of damaged nose landing gear left hand upper radius rods due to fatigue cracks on aircraft with over 7,000 landings. The rule provides for rework of cracked radius rods within certain limits. A rework to the maximum limit will permit operation for only 3,000 landings or until cracks are detected, whichever occurs first. In view of the effect on air safety, notice or public procedure hereon are impractical and good cause exists for making the rule effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are L. Lipsius, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

Canadair: Applies to all CL-44D4 and CL-44J airplanes, certificated in all categories, that have not been altered in accordance with Canadair Service Information Circular No. 151-CL44, Issue 3, dated October 26, 1976, or with an FAA-approved equivalent alteration.

Compliance required as indicated.

(a) To ensure the structural integrity and prevent failure of the following nose landing gear upper radius rods, accomplish the inspection in (1).

Item:	*Upper Radius Rod Subassembly*	*Upper Radius Rod*
1.	44-85045 LH assembly employs.	44-85084 LH Rod.
2.	44-85045-1 RH assembly employs.	44-85084-1 RH Rod.
3.	44-85045-1000 LH assembly employs.	44-85084-2 LH Rod.

(1) For parts which have accumulated 1,175 or more landings on the effective date of this airworthiness directive, inspect Items 1, 2, and 3 within the next 75 landings by a dye penetrant, eddy current, or ultrasonic method in accordance with the "Inspection Data" and "Inspection Procedure" sections of Canadair Service Information Circular No. 151–CL44, Issue 3, dated October 26, 1976, or with an FAA-approved equivalent inspection.

(2) For parts which have not accumulated 1175 landings on the effective date of this airworthiness directive, accomplish the inspection in (a) (1) before attaining 1250 landings.

(b) Repeat inspections in (a) (1) at intervals not to exceed:

(1) 60 landings for non-reworked parts Item 1 and 3;

(2) 200 landings for non-reworked part Item 2;

(3) 30 landings for reworked parts Item 1, 2, and 3.

(c) Replace cracked parts with new parts of the same part number or with approved equivalent parts, or rework cracked parts to the limitations specified in "Rework Instruction" in Canadair Service Information Circular No. 151–CL44, Issue 3, dated October 26, 1976, or with an approved equivalent procedure.

(d) Replace parts reworked to the maximum limits, specified in "Rework Instruction" in the above Service Information Circular, that have attained an additional 3,000 landings from the time of such rework, or when cracks are again detected, whichever occurs first, with new pats of the same part number or with approved equivalent parts.

(e) Equivalent inspections/procedures and parts must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(f) Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, may adjust the inspection times specified in this AD.

Effective date: This amendment is effective August 18, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Jamaica, New York, on August 4, 1977.

L. J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.77–23305 Filed 8–12–77;8:45 am]

[Docket No. 77–NE–11; Amdt. 39–3008]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt and Whitney JT8D–1, –1A, –1B, –7, –7A, –7B, –9, –9A, –11, –15, and –17 Aircraft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive requiring removal of certain number 4½ bearings, P/N 707007, from Pratt and Whitney Aircraft JT8D turbofan engines. Early failure of these bearings has caused serious engine damage.

DATES: Effective date—August 31, 1977. Compliance date—March 31, 1978.

ADDRESSES: Persons affected by this directive desiring copies of Pratt and Whitney Aircraft Alert Service Bulletin Number 4639, titled "Engine-Bearing, Number 4½—removal from service of", may obtain copies upon request to Pratt and Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108. This document may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT:

Jay J. Pardee, Propulsion Section, ANE–214, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone 617–273–7337.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rule Making appeared in the FEDERAL REGISTER on June 9, 1977 (42 FR 29513). The NPRM proposed removal of certain Serial Number 4–1/2 bearing, P/N 707007, by March 31, 1978.

This A.D. is being issued because there have been 23 failures of the JT8D Number 4–1/2 bearing, P/N 707007, of which four permitted contact between the concentric low and high speed shafting with resultant machining action and failure of the low turbine shaft. Three of these shaft failures have resulted in turbine blade and vane debris penetration of the engine casing and cowlings. These bearing failures have been limited to bearing Serial Numbers 800 through 999, and 100A through 214A. Since this condition is likely to exist or develop in other JT8D engines incorporating these suspect bearings, the Airworthiness Directive would require removal of Number 4–1/2 bearings, P/N 707007, Serial Numbers 800 through 999, and Serial Numbers 100A through 214A.

The bearing failures have occurred randomly with respect to operating time, and no specific time interval can be specified for bearing removal. The compliance date of March 31, 1978, is therefore based on availability of replacement bearings and the earliest possible operator removal schedule.

Comments were received from the manufacturer and the Air Transport Association concurring with the NPRM. The final rule is therefore identical to the NPRM and requires removal of certain Serial Number 4–1/2 bearings, P/N 707007, by March 31, 1978.

DRAFTING INFORMATION

The principal authors of this document are Jay J. Pardee, Engineering and Manufacturing Branch, and George L. Thompson, Regional Counsel Office.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

PRATT AND WHITNEY AIRCRAFT. Applies to Pratt and Whitney Aircraft JT8D–1, –1A, –1B, –7, –7B, –9, –9A, –11, –15, and –17 turbofan engine models containing Number 4–1/2 bearing, P/N707007, bearing Serial Numbers 800 through 999, and Serial Numbers 100A through 214A.

Compliance required as indicated. To preclude possible low turbine shaft failure, resulting from failure of the Number 4–1/2 bearing, remove from service, prior to March 31, 1978, Number 4–1/2 bearings, P/N 707007, Serial Numbers 800 through 999, and Serial Numbers 100A through 214A. Replace with an FAA approved, serviceable 4–1/2 bearing.

Affected bearings shipped in engines and shipped as spares are identified by serial number in Tables I and II of Pratt and Whitney Aircraft Alert Service Bulletin Number 4639, dated August 12, 1976, or later revision approved by the Chief, Engineering and Manufacturing Branch, New England Region.

Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA, New England Region, may adjust the compliance date specified in this A.D. to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

The manufacturer's service bulletin identified and described in this directive is incorporated herein and made a part hereof pursuant to 5 U.S.C. 522(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Pratt and Whitney Aircraft, Division of United Technologies Corporation, 400 Main Street, East Hartford, Connecticut 06108. These documents may also be examined at Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, and at FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C.

A historical file on this A.D. which includes the incorporated material in full is maintained by the FAA at its Headquarters in Washington, D.C., and at New England Region.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)) and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular 107.

Issued in Burlington, Massachusetts, on August 4, 1977.

WILLIAM E. CROSBY,
Acting Director,
New England Region.

NOTE.—The incorporation by reference provisions of this document was approved by the Director of the Federal Register on June 16, 1967.

[FR Doc.77–23306 Filed 8–12–77;8:45 am]

[Docket No. 77-EA-43; Amdt. 39-3013]

PART 39—AIRWORTHINESS DIRECTIVES

Lycoming Aircraft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) amends AD 75-08-09 applicable to IO-320 type aircraft engines. The amendment will increase the AD coverage from the IO-320-B1A series to all IO-320 type engines. This results from the manufacturer's determination that the oil pump problem addressed by AD 75-08-09 had greater scope.

EFFECTIVE DATE: August 18, 1977.

ADDRESSES: Lycoming Service Bulletins may be acquired from the manufacturer at AVCO Lycoming Division, Williamsport, Pa. 17701.

FOR FURTHER INFORMATION CONTACT:

E. Manzi, Propulsion Section, Engineering and Manufacturing Branch, AEA-214, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430; Tel. 212-995-2894.

SUPPLEMENTARY INFORMATION: Due to subsequent research by the manufacturer, it was determined that additional engines should be covered by AD 75-08-09. The AD was issued originally to preclude failure of the oil pump which resulted from failure of the Woodruff Key in the pump impellers. The AD has been amended twice before to expand its coverage. This rule will include the complete IO-320 series. In view of the effect on air safety, notice and public procedure hereon are impractical and good cause exists for making the rule (AD) effective in less than 30 days.

Drafting Information

The principal authors of this document are E. Manzi, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

Adoption of the Amendment

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by amending AD 75-08-09, as follows:

1. Revise applicability paragraph to read "Applies to O-235, O-290, O-320, IO-320, LIO-320, O-360, IO-360, HO-360, HIO-360, VO-360-A1A, VO-360-A1B, VO-360-B1A, IVO-360-A1A, LIO-360, TIO-360, AIO-360, AEIO-360, O-540, and IO-540 series Lycoming engines listed below and the same series engines overhauled/remanufactured by Lycoming between December 18, 1972, and December 10, 1974, and the same series engines overhauled after December 10, 1972, at facilities other than the manufacturer, in which the provisions of Lycoming Service Instructions No. 1272 have been incorporated".

2. Revise Applicable Models column to read "IO-320 series" instead of "IO-320-B1A".

3. Revise paragraph 2 to read IO-320 instead of IO-320-B1A.

4. Insert the following paragraph before the last paragraph:

Upon submission of substantiating data thru an FAA maintenance inspector, the Chief, Engineering and Manufacturing Branch, Eastern Region, may adjust the compliance time specified in this A.D.

Effective date: This amendment is effective August 18, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on August 4, 1977.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc.77-23307 Filed 8-12-77;8:45 am]

[Airworthiness Docket No. 77-SW-28; Amdt. 39-3002]

PART 39—AIRWORTHINESS DIRECTIVES

Edo-Aire Mitchell (EAM) NSD-360 Navigation Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Airworthiness Directive (AD) is being issued to assure that the NAV flag will appear when a flag signal occurs by requiring installation of a NAV flag adapter in the circuits between the Navigation Situation Display of the NSD-360 Navigation System and any VOR/LOC converter manufactured by companies other than EAM. It has been found that an interface incompatibility results in failure of the NAV flag to appear when the VOR/LOC converter signals for a flag in the display.

DATES: Effective date September 8, 1977. Compliance requires the alteration within the next 50 hours in service after the effective date of this AD.

ADDRESSES: EAM service bulletins, placards, and parts may be acquired from the manufacturer whose address and phone number are listed in the AD.

FOR FURTHER INFORMATION CONTACT:

Tommie S. Plummer, Systems and Equipment Section, ASW-213, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Tex. 76101, Telephone No. 817-624-4911, Extension 518.

SUPPLEMENTARY INFORMATION: The display unit of the NSD-360 Navigation System includes a NAV flag to warn the pilot when the navigation signal is not reliable. This flag circuit is designed for use with VOR/LOC converters having a "gated" To-From capability for the purpose of blocking the To-From display during NAV flag conditions. Operation of the NAV system without a converter having "gated" To-From capability permits unreliable NAV flag operation and therefore could result in a navigational error of unacceptable magnitude. EAM has marketed approximately 1,500 NSD-360 systems that could have been installed without compatible VOR/LOC converters. Some units have been installed based on supplemental type certificate approvals; others have been installed by field approvals. In view of (1) the virtual impossibility of determining which aircraft models have been approved, and (2) the necessity for reliable navigation equipment when being used in the airspace in close proximity to other aircraft, the FAA finds it necessary to issue this AD against NSD-360 Navigation Systems installed in certificated aircraft without specifying the aircraft type. Since this deficiency affects air safety, notice and public procedure hereon are impractical and good cause exists for making this rule effective in less than 30 days.

Since EAM is furnishing the parts and labor to make this modification, the only impact on the aircraft owner is two hours loss of service while the aircraft is being modified, or loss of approved use of the NSD-360 system under IFR conditions until modified. Therefore, the FAA considers the aircraft owner's cost to be minimal to assure reliable navigation.

Drafting Information

The principal authors of this document are Tommie S. Plummer, Flight Standards Division, and Alan G. Sumberg, Office of the Regional Counsel.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, effective September 8, 1977, by adding the following new Airworthiness Directive:

EDO-AIRE MITCHELL. Applies to Model NSD-360 Navigation Systems containing any of the following Navigation Situation Display instruments: 52D136-0020, 52D136-0120, 52D136-0220, 52D136-1020, 52D136-1120, 52D136-1220, 52D137-1020, 52D137-1120, and 52D137-1220, when used with VOR/LOC converters other than the Edo-Aire Mitchell 1C707 and 1C707-1 converters. Compliance with (a) or (c) is required within the next 50 hours in service after the effective date of this AD, unless already accomplished.

(a) Install a placard stating "NSD-360 Not Approved as Primary VOR Display for IFR Navigation Prior to compliance With EAM MB-13."

(b) The placard described in subparagraph (a) is to be installed as close as practical to the affected navigation situation display and remain there until EAM NAV Flag Adapter P/N 1C775 is installed as in (c) below, at which time the placard is to be removed. EAM placard, P/N 13A895 specified by EAM Service Bulletin MB-13, is to be used to comply with (a).

(c) Install EAM NAV Flag Adapter, P/N 1C775, in accordance with installation instruction items 1 through 5, pages 2 and 3 of EAM Service Bulletin MB-13 revised May 3, 1977.

(d) The manufacturer's instructions identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Director, Products and Service, Edo-Aire Mitchell, P.O. Box 610, Municipal Airport, Mineral Wells, Tex. 76067, Telephone No. 817-325-2517. These documents may also be examined at the Office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Tex., and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at the Southwest Regional Office in Fort Worth, Tex.

This amendment becomes effective September 8, 1977.

(Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on July 28, 1977.

PAUL J. BAKER,
Acting Director,
Southwest Region.

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

[FR Doc.77-23320 Filed 8-12-77;8:45 am]

[Airworthiness Docket No. 77-SW-23; Amdt. 39-3004]

PART 39—AIRWORTHINESS DIRECTIVES

Rockwell International Models 112, 112TC, and 114 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new Airworthiness Directive (AD) applicable to Rockwell International Models 112, 112TC, and 114 airplanes. The AD requires an increase in strength of the front seats and seat belt attachments.

DATES: Effective date: August 29, 1977. Compliance required within 100 hours or one year in service after the effective date of this AD, whichever occurs first.

ADDRESSES: Rockwell International Service Bulletins No. 112-45A dated April 7, 1977, and No. 114-5A dated April 7, 1977, or later approved revision may be obtained from Rockwell International General Aviation Division Service Center, 5001 N. Rockwell Avenue, Bethany, Okla. 73008.

FOR FURTHER INFORMATION CONTACT:

James L. Patras, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex., telephone number 817-624-4911, extension 516.

SUPPLEMENTARY INFORMATION: A proposal was published in 42 FR 31172 to require increasing the strength of the front seat and seat belt attachments in accordance with Rockwell Service Bulletins Nos. 112-45 and 114-5. Compliance time was required within 100 hours' time in service after the effective date of this AD or at the next annual inspection, whichever occurred first.

In response to the proposal, one letter was received. The commentor stated that the compliance time as written would place a burden of immediate compliance on aircraft under the annual inspection option when the annual inspection fell due immediately subsequent to the effective date of the AD.

The FAA feels this is a valid comment, and the compliance time has been rewritten to require compliance within 100 hours or one year in service after the effective date of the AD, whichever occurs first.

DRAFTING INFORMATION

The principal authors of this document are James L. Patras, Aerospace Engineer, Flight Standards Division, and Joseph A. Kovarik, Regional Counsel, Southwest Region, FAA.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), Section 39.13 of Part 39 of the Federal Aviation Regulations, is amended adding the following new Airworthiness Directive:

ROCKWELL. Applies to Rockwell Model 112, S/N 3 through 499; Model 112TC, S/N 13000 through 13149; and Model 114, S/N 14000 through 14149, certified in all categories.

Compliance required as indicated.

Within 100 hours' time in service or one year in service after the effective date of this AD, whichever occurs first, modify the front seats and belt attachments in accordance with Rockwell Service Bulletins No. 112-45A dated April 7, 1977, and No. 114-5A dated April 7, 1977, or later approved revisions, or in accordance with an equivalent method approved by the Chief, Engineering and Manufacturing Branch, Flight Standards Division Southwest Region, Federal Aviation Administration, Fort Worth, Tex.

This amendment becomes effective August 29, 1977.

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

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on July 29, 1977.

PAUL J. BAKER,
Acting Director,
Southwest Region.

[FR Doc.77-23321 Filed 8-12-77;8:45 am]

[Docket No. 77-NW-13-AD; Amdt. 39-3014]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 707-300/400/300B/300C Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: On May 18, 1977, and May 27, 1977, telegraphic Airworthiness Directives (AD's) were issued and made effective immediately to all known U.S. operators of Boeing 707-300/400/300B/300C series airplanes. The AD's required one-time inspections of the exposed portion of the rear spar upper chord of the right and left hand horizontal stabilizer for cracks. A completely severed upper chord contributed, along with other factors, to a condition which resulted in the recent inflight separation of the right hand horizontal stabilizer from a Boeing 707-321C that subsequently crashed. After evaluating the results of the above inspections, crack growth rates have been noted and repetitive inspection time intervals determined which are presented in the AD. The inspection threshold has been lowered from 10,000 landings, which was specified in the previous AD's, to 8,000 landings.

EFFECTIVE DATE: August 15, 1977.

ADDRESSES: Boeing service bulletins specified in this directive may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 97124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION, CONTACT:

Harold N. Wantiez, Engineering and Manufacturing Branch, FAA Northwest region, 9010 East Marginal Way South, Seattle, Washington 98108, Telephone 206-767-2516.

SUPPLEMENTARY INFORMATION: Preliminary information from the accident investigation of a Boeing 707-321C which crashed in Zambia, Africa, revealed that the right hand stabilizer separated from the airplane during final approach. Analysis of the fracture surfaces indicates that the upper rear spar chord of the right hand stabilizer experienced a fatigue failure sometime prior to the fatal flight. The closure rib chord also showed evidence of fatigue. On May 18, 1977, an AD was issued which required visual inspections of the stabilizer rear spar upper chord. This action was later found to be insufficient, since further investigations indicated that cracks may exist in the stabilizer rear spar upper chord which are not detectable by visual means but are de-

tectable by nondestructive testing methods (NDT). A superseding AD was issued on May 27, 1977, requiring one-time NDT inspections of the chord. On July 11, 1977, another AD was issued which required an additional one-time NDT inspection. The telegraphic AD's of May 18 and 27, 1977, were published in the FEDERAL REGISTER as AD 77-14-10, Amendment 39-2969. The inspection threshold was given as 10,000 landings in the previous AD's. After a review of many factors including inspection reports, test results, and probability analysis, it was decided that an 8,000-landing threshold would provide a reasonable starting point for future inspections. This AD supersedes the telegraphic AD's issued on May 18 and May 27, 1977, Amendment 29-2969 and constitutes FEDERAL REGISTER publication of the telegraphic AD issued July 11, 1977.

Since this condition is likely to exist in other 707-300/400/300B/300C airplanes, an AD is now issued requiring repetitive high frequency eddy current or low frequency eddy current inspections of the stabilizer rear spar upper chord from the side of the body outboard to station 92.55, in accordance with Boeing Alert Service Bulletin No. 3313, Revision 2.

This rule was coordinated with The Boeing Company and the operators through the Air Transport Association (ATA) prior to issuance.

DRAFTING INFORMATION

The principal authors of this document are Harold N. Wantiez, Engineering and Manufacturing Branch, FAA Northwest Region, and Jonathan Howe, Regional Counsel, FAA Northwest Region.

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

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

BOEING: Applies to all Boeing 707-300/400/300B/300C series airplanes upon the accumulation of, or with more than, 8,000 landings. Inspect the horizontal stabilizer rear spar upper chord, right and left hand, from the side of the body to horizontal stabilizer station 92.55 for cracks at the time intervals specified in paragraph A, in accordance with the methods of paragraph B. Airplanes with chords found cracked are to be reworked prior to further flight in accordance with one of the methods noted in paragraph C.

A. Within the next 175 landings after the effective date of this AD, unless accomplished within the previous 200 landings prior to the effective date of this AD, and thereafter at intervals not to exceed 375 landings.

B. Inspect in accordance with either the low frequency eddy current inspection procedure or high frequency eddy current inspection procedure as described in Boeing Alert Service Bulletin No. 3313, Revision 2.

C. Rework in accordance with one of the following:

1. If the forward flange of the spar chord is found cracked within the limits as described in Boeing Alert Service Bulletin No. 3313, Revision 2, the chord can remain in service after appropriate rework if reinspected in accordance with paragraph B at intervals not to exceed 375 landings.

2. If the crack penetrates the upper radius from the flange to the chord body, the chord must be replaced prior to further flight.

3. A method approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

D. Report all cracks in the chord body to the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, noting airplane identification, hours time-in-service, number of landings, crack location and length.

E. With permission of the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, the airplane may be flown in accordance with FAR 21.197 to a base where the inspection or repair can be accomplished.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective August 15, 1977, and supersedes the telegraphic AD's issued May 18, May 27, and July 11, 1977, and Amendment 39-2969.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Seattle, Washington, on August 5, 1977.

C. B. WALK, JR.,
Director, Northwest Region.

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

[FR Doc.77-23418 Filed 8-12-77;8:45 am]

[Docket No. 77-NW-10-AD; Amdt. 39-3012]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 707-300/300B/300C/400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment to Airworthiness Directive (AD) 77-02-01 provides for additional visual inspections in areas of the upper wing skin. It also provides ultrasonic inspections for certain fastener holes and allows an additional time interval before beginning required inspections for passenger airplanes which have had the fastener hole oversizing described in Boeing Service Bulletins Nos. 2626 and 2892.

DATES: Effective date: As prescribed in the body of the AD.

ADDRESSES: Boeing service bulletins specified in this directive may be obtained upon request to Boeing Commercial Airplane Co., P.O. Box 3707, Seattle, Wash. 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108.

FOR FURTHER INFORMATION, CONTACT:

Harold N. Wantiez, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108, Telephone 206-767-2516.

SUPPLEMENTARY INFORMATION: This amendment provides the necessary instructions for visually inspecting the upper wing skin and rear spar chord for cracks which emanate from fastener holes common to the skin and chord. Ultrasonic inspections are also provided for the four fastener holes just outboard of body buttock line 70.5.

Boeing Service Bulletins Nos. 2626 and 2892 provide modifications which include fastener hole oversizing in the skin in the area of the beavertail and the fuel filler cap area. Since the cargo airplanes have experienced more cracks, this amendment provides an increased time interval before inspections are required on passenger airplanes.

This amendment was coordinated with the Boeing Co. and the operators through the Air Transport Association (ATA) prior to issuance.

DRAFTING INFORMATION

The principal authors of this document are Harold N. Wantiez, Engineering and Manufacturing Branch, FAA Northwest Region, and Jonathan Howe, Regional Counsel, FAA Northwest Region.

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

ADOPTION OF THE AMENDMENT

Accordingly, 39.13 of the Federal Aviation Regulations (14 CFR 39), Amendment 39-2812, AD 77-02-01, is amended as follows:

§ 39.13 [Amended]

1. Revise paragraph A to read as follows:

A. Within the next 250 landings, unless accomplished within the last 250

landings and at intervals thereafter not to exceed 500 landings, accomplish the following in accordance with Boeing Service Bulletin No. 3168, Revision 1, or later FAA approved revisions.

(1) X-ray inspect the wing skin under the beavertail for cracks from the rear spar forward through stringer number 12 and the rear spar upper chord and the adjacent wing skin from W.S. 129 to W.S. 197.

(2) Visually inspect the upper wing skin for cracks emanating from the fastener holes common to the rear spar upper chord from W.S. 117 to W.S. 197.

(3) Visually inspect the aft edge of the upper wing skin under the doubler for cracks from BBL 70.5 to W.S. 117.

(4) Ultrasonic inspect the upper wing skin for cracks at the four fastener holes common to the rear spar upper chord just outboard of BBL 70.5.

(5) Wing skins and rear spar chords found cracked are to be repaired prior to further flight in accordance with Boeing Service Bulletin No. 2427 or Boeing Service Bulletin No. 2607, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. Inspections are to continue until terminating action per paragraph F has been accomplished.

2. Revise paragraph C to read as follows:

C. If rear spar and/or adjacent wing skin repairs or modifications interfere with any of the inspections of paragraph A or B of this AD, inspect for cracks in accordance with (1) and (2) below or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

(1) At the intervals specified in paragraph A or B of this AD (as appropriate to the area where repairs interfere with the required inspections):

(a) Eddy current inspect the wing skin for cracks in the area adjacent to the repairs; or

(b) If internal steel doublers are installed on the horizontal leg of the rear spar upper chord, conduct a close visual inspection of the vertical leg of the rear spar upper chord for cracks emanating from the horizontal leg. When doublers on the rear spar vertical leg prohibit a close visual inspection, inspect the exposed lower edge of the vertical leg of the rear spar upper chord for new cracks.

(2) At intervals not to exceed 4,800 landings, visually inspect the exposed wing skin and exposed upper rear spar chord from inside and outside the wing.

3. At the end of paragraph D add the following: "* * * for 707-300C airplanes and 10,000 landings after oversizing for 707 -300, -400, -300B airplanes."

4. At the end of paragraph E add the following: "* * * for 707-300C airplanes and 6,000 landings after oversizing for 707-300, -400, -300B airplanes."

5. Revise the paragraph regarding AD supersedure to read: "This supersedes AD 68-07-03 (Amendment 39-571), AD 68-16-03 (Amendment 39-629), and paragraph (a) of AD 64-11-01 (Amendment 39-763)"

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Co., P.O. Box 3707, Seattle, Wash. 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108.

This amendment becomes effective August 15, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring the preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Seattle, Wash., on August 5, 1977.

C. B. WALK, Jr.,
Director, Northwest Region.

NOTE.—The incorporation by reference provisions in the document were approved by the Director of the FEDERAL REGISTER on June 19, 1967.

[FR Doc.77-23424 Filed 8-12-77;8:45 am]

[Airspace Docket No. 77-EA-36]

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

Alteration of Control Zone and Transition Area, Albany, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Albany, N.Y., control zone and transition area, to take into consideration the revision to the VOR instrument approach procedure for Albany County Airport.

EFFECTIVE DATE: 0901 G.m.t. October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, Telephone 212-995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subparts F and G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the Albany, N.Y., control zone and transition area. The NPRM was published in the FEDERAL REGISTER on June 23, 1977 (42 FR 31805). The proposal resulted from a change to the instrument approach procedure.

Interested parties were given 20 days in which to submit comments. No objections to the proposal had been received.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F and G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT October 6, 1977, as published.

(Sections 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354 (c)); sec. 6(c) of Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on July 27, 1977.

LOUIS J. CARDINALI,
Acting Director,
Eastern Region.

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by deleting the present description of the Albany, N.Y., control zone and by inserting the following in lieu thereof:

"Within a 5-mile radius of the center 42°44'43" N., 73°48'05" W., of Albany County Airport, Albany, N.Y.; within 3 miles each side of the Albany VORTAC 354° radial, extending from the 5-mile radius zone to 8.5 miles north of the VORTAC; within 4 miles each side of the Albany VORTAC 082° radial, extending from the 5-mile radius zone to 15 miles east of the VORTAC; within 2 miles each side of the extended centerline of Albany County Airport Runway 10, extending from the 5-mile radius zone to 5 miles west of the approach end of Runway 10; within 3 miles east of the VORTAC; within 2 miles radial, extending from the 5-mile radius zone to 8.5 miles south of the VORTAC."

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by amending the description of the Albany, N.Y., 700 foot floor transition area as follows:

Delete "Albany VORTAC 072° radial" and insert, "Albany VORTAC 082° radial" in lieu thereof.

[FR Doc.77-23316 Filed 8-12-77;8:45 am]

[Airspace Docket No. 77-EA-40]

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

Alteration of Transiton Area: Indiana, Pennsylvania

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Indiana, Pa., Transition Area, by chang-

ing the direction of the 091 RBN bearing extension by one degree and widening the extension by approximately 1 mile on each side of the bearing. It also increases the length by 1½ miles. These adjustments result from a change in a beacon instrument approach procedure for Indiana County-Jimmy Stewart Field, Indiana, Pa.

EFFECTIVE DATE: 0901 GMT October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the Indiana, Pa., Transition Area. The NPRM was published in the FEDERAL REGISTER on June 23, 1977 (42 FR 31808)

Interested parties were given 30 days in which to submit comments. No objections to the proposal had been received.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT October 6, 1977, as published.

(Sections 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on July 28, 1977.

L. J. CARDINALI,
Acting Director, Eastern Region.

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by amending the description of the Indiana, Pa. transition area by deleting, "and within 3.5 miles each side of the 091° bearing from the Indiana RBN (lat. 40°37'54" N., long. 79°03'51" W.) extending from the 7-mile radius area to 9.5 miles east of the RBN.", and by inserting the following in lieu thereof, "and within 4.5 miles each side of the 090° bearing from the Indiana RBN (lat. 40°37'54" N., long. 79°03'51" W.) extending from the 7-mile radius area to 11 miles east of the RBN."

[FR Doc.77-23317 Filed 8-12-77;8:45 am]

[Airspace Docket No. 77-EA-66]

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

Alteration of Transition Area: Corry, Pennsylvania

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Corry, Pa., Transition Area, by changing the radial reference of the Tidioute, Pa., VORTAC by 2°, from 319° to 321°. After Docket 76-EA-98 was issued, the new VOR RWY 32 approach procedure was published showing the radial reference as 321° instead of 319° as found in the rule. Thus, the reference must be corrected to conform to the published approach.

EFFECTIVE DATE: 0901 GMT August 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone: 212-995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) is to alter the Corry, Pa., Transition Area. The rule resulted from a change in the instrument approach procedure.

The change in radial reference of 2° is so minimal as to impose no additional burden on any person and thus notice and public procedure hereon are unnecessary.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 GMT August 18, 1977, as follows:

1. Amend the Corry, Pa., Transition Area so as to delete the reference to the 319° radial and insert in lieu thereof "321° radial".

(Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107

Issued in Jamaica, N.Y., on July 27, 1977.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.77-23318 Filed 8-12-77;8:45 am]

[Docket No. 77-SO-4]

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

Designation of Wilson, North Carolina, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule designates a 700-foot transition area in the vicinity of Wilson, N.C. This action provides necessary controlled airspace for accommodation of IFR operations at the Wilson Municipal Airport.

EFFECTIVE DATE: 0901 GMT, August 11, 1977.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

C. Herman Thompson, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320, telephone 404-763-7647.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the FEDERAL REGISTER on February 17, 1977 (42 FR 9683) which proposed the designation of the Wilson, N.C., 700-foot transition area. The transition area is required to provide controlled airspace for aircraft executing a new NDB approach procedure to Runway at the Wilson Municipal Airport.

The Department of the Air Force objected to the proposed designation as it would establish transition area airspace within the perimeter of one of the most heavily used VFR low altitude training routes (TR-48) in the southeast.

The FAA does not consider the objection valid, as aircraft operating VFR on TR-48 must have a ceiling of at least 3,000 feet and visibility of five miles. With these weather minimum, both military and civil aircraft in the vicinity of Wilson will be operating on a "see-and-be-seen" basis, in accordance with Federal Aviation Regulations.

DRAFTING INFORMATION

The principal authors of this document are C. Herman Thompson, Airspace and Procedures Branch, Air Traffic Division, and Richard L. Faber, Office of Regional Counsel, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320.

ADOPTION OF AMENDMENT

Accordingly, Subpart G of Part 71 of the Federal Aviation Regulations (14

CFR 71) is amended, effective 0901 GMT, August 11, 1977, by adding the following:

WILSON, NORTH CAROLINA, 700-FOOT TRANSITION AREA

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Wilson Municipal Airport (Lat. 35°-46'00" N., Long. 77°58'00" W.); within 3 miles each side of the 223° bearing from the Wilson RBN, extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN; excluding that portion that coincides with the Rocky Mount, N.C., transition area.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Ga., on August 2, 1977.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.77-23319 Filed 8-12-77;8:45 am]

[Airspace Docket No. 77-SO-15]

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

Extension of Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment extends V-441 eastward from St. Petersburg, Fla., via Lakeland, Fla., and an intersection to Melbourne, Fla., reducing the airway distance between Lakeland and Melbourne.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On June 23, 1977, the FAA published for comment a proposal to extend V-441 eastward from St. Petersburg, Fla., to Melbourne, Fla. (42 FR 31806). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. The only comment received expressed no objection.

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (FARs) extends V-441 to begin at Melbourne, Fla., and go via the INT of the Melbourne 269°T (269°M) and the Lakeland, Fla., 080°T (079°M) radials; Lakeland; to St. Petersburg, Fla., thence as it is presently described.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 307) is amended, effective 0901 GMT, October 6, 1977, as follows: In V-441 "From St. Petersburg, Fla.," is deleted and "From Melbourne, Fla., via INT Melbourne 269° and Lakeland, Fla., 080° radials; Lakeland; St. Petersburg, Fla.;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 4, 1977.

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

[FR Doc.77-23322 Filed 8-12-77;8:45 am]

[Airspace Docket No. 77-EA-23]

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

Alteration of Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns VOR Federal Airway V-37 between Morgantown, W. Va., and Ellwood City, Pa. This action is necessary to reduce aircraft radio frequency changes and provide more efficient use of the navigable airspace in and around the Greater Pittsburgh Airport Area.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. David F. Solomon, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-8530.

SUPPLEMENTARY INFORMATION:

HISTORY

On June 16, 1977, the FAA proposed to amend Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign VOR Federal Airway V-37 between Morgantown, W. Va., and Ellwood City, Pa., (42 30638). Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. No objection was registered in the one comment received. This amendment is that proposed in the notice. § 71.123 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 307).

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (FARs) realigns V-37 between Morgantown, W. Va., and Ellwood City, Pa. The FAA acknowledges that the realignment will add one mile to the overall distance between Morgantown and Ellwood City. However, the FAA believes that the benefits to be gained by reducing the number of radio changes required from three to two and the improved air traffic handling capabilities will offset the extra mile of flying.

DRAFTING INFORMATION

The principal authors of this document are David F. Solomon, Air Traffic Service, and Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 307) is amended, effective 0901 GMT, October 6, 1977, as follows: In V-37 "INT Morgantown 336° and Ellwood City, Pa., 177° radials" is deleted and "INT Morgantown 331° and Ellwood City, Pa., 185° radials" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 4, 1977.

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

[FR Doc.77-23323 Filed 8-12-77;8:45 am]

[Airspace Docket No. 76-WE-31]

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

Alteration of Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns V-12, V-25, V-27, V-186 and V-485 airways in the southwestern California area. This action will improve traffic

handling capabilities, reduce airway distances between air navigation aids and promote safety by helping to segregate en route and terminal traffic.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On June 16, 1977, the FAA published for comment a proposal to realign several airways in the southwestern California area (42 FR 30639). Interested persons were invited to participate in the rule making proceeding by submitting written comments on the proposal to the FAA. The two comments received expressed no objections. Subsequent to publication of the notice of proposed rule making, it has been determined that the proposed standard west alternate to V-25 between Santa Barbara, Calif., and Paso Robles, Calif., would not improve the traffic handling capabilities as expected, and is therefore omitted from this amendment.

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (FARs) realigns VOR Federal Airways V-12, V-25, V-27, V-186 and V-485 segments as follows:

1. V-12 from Santa Barbara, Calif., direct to Palmdale, Calif., and V-12 S from Santa Barbara to Palmdale via Fillmore, Calif.

2. V-25 from Ventura, Calif., direct to Santa Barbara, Calif;

3. V-27 from Ventura, Calif., via INT Ventura 326°T(311°M) and Fillmore, Calif., 265°T(250°M) radials; INT Fillmore 265°T(250°M) and Gaviota, Calif., 143°T(127°M) radials; to Gaviota.

4. V-186 from Fillmore, Calif., via INT Fillmore 265°T(250°M) and Santa Barbara, Calif., 123°T(107°M) radials to Santa Barbara.

5. V-485 from Ventura, Calif., direct to Fellows, Calif.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 307) is amended, effective 0901 GMT, October 6, 1977, as follows:

1. In V-12, all before "Hector, Calif.;" is deleted and "From Gaviota, Calif., via Santa Barbara, Calif.; Palmdale, Calif., including a south alternate via Fillmore, Calif.; 38 miles, 6 miles wide," is substituted therefor.

2. In V-25, all between "6 miles wide, Ventura;" and "Paso Robles, Calif.;" is deleted and "Santa Barbara, Calif.;" is substituted therefor.

3. In V-27, "6 miles wide, INT Ventura 331° and Fillmore, Calif., 268° radials; INT Fillmore 268°" is deleted and "INT Ventura 326° and Fillmore, Calif., 265° radials; INT Fillmore 265°" is substituted therefor.

4. In V-186, "From Fillmore, Calif.," is deleted and "From Santa Barbara, Calif., via INT Santa Barbara 123° and Fillmore, Calif., 265° radials; Fillmore;" is substituted therefor.

5. In V-485, all before "Priest, Calif.;" is deleted and "From Ventura, Calif., via Fellows, Calif.;" is substituted therefor.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 4, 1977.

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

[FR Doc.77-23325 Filed 8-12-77;8:45 am]

[Airspace Docket No. 76-WA-13]

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

PART 73—SPECIAL USE AIRSPACE

Alteration of Federal Airway and Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments realign a segment of VOR Federal Airway identified as V-2 and V-21 Hawaii and redefine Restricted Area R-3104 Island of Kahoolawe, Hawaii, to provide sufficient distance between V-2/21 Hawaii and R-3104. These actions ameliorate the flow of air traffic by allowing simultaneous use of both areas.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On October 7, 1976, in the FEDERAL REGISTER (41 CFR 44193), the FAA proposed to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to realign a portion of V-2 Hawaii and V-21 Hawaii and to reduce Restricted Area R-3104, Island of Kahoolawe, Hawaii. The present distance of 2.2 NM between the centerline of V-2/21 and the northern boundary of Restricted Area R-3104 is cited in a petition for rule making filed by the Honorable Elmer F. Cravalho, Mayor of Maui, Hawaii, for revocation of Restricted Area R-3104 Kahoolawe, Hawaii, as one of the reasons for his petition. The FAA has reviewed all matters presented in the petition and supplementary memorandum and, with one exception, does not agree with the analysis presented. The FAA agrees with the petitioner regarding the need for a greater distance between the two areas (V-2/21 and R-3104). Therefore, these actions, the realignment of V-2/21 and the reduction of Restricted Area R-3104, are a partial granting of Mayor Elmer F. Cravalho's petition. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. On November 26, 1976, in FEDERAL REGISTER (41 FR 52064) the FAA extended the comment period until December 15, 1976, in order to allow commenters additional time to submit comments. Numerous comments were received and due consideration has been given to all matters presented. Except for editorial changes, and except as specifically discussed below, these amendments are those proposed in the notice. Sections 71.127 and 73.31 were republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 343 and 674, respectively).

THE RULE

These amendments to Parts 71 and 73 of the Federal Aviation Regulations (FARs): (1) Align V-2 Hawaii and V-21 Hawaii via the Lanai, Hawaii, 106°T (095°M) radial; (2) establish the segment of V-2/21 Hawaii between the 22 NM fix on the south side of the Lanai, Hawaii, 106°T (095°M) radial and the 28 NM fix to an authorized width of 3 nautical miles; (3) define the northern boundary of Restricted Area R-3104A/B/C, Kahoolawe, Hawaii, via the Kahoolawe shoreline.

DISCUSSION OF COMMENTS

Of the nine written comments received by the FAA on the October 7 proposal, four commenters objected to the proposed rule. Three of the four objectors based their objection to the realignment of V-2 and V-21 on the higher minimum en route altitudes. The FAA agrees that any altitudes higher than those presently authorized for V-2 and V-21, due to terrain shielding of VOR signal as a result of the realignment of V-2/21 from the present Lanai VOR 096° to the 095° radial, would be overly restrictive on operational requirements. The FAA's

review of cumulative flight check data gathered from eight flight checks in the past three years indicated that: (1) the alignment remains within 0.3°, (2) there is no scalloping or roughness in the radial, and (3) the overall station alignment runs from 0° to −1.0°, far above the national average. Therefore, the present altitudes being used for the present alignment of V–21 along the Lanai VOR 096° radial will be retained for the realignment of V–21 via the Lanai VOR 095° radial.

The Department of the Navy contended that the northern boundary of R–3104 need not be relocated and that a greater distance between V–2/21 and R–3104 could be provided by realigning V–2/21 via the Lanai VOR 092° radial to the Upolu Point VOR 295° radial thence via the Upolu Point 295° radial to Lanai VOR 096°; for V–21 thence along the presently established V–21 airway; for V–2 thence along the Upolu Point 295° radial to Upolu Point VOR. The FAA agrees that the Navy's proposal would provide the required distance for simultaneous use of both areas. However, the FAA does not find this option (a dogleg in the airway) as desirable as the actions being taken.

There was an objection to the proposed continued application of an airway width of 3 NM on one or both sides of the centerline. A primary concern was that safety would be compromised. However, the area in question is within 27 miles of the Lanai VOR, and the airway has been satisfactorily used since 1953, first with 2 miles separation between V–2/21 and R–3104. In addition, an airway with 3 NM on one or both sides of the centerline conforms to the present criteria for establishing airways.

One commenter stated that due consideration is only being given to the military users of R–3104 and W–324. The FAA does not agree. These actions of reducing the size of Restricted Area R–3104, realigning and increasing the width of V–2/V–21, Hawaii, which pass along the northern boundary of R–3104 will allow simultaneous use of both areas when R–3104 is activated. Therefore, these actions will fulfill the requirement of Section 306 of the Federal Aviation Act of 1958 (49 U.S.C. § 1347) to "give full consideration to the requirements of national defense, and of commercial and general aviation, and to the public right of freedom of transit through the navigable airspace."

Mayor Elmer F. Cravalho stated that "the action by FAA in its proposed rule making is perceived as an attempt to moot certain issues contained in the County of Maui's petition while circumventing an appropriate judicial process. Thus, the proposed rule is inappropriate unless viewed as part of the overall issues in the County of Maui's petition and unless treated by FAA in this perspective. Consequently, the proposed rule should not be enacted unless processed in said manner." The FAA agrees with the petitioner that these actions are closely related to the issues contained in the petition which are under the authority conferred to FAA by the Federal Aviation Act of 1958. Therefore, these actions are being viewed as part of the overall issues in the County of Maui's petition and are a partial grant of Mayor Elmer F. Cravalho's petition. In addition, Mayor Cravalho objected to the proposed actions based on the following: (1) The proposed modification of R–3104 is unclear in its geographic identification (via the Kahoolawe shoreline) and does not permit an interested party to comment as to whether the spacing of V–2/V–21 (2.1 NM) from R–3104 will be rectified by the proposed actions; (2) the proposed amendments do not appear to provide the necessary 3 NM spacing as required by law; (3) the minimum en route altitude would be increased by the proposed actions; (4) the notice of proposed rule making does not include the effects of the airway realignment on the airway intersection and reporting points eastward; (5) the proposed actions are inconsistent with the interim actions taken; (6) there is no indication in the notice that there is any contemplated change in Navy bombing or firing runs or patterns, or any indication that the FAA will direct any action to reduce the size of the restricted area; (7) the NPRM does indicate environmental consideration of the proposed actions.

The FAA does not agree with Items 1–4. The closest point between the Lanai 106°T radial and the Kahoolawe shoreline is greater than 3 NM. The minimum en route altitude has been discussed above. No regulatory action concerning reporting points is anticipated as a result of these actions; however, some minor changes tto airway intersections will occur as a result of moving V–2/21 one degree north. The FAA agrees that the interim action taken by FAA (realigning V–2/21 four degrees north) is not the same as the proposed actions because of the considerations of the issues presented in the commenter's petition. Because these are airspace actions and not proposed operational changes, the airspace actions do not address the operational changes such as bombing/firing run patterns. However, this notice of proposed rule making did in fact propose to reduce the size of R–3104 by proposing to redefine the northern boundary of R–3104 by the Kahoolawe shoreline. Generally, notices of proposed rule making do not indicate environmental considerations in their proposed action. However, the environmental impact of these actions have been assessed in accordance with FAA Order 1050.1B.

Drafting Information

The principal authors of this document are Mr. Richard Huff, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as republished (42 FR 307 and 674) are amended, effective October 6, 1977, as follows:

Part 71

1. By amending § 71.127 (42 FR 343) to alter the following VOR Federal Airway: In V–2 Hawaii "Lanai 107°" is deleted and "Lanai 106°" is substituted therefor. In V–21 Hawaii "Lanai 107°" is deleted and "Lanai 106°" is substituted therefor. After "FIR/Oceanic CTA." "The airspace within R–3104 is excluded." is added.

Part 73

2. By amending § 73.31 (42 FR 674) to alter the following restricted areas: In R–3104A, R–3104B and R–3104C Island of Kahoolawe, Hawaii "20°37'00" N., Longitude 156°35'15" W.; is deleted and "20°36'20" N., Longitude 156°36'30" W.;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

Note.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Issued in Washington, D.C., August 4, 1977.

Edward J. Malo,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-23324 Filed 8-12-77;8:45 am]

[Airspace Docket No. 77–WE–14]

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

Designation of Transition Area: Orland, Calif.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates a transition area at Orland, California, to provide controlled airspace for aircraft executing an instrument approach procedure established for Haigh Field, Orland, Calif.

EFFECTIVE DATE: October 6, 1977.

ADDRESSES: Copies of this final rule may be obtained from: Federal Aviation Administration, Air Traffic Division, Chief, Airspace and Procedures Branch, 15000 Aviation Boulevard, Lawndale, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, Calif. 90261; Telephone 213–536–6182.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to desig-

nate a transition area at Orland, California.

On June 27, 1977, a Notice of Proposed Rulemaking (NPRM) was published in the FEDERAL REGISTER (42 FR 32554) stating that the Federal Aviation Administration proposed to designate a transition area at Orland, Calif., to provide controlled airspace for aircraft executing an instrument approach procedure established for Haigh Field.

Interested persons were afforded an opportunity to participate in the rulemaking through submission of comments. All comments received were favorable.

DRAFTING INFORMATION

The principal authors of this document are Thomas W. Binczak, Air Traffic Division, and DeWitte T. Lawson, Jr., Esquire, Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., October 6, 1977.

§ 71.181 [Amended]

1. By amending § 71.181 (42 FR 440) of Part 71 of the Federal Aviation Regulations by designating a new Transition Area as follows:

ORLAND, CALIF.

That airspace extending upward from 700 feet above the surface within a three mile radius of Haigh Field (latitude 39°43'16" N., longitude 122°08'50" W.); and within three miles each side of the Chico VOR 253° radial, extending from the three mile radius area to twelve miles west of the VOR.

NOTE.—This amendment is issued under the authority of sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on August 2, 1977.

FRANK HAPPY,
Acting Deputy Director,
Western Region.

[FR Doc.77-23419 Filed 8-12-77;8:45 am]

[Airspace Docket No. 77-SW-33]

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

Alteration of Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The Hobby, Tex., VORTAC will be relocated from one side of the Hobby airport property to the other on October 6, 1977, to permit further airport development. V-15, V-20, V-76 airways and J-37, J-138, J-177 jet routes will automatically move slightly without redesignation in Parts 71 and 75. The description of the Humble waypoint will be changed without changing Part 75 or its geographical location. Alteration of the description of V-198 east of Hobby by one degree is required, however, to retain the present position of the Smith, Tex., intersection.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the description of V-198, east of Hobby, Tex., one degree from 090° to 091°. This will permit retention of the Smith, Tex., intersection at its present position. Because this action realigns V-198 only one degree, it is considered minor in nature and one on which the public would have no particular desire to comment. Therefore, notice and public procedure thereon are unnecessary.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, §71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 307) is amended, effective 0901 G.m.t. October 6, 1977, as follows:

In V-198 "Hobby, Tex.; INT Hobby 090°" is deleted and "Hobby, Tex.; INT Hobby 091°" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviaton Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 8, 1977.

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

[FR Doc.77-23434 Filed 8-12-77;8:45 am]

[Airspace Docket No. 77-WA-11]

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

Alteration of Terminal Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Atlanta, Ga., Terminal Control Area (TCA) by adding TCA airspace where required to accommodate revised procedures, and by deleting TCA airspace that is no longer required. This amendment also makes permanent the temporary increase of the Atlanta TCA ceiling from 8,000 feet MSL to 12,500 feet MSL within a 35 mile radius of Atlanta. This amendment provides the appropriate Atlanta TCA configuration to handle current and anticipated operational requirements.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Wray McClung, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone: 202-426-8530.

SUPPLEMENTARY INFORMATION:

HISTORY

On June 20, 1977, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Atlanta TCA (42 FR 31173). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Four comments were received on the NPRM. The Air Transport Association of America and the Aircraft Owners and Pilots Association concurred with the proposal. The United States Air Force (USAF) and the United States Navy (USN) stated that they objected to the proposal; however, a review of their comments revealed that their objections actually were of a procedural nature and not directly related to the existing or proposed configuration of the Atlanta TCA. The FAA will continue to work with the USAF and USN to solve these procedural problems. This amendment is the same as was proposed in the notice. Section 71.401 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 642), and the Atlanta TCA was amended (41 FR 56789, 42 FR 14861).

THE RULE

This amendment alters the Atlanta TCA by adding TCA airspace where required for revised procedures and deleting TCA airspace no longer required. It also makes permanent the temporary ex-

tension of the Atlanta TCA ceiling from 8,000 feet MSL to 12,500 feet MSL within a 35 mile radius of Atlanta. The original Atlanta TCA became operational on June 25, 1970, and has been revised several times to accommodate revised procedures and runway configurations. Profile descent procedures were instituted this year in Atlanta to minimize the amount of time high performance aircraft (turbojet aircraft and turboprop aircraft weighing more than 12,500 pounds) operate in and around terminal areas. The requirements for profile descent procedures are incorporated in the reconfiguration of the Atlanta TCA to assure that the flight paths of high performance aircraft operate at or above the designated floors while within the lateral limits of the TCA.

On April 24, 1975, a temporary test expansion of the Atlanta TCA became effective which added a ring within a 35-mile radius from 8,000 feet MSL to 12,500 feet MSL to permit containment of jet aircraft within protected airspace during transition into and out of Atlanta. The test expansion has provided additional safety for terminal jet operations without unacceptable hindrance to aircraft wishing to bypass Atlanta, and the test expansion is made permanent. Subpart K of Part 71 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 642), and the Atlanta TCA was amended (41 FR 56789, 42 FR 14861).

DRAFTING INFORMATION

The principal authors of this document are Mr. Wray McClung, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart K of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 642) is amended, effective 0901 GMT, October 6, 1977, as follows:

In § 71.401, the Atlanta, Ga., Terminal Control Area is rewritten as follows:

Primary Airport, Atlanta Airport (Lat. 33°38'31" N., Long. 84°25'34" W.)

Area A. That airspace extending upward from the surface to and including 12,500 feet MSL, bounded on the east and west by a seven-mile radius of the Atlanta VORTAC, on the south by a line four miles south of and parallel to the Runway 09R/27L localizer courses, and on the north by a line four miles north of and parallel to the Runway 08/2C localizer courses; excluding the Charlie Brown County Control Zone.

Area B. That airspace extending upward from 2,500 feet MSL to and including 12,500 feet MSL, bounded on the east and west by a 12-mile radius of the Atlanta VORTAC, on the south by a line four miles south of and parallel to the Runway 09R/27L localizer courses, and on the north by a line four miles north of and parallel to the Runway 08/26 localizer courses; excluding the Charlie Brown County Control Zone and that airspace contained in Area A.

Area C. That airspace extending upward from 3,500 feet MSL to and including 12,500 feet MSL, bounded on the east and west by a 20-mile radius of the Atlanta VORTAC, on the south by a line eigth miles south of and parallel to the Runway 09R/27L localizer courses, and on the north by a line eight miles north of and parallel to the Runway 08/26 localizer courses; excluding that airspace contained in Areas A and B.

Area D. That airspace extending upward from 6,000 MSL to and including 12,500 feet MSL within a 25-mile radius of the Atlanta VORTAC; excluding that airspace clockwise between the Atlanta VORTAC 138 and 218 radials south of a line 12 miles south of and parallel to the Runway 09R/27L localizer courses, that airspace clockwise between the Atlanta VORTAC 323 and 031 radials north of a line 12 miles north of and parallel to the Runway 08/26 localizer courses, and that airspace contained in Areas A, B, and C.

Area E. That airspace extending upward from 8,000 feet MSL to and including 12,500 feet MSL within a 29-mile radius of the Atlanta VORTAC; excluding that airspace contained within Areas A, B, C, and D.

Area F. That airspace extending upward from 8,000 feet MSL to and including 12,500 feet MSL within a 35-mile radius of the Atlanta VORTAC; excluding that airspace contained in Areas A, B, C, D, and E.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 9, 1977.

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

[FR Doc.77-23435 Filed 8-12-77;8:45 am]

[Airspace Docket No. 76-AL-9]

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

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments alter the Eagle River, Alaska, Restricted Areas identified as R-2203A and R-2203B, and establish an additional Restricted Area R-2203C west of the present restricted area in the vicinity of Fort Richardson, Alaska. These actions provide for the safe and efficient use of the navigable airspace and release to the flying public the airspace overlying the water in Knik Arm north of the shoreline.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone: 202-426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On February 24, 1977, an advanced notice in the form of a circular was circulated to interested persons stating that the FAA was considering an amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) that would alter Restricted Areas R-2203A and R-2203B, and establish an additional Restricted Area R-2203C west of the present restricted areas in the vicinity of Fort Richardson, Alaska. The notice generated 17 concurrences and no objections. This proposal was republished in the FEDERAL REGISTER on June 16, 1977 (42 FR 30642). Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. We received one response to the NPRM in which the commenter posed no objection to the proposal. Sections 71.151 and 73.22 were republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 345 and 658, respectively). Section 73.22 was amended on February 24, 1977 (41 FR 56790) and Section 71.151 was subsequently amended with an effective date of August 11, 1977 (42 FR 29475).

THE RULE

These amendments to Parts 71 and 73 of the Federal Aviation Regulations (FARs) alter the Eagle River, Alaska, Restricted Areas R-2203A and R-2203B, and establish an additional Restricted Area R-2203C west of the present restricted area in the vicinity of Fort Richardson, Alaska. Alteration of the Eagle River, Alaska, Restricted Areas releases to the flying public the airspace overlying the water in Knik Arm north of the shoreline. In addition, the action of lowering the ceiling from 18,000 feet MSL to 11,000 feet MSL resulted in the removal of R-2203A and R-2203B from the Continental Control Area which consists of the airspace of the 48 contiguous states and Alaska at and above 14,500 feet MSL. The new Restricted Area R-2203C west of and adjacent to R-2203B, includes that airspace from the surface to 5,000 feet MSL over land area only. This additional restricted area is required to provide needed impact area to properly train field artillery battalions.

DRAFTING INFORMATION

The principal authors of this document are Mr. Richard Huff, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart D of Part 71 and Subpart K of Part 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) are amended, effective 0901 GMT, October 6, 1977, as follows:

§ 71.151 (42 FR 345 and 29475) is amended as follows:

"R-2203A Eagle River, Alaska" and "R-2203B Eagle River, Alaska" are deleted.

§ 73.22 (41 FR 56790 and 42 FR 658) is amended as follows:

In R-2203A Eagle River, Alaska, "61°17'20" N., Longitude 149°40'00" W.; to Latitude 61°17'15" N., Longitude 149°40'00" W.;" is deleted and "61°18'00" N., Longitude 149°39'45" W.; to Latitude 61°18'00" N., Longitude 149°44'00" W.; to Latitude 61°17'15" N., Longitude 149°42'25" W.;" is substituted therefor. In addition, "18,000" is deleted and "11,000" is substituted therefor.

In R-2203B Eagle River, Alaska, all between "Boundaries" and "to the point of beginning" is deleted and "Beginning at Latitude 61°24'34" N., Longitude 149°33'48" W.; thence southwesterly along the shoreline to Latitude 61°19'45" N., Longitude 149°44'00" W.; to Latitude 61°18'00" N., Longitude 149°44'00" W.; to Latitude 61°18'00" No., Longitude 149°39'45" W.; thence northeasterly along the Alaska Railroad to Latitude 61°22'00" N., Longitude 149°33'48" W.;" is substituted therefor. In addition, "18,000" is deleted and "11,000" is substituted therefor.

The following is added:

R-2203C EAGLE RIVER, ALASKA

Boundaries. Beginning at Lat. 61°19'45" N., Long. 149°44'00" W.; thence westerly along the shoreline to Lat. 61°19'38" N., Long. 149°46'36" W.; to Lat. 61°19'12" N., Long. 149°46'36" W.; to Lat. 61°18'00" N., Long. 149°44'00" W.; to point of beginning.
Designated altitudes. Surface to 5,000 feet MSL.
Time of designation. Daily, Monday through Friday, other times as activated by NOTAM issued by the using agency at least 24 hours in advance.
Controlling agency. FAA, Anchorage Approach Control.
Using agency. 172nd Infantry Brigade (Alaska) Fort Richardson, Alaska.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 8, 1977.

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

[FR Doc.77-23433 Filed 8-12-77;8:45 am]

[Docket No. 17101; Amdt. No. 1085]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:
1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed weekly, may be ordered from Superintendant of Documents, U.S. Government Printing Office, Washington, D.C 20402. The current annual subscription price is $150.00; add $30.00 for each additional copy mailed to the same address.

FR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone 202-426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 9) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the ERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * *Effective October 6, 1977.*

Baltimore, MD—Baltimore-Washington Int'l, VOR Rwy 10, Amdt. 11
Baltimore, MD—Baltimore-Washington Int'l, VOR Rwy 28, Amdt. 16
Baltimore, MD—Baltimore-Washington Int'l, VOR Rwy 33L, Amdt. 1
Baltimore, MD—Baltimore-Washington Int'l, VOR/DME Rwy 22, Amdt. 4
Newport News, VA—Patrick Henry Int'l, LOC (BC) Rwy 25, Amdt. 7

* * * *Effective September 22, 1977.*

Tuscaloosa, AL—Tuscaloosa Muni., VOR Rwy 4, Amdt. 6
Tuscaloosa, AL—Tuscaloosa Muni., VOR Rwy 22, Amdt. 8
Bishop, CA—Bishop, VOR-A, Amdt. 2
Newburyport, MA—Plum Island, VOR Rwy 10, Amdt. 2
St. Louis, MO—Lambert-St. Louis Int'l, VOR Rwy 12L, Amdt. 7
St. Louis, MO—Lambert-St. Louis Int'l, VOR Rwy 12R, Amdt. 16
Portsmouth, OH—Greater Portsmouth Regional, VOR/DME-A, Amdt. 1

* * * *Effective September 8, 1977.*

Philadelphia, PA—North Philadelphia, VOR Rwy 6, Amdt. 9

Philadelphia, PA—North Philadelphia, VOR Rwy 24, Amdt. 17

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

* * * *Effective October 6, 1977.*

Baltimore, MD—Baltimore-Washington Int'l, LOC(BC) Rwy 33L, Amdt. 4
Milwaukee, WI—General Mitchell Field, LOC Rwy 25L, Amdt. 2

* * * *Effective September 22, 1977.*

Columbia, MO—Columbia Regional, LOC (BC) Rwy 20, Amdt. 4
St. Louis, MO—Lambert-St. Louis Int'l, LOC BC Rwy 6, Amdt. 22
Cleveland, OH—Cleveland Hopkins International, LOC Rwy 28R, Originial
Columbia-Mt. Pleasant, TN—Maury County, SDF Rwy 23, Original

* * * *Effective September 8, 177.*

Philadelphia, PA—North Philadelphia, LOC (BC) Rwy 6, Amdt. 2

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * *Effective October 6, 1977.*

Marathon, FL—Marathon Flight Strip, NDB Rwy 7, Original
Newport News, VA—Patrick Henry Int'l, NDB Rwy 7, Admt. 17
Milwaukee, WI—General Mitchell Field, NDB Rwy 1L, Amdt. 1
Milwaukee, WI—General Mitchell Field, NDB Rwy 7R, Amdt. 6
Mineral Point, WI—Iowa County, NDB Rwy 22, Original

* * * *Effective September 22, 1977.*

Tuscaloosa, AL—Tuscaloosa Muni., NDB Rwy 4, Amdt. 4
St. Louis, MO—Lambert-St. Louis Int'l, NDB Rwy 12R, Amdt. 7
St. Louis, MO—Lambert-St. Louis Int'l, NDB Rwy 24, Amdt. 30
Whiteville, NC—Columbus County Municipal, NDB Rwy 5, Original
Athens (Albany), OH—Ohio University, NDB Rwy 24, Amdt. 3
Cleveland, OH—Cleveland Hopkins International, NDB Rwy 5R/L, Amdt. 13
Cleveland, OH—Cleveland Hopkins International, NDB Rwy 23L/R, Amdt. 3
Gallipolis, OH—Gallia-Meigs Regional, NDB Rwy 23, Amdt. 1
Hamilton, OH—Hamilton, NDBA-A, Amdt. 8
Youngstown, OH—Lansdowne, NDB-B, Amdt. 6
Columbia-Mt. Pleasant, TN—Maury County, NDB Rwy 5, Amdt. 3, cancelled
Columbia-Mt. Pleasant, TN—Maury County, NDB Rwy 23, Original
Columbia-Mt. Pleasant, TN—Maury County, NDB Rwy 23, Amdt. 5, cancelled
Lufkin, TX—Angelina County, NDB Rwy 33, Original, cancelled
Juneau, WI—Dodge County, NDB Rwy 2, Amdt. 7
Juneau, WI—Dodge County, NDB Rwy 20, Amdt. 5
Racine, WI—Horlick-Racine, NDB Rwy 22, Amdt. 11

4. By amending, § 97.29 ILSM-LMS SIAPs identified as follows:

* * * *Effective October 6, 1977.*

Baltimore, MD—Baltimore-Washington Int'l, ILS Rwy 10, Amdt. 8
Baltimore, MD—Baltimore-Washington Int'l, ILS Rwy 15R, Amdt. 8
Baltimore, MD—Baltimore-Washington Int'l, ILS Rwy 28, Amdt. 2
Newport News, VA—Patrick Henry Int'l, ILS Rwy 7, Amdt. 21
Milwaukee, WI—General Mitchell Field, ILS Rwy 1L, Amdt. 1
Milwaukee, WI—General Mitchell Field, ILS Rwy 7R, Amdt. 8
Milwaukee, WI—General Mitchell Field, ILS Rwy 19R, Amdt. 3

* * * *Effective September 22, 1977.*

Tuscaloosa, AL—Tuscaloosa Muni., ILS Rwy 4, Amdt. 6
Cleveland, OH—Cleveland Hopkins International, ILS Rwy 5R, Amdt. 5
Cleveland, OH—Cleveland Hopkins International, ILS Rwy 23L, Amdt. 5
Cleveland, OH—Cleveland Hopkins International, ILS Rwy 28R, Amdt. 14
St. Louis, MO—Lambert-St. Louis Int'l Rwy 12R, Amdt. 11
St. Louis, MO—Lambert-St. Louis Int'l Rwy 24, Amdt. 34
St. Louis, MO—Lambert-St. Louis Int'l Rwy 30L, Amdt. 2

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * *Effective October 6, 1977.*

Baltimore, MD—Baltimore-Washington Int'l, RADAR-1, Amdt. 7
Milwaukee, WI—General Mitchell Field, RADAR-1, Amdt. 20

* * * *Effective September 22, 1977.*

St. Louios, MO—Lambert-St. Louis Int'l, RADAR-1, Amdt. 19
Cleveland, OH—Cleveland Hopkins International, RADAR-1, Amdt. 24

* * * *Effective August 25, 1977*

Champaign-Urbana, IL—University of Illinois-Willard, RADAR-1, Original

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * *Effective October 6, 1977.*

Baltimore, MD—Baltimore-Washington Int'l, RNAV Rwy 22, Amdt. 3

* * * *Effective September 22, 1977.*

Palm Springs, CA—Palm Springs Municipal, RNAV-B, Orig. cancelled
St. Louis, MO—Lambert-St. Louis Int'l, RNAV Rwy 30L, Amdt. 4
Cleveland, OH—Cleveland Hopkins International, RNAV Rwy 10L, Amdt. 5
Cleveland, OH—Cleveland Hopkins International, RNAV Rwy 18R, Amdt. 5
Cleveland, OH—Cleveland Hopkins International, RNAV Rwy 36L, Amdt. 5
Hamilton, OH—Hamilton, RNAV Rwy 29, Amdt. 2
Portsmouth, OH—Greater Portsmouth Regional, RNAV Rwy 18, Amdt. 1

* * * *Effective September 8, 1977.*

Philadelphia, PA—North Philadelphia, RNAV Rwy 15, Amdt. 2
Philadelphia, PA—North Philadelphia, RNAV Rwy 33, Amdt. 3

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354 (a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 25 FR 6489 and Paragraph 802 of Order FS P 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C. on August 5, 1977.

JAMES M. VINES,
Chief, Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the FEDERAL REGISTER on May 12, 1969.

[FR Doc.77-23315 Filed 8-12-77;8:45 am]

Title 20—Employees Benefits

CHAPTER VIII—JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

PART 901—REGULATIONS GOVERNING THE PERFORMANCE OF ACTUARIAL SERVICES UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

PART 902—RULES REGARDING AVAILABILITY OF INFORMATION

Adoption of Provisions Governing Enrollment of Actuaries and Public Availability of Information; Correction

AGENCY: Joint Board for the Enrollment of Actuaries.

ACTION: Correction of final rule.

SUMMARY: This correction is necessary to eliminate technical mistakes in the summary and supplementary information portions of the statement preceding the final rules adopted by the Joint Board for the Enrollment of Actuaries which appear at 42 FR 39200 (August 3, 1977).

EFFECTIVE DATE: January 14, 1976.

FOR FURTHER INFORMATION:

Forest D. Montgomery, Counselor to the General Counsel, U.S. Department of the Treasury, Washington, D.C. 20220 (202-566-5311).

SUPPLEMENTARY INFORMATION: The following changes are being made in the summary and supplementary information portions of the statement preceding the final rules adopted by the Joint Board for the Enrollment of Actuaries (42 FR 39200).

(1) In the summary, insert "Circuit" following the word "Columbia" in the fifth line .

(2) On page 39200, in the first paragraph immediately following the heading "'Two-tier' Enrollment System", beginning at line 4, strike the words "actuaries working on", plus the remainder of that sentence, and substitute the following words: "persons with a high level of actuarial skills examining the larger pension plans, and a second enrollment standard (or second tier) for actuaries working on smaller and simpler plans who may not possess a high level of actuarial skills." (This change is necessary to make the discussion of the suggested two classes of enrollment in the first paragraph under "'Two-Tier' Enrollment System", which refers to actuaries working on smaller and simpler plans as being in the "first tier," more consistent with the next to last paragraph under

that heading, which refers to such actuaries as being in the "second tier.")

(3) In the last sentence of the same paragraph, change "ERIS" to "ERISA."

Dated: August 10, 1977.

FOREST D. MONTGOMERY,
Acting Chairman, Joint Board for the Enrollment of Actuaries.

[FR Doc.77-23437 Filed 8-12-77;8:45 am]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

PART 221—OPERATION AND MAINTENANCE

Flathead Irrigation Project

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final publication of amendment.

SUMMARY: The purpose of this amendment is to establish the lump sum assessments against the Flathead, Mission, and Jocko Valley Irrigation Districts within the Flathead Irrigation Project for the season of 1978. This action is necessary to cover the increase in operation and maintenance costs of the Irrigation Project. The notice of intent to modify was published in Volume 42, No. 117, Friday, June 17, 1977, on page 30867. Comments were invited until July 18. No comments were received, therefore, this final publication is in order.

EFFECTIVE DATE: September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. George L. Moon, Project Engineer, Flathead Irrigation Project, Box 198, St. Ignatius, Mont. 59865. Telephone: 406-745-2661.

SUPPLEMENTARY INFORMATION: The primary author of this document is Mr. George L. Moon. It is hereby certified that the economic and inflationary impacts of this amendment have been carefully evaluated in accordance with Executive Order 11821. The three mentioned Irrigation District Boards of Commissioners have, by resolution, supported this amendment.

Accordingly, §§ 221.24, 221.26 and 221.28 are amended to read as follows:

§ 221.24 Charges.

Pursuant to a contract executed by the Flathead Irrigation District, Flathead Indian Irrigation Project, Mont., on May 12, 1928, as supplemented and amended by later contracts dated February 27, 1929, March 28, 1934, August 26, 1936, and April 5, 1950, there is hereby fixed for the season of 1978 an assessment of $550,607.19 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines and under the jurisdiction of the Flathead Irrigation District. This assessment involves an area of approximately 88,097.15 acres, which does not include any land held in trust for Indians and covers all proper general charges and project overhead.

§ 221.26 Charges.

Pursuant to a contract executed by the Mission Irrigation District, Flathead Indian Irrigation Project, Mont., on March 7, 1931, approved by the Secretary of the Interior on April 21, 1931, as supplemented and amended by later contracts dated June 2, 1934, June 6, 1936, and May 15, 1951, there is hereby fixed, for the season of 1978 an assessment of $97,448.34 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines and under the jurisdiction of the Mission Irrigation District. This assessment involves an area of approximately 16,241.39 acres, which does not include any land held in trust for Indians and covers all proper general charges and project overhead.

§ 221.28 Charges.

Pursuant to a contract executed by the Jocko Valley Irrigation District, Flathead Indian Irrigation Project, Mont., on November 13, 1931, approved by the Secretary of the Interior on February 26, 1935, as supplemented and amended by later contracts dated August 26, 1936, April 18, 1950, and August 24, 1967, there is hereby fixed for the season of 1978 an assessment of $45,201.30 for the operation and maintenance of the irrigation system which serves that portion of the project within the confines and under the jurisdiction of the Jocko Valley Irrigation District. This assessment involves an area of approximately 7,471.29 acres, which does not include any lands held in trust for Indians and covers all proper general charges and project overhead.

GEORGE L. MOON,
Project Engineer.

[FR Doc.77-23442 Filed 8-12-77;8:45 am]

Title 27—Alcohol, Tobacco Products, and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS, DEPARTMENT OF THE TREASURY

[T.D. ATF-45]

PART 178—COMMERCE IN FIREARMS AND AMMUNITION

Ammunition Recordkeeping Requirements

AGENCY: Bureau of Alcohol, Tobacco, and Firearms.

ACTION: Final rule (Treasury decision).

SUMMARY: This document revises ammunition recordkeeping requriements by exempting all Federal licensees from recording retail sales of certain types of ammunition. This amendment is necessary to implement statutory modifications of the Gun Control Act of 1968.

EFFECTIVE DATE: August 15, 1977.

FOR FURTHER INFORMATION CONTACT:

A. N. Stickney, ATF&E Specialist, Research and Regulations Branch, Regulations and Procedures Division (Regulatory Enforcement), Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION: Pub. L. 91-128 amended the Internal Revenue Code of 1954 by adding section 4182(c) to provide that notwithstanding the provisions of sections 922(b)(5) and 923(g) of title 18, United States Code, no person holding a Federal firearms license shall be required to record the name, address, or other information about the purchaser of shotgun ammunition, ammunition suitable for use only in rifles generally available in commerce, or component parts of the aforesaid types of ammunition. The amendment did not affect the recordkeeping requirements for pistol and revolver ammunition or ammunition interchangeable between rifles and handguns.

Although existing regulations require all firearms licensees to keep records of the sales of all types of ammunition, the Bureau advised all firearms licensees in Industry Circular No. 69-26, dated December 4, 1969, and Industry Circular No. 70-7, dated February 2, 1970, that they no longer were required to record the name, address, or other information about the retail purchaser of shotgun ammunition, ammunition suitable for use only in rifles, or component parts for these types of ammunition. This Treasury decision updates the present regulations by implementing the provisions of Pub. L. 91-128 (83 Stat. 261).

Consequently, 27 CFR 178.125(c) which requires the maintenance of records on all sales or other dispositions of ammunition is revised to reflect the provisions of 26 U.S.C. 4182(c) and to clarify the recordkeeping requirements of a licensee on sales or other dispositions of ammunition between licensees. Paragraphs in this section are assigned headings to promote readability of the text, and citation of authority is added at the end of the section. Additionally, the title, "Assistant Regional Commissioner", wherever used in § 178.125(g) is replaced by "regional regulatory administrator" (T.D. ATF-32 (41 FR 44038)).

(The originating drafter of this Treasury decision is A. N. Stickney of the Research and Regulations Branch, Bureau of Alcohol, Tobacco, and Firearms. Officials from the Bureau and from the Treasury Department, however, participated in developing the Treasury decision, both on matters of substance and style.)

Because this Treasury decision is liberalizing in nature and requires no public initiative, it is unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b) or subject to the effective date limitation in 5 U.S.C. 553(d). This Treasury decision is issued under the authority contained in 18 U.S.C. 926 (82 Stat. 1214).

Accordingly, 27 CFR Part 178 is amended as follows:

Section 178.125 is revised to read as follows:

§ 178.125 Record of receipt and disposition.

(a) *Ammunition received by licensed dealers.* * * *

(b) *Ammunition received by licensed collectors.* * * *

* * * * *

(c) *Ammunition disposition.*—(1) *Sales to nonlicensees.* The sale or other disposition of ammunition, or of an ammunition curio or relic, shall be recorded in a bound record at the time a transaction is made, except that no record need be maintained for the sale of shotgun ammunition, ammunition suitable for use only in rifles generally available in commerce, or component parts of these types of ammunition. Sales or other dispositions of ammunition which are interchangeable between rifles and pistols or revolvers (for example, .22 Rimfire, .45 Pistol and Revolver, and the like) must be recorded. The bound record shall be maintained in chronological order by date of sale or disposition of the ammunition, and shall be retained on the licensed premises of the licensee for a period not less than two years following the date of the recorded sale or disposition of the ammunition.

The bound record entry shall show:

(i) The date of the transaction;

(ii) The name of the manufacturer;

(iii) The caliber or gauge (or the type of ammunition component);

(iv) The quantity of ammunition (or component);

(v) The name, address, and date of birth of the nonlicensee; and

(vi) The method used to establish the identity of the ammunition purchaser.

The format required for the bound record is as follows:

DISPOSITION RECORD FOR PISTOLS, REVOLVERS, AND INTERCHANGEABLE AMMUNITION

Date	Manufacturer	.22 Caliber Rimfire: Enter only a (✓) if 10 boxes or less. Enter number of boxes if more than 10.	Other: Caliber, gauge, or type of component	Other: No. of boxes	Purchaser: Name and address	Purchaser: Date of birth	Enter a (✓) in the "Manner" column if purchaser is personally known to you. Otherwise, establish the purchaser's identification: Known	Driver's License	Other type (specify)

However, when a commercial record is made at the time a transaction is made, a licensee may delay making an entry into the bound record if he or she complies with provisions of paragraph (d) of this section.

(2) *Sales to licensees.* Sales or other dispositions of all ammunition from a licensee to another licensee shall be recorded and maintained in the manner prescribed in § 178.122(b) for importers.

(d) *Commercial records of ammunition sales.* * * *

(e) *Firearms receipt and disposition.* * * *

(f) *Commercial records of firearms received.* * * *

(g) *Alternate records.* * * *

(h) *Requirements for importers and manufacturers.* * * *

(Sec. 5, Pub. L. 91-128, 83 Stat. 261 (26 U.S.C. 4182(c)).)

Signed: July 14, 1977.

REX D. DAVIS,
Director.

Approved: August 8, 1977.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

[FR Doc.77-23507 Filed 8-12-77;8:45 am]

Title 29—Labor

CHAPTER I—NATIONAL LABOR RELATIONS BOARD

PART 102—RULES AND REGULATIONS, SERIES 8

Representation Case Procedures

AGENCY: National Labor Relations Board.

ACTION: Amendments to rules.

SUMMARY: This document establishes procedures for requests for review of representation cases and for conduct of elections pending review by the Board. The changes are designed to facilitate consideration and disposition of requests for review.

EFFECTIVE DATE: August 15, 1977.

FOR FURTHER INFORMATION CONTACT:

John C. Truesdale, Esquire, Executive Secretary, National Labor Relations Board, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

SUPPLEMENTARY INFORMATION: Section 102.67 of the Rules and regulations of the National Labor Relations Board establishes representation case procedures providing for certain actions by the regional director upon petitions for the conduct of elections, and for Board review of such actions. The procedures have provided that when a request for review is filed from the action of the regional director directing an election, that election should not be conducted until the Board has ruled upon the request for review. The amendments to sections 102.67 (b) and (j) promulgated hereby change that procedure. Under those amendments the regional director will now conduct the election, as scheduled, irrespective of the pendency or granting of a request for review. However, all ballots which might be affected by the Board's decision on the request for review shall be segregated in an appropriate manner, and all ballots impounded without opening until the Board's final decision has issued. It is expected that this changed procedure will contribute to the stability of labor relations and the effectiveness of the Board's election process by permitting the parties to plan their election campaigns in confidence that the election will be held as scheduled, and by providing the employees the opportunity to cast their ballots at a time when they are best informed and interested concerning the election issues.

The changes in sections 102.67 (d) and (g) are designed to facilitate consideration and disposition of requests for review of regional directors' decisions, thereby further contributing to the prompt resolution of representation issues. Section 102.67(d) as amended will permit the Board to examine the record in evaluating a request for review, although such requests are still required to be a self-contained document. The amendments to section 102.67(g) will now permit the Board to rule upon the issues on review at the same time it grants the request. Such action will avoid the delay associated with the briefing time after a grant of review, when the issues are clear and readily resolved.

The National Labor Relations Board hereby promulgates amendments to § 102.67 (b), (d), (g), and (j) of its Rules and Regulations, 29 CFR 102.67, and revises those subsections to read as follows:

§ 102.67 Proceedings before the regional director; further hearing; briefs; action by the regional director; appeals from action by the regional director; statement in opposition to appeal; transfer of case to Board; proceedings before the Board; Board action.

* * * * *

(b) A decision by the regional director upon the record shall set forth his findings, conclusions, and order or direction. The decision of the regional director shall be final: *Provided, however,* That within 10 days after service thereof any party may file eight copies of a request for review with the Board in Washington, D.C. Such request shall be printed or otherwise legibly duplicated: *Provided, however,* That carbon copies shall not be filed and if submitted will not be accepted. Simultaneously therewith, copies thereof shall be served on all other parties to the proceeding and the regional director, and a statement of such service filed with the Board. The regional director shall schedule and conduct any election directed by the decision notwithstanding that a request for review has been filed with or granted by the Board. The filing of such a request shall not, unless otherwise ordered by the Board, operate as a stay of the election or any other action taken or directed by the regional director: *Provided, however,* That if a pending request for review has not been ruled upon or has been granted, ballots whose validity might be affected by the final Board decision shall be segregated in an appropriate manner; and all ballots shall be impounded and remain unopened pending such decision.

* * * * *

(d) Any request for review must be a self-contained document enabling the Board to rule on the basis of its contents without the necessity or recourse to the record; however, the Board may, in its discretion, examine the record in evaluating the request. With respect to ground (2), and other grounds where appropriate, said request must contain a summary of all evidence or rulings bearing on the issues together with page citations from the transcript and a summary of argument. But such request may not raise any issue or allege any facts not timely presented to the regional director.

* * * * *

(g) The granting of a request for review shall not stay the regional director's decision unless otherwise ordered by the Board. Except where the Board rules upon the issues on review in the order granting review, the appellants and other parties may, within 7 days after the issuance of an order granting review, file eight copies of a brief with the Board, which shall be duplicated and served in accordance with the requirements of subsection (b) of this section. A statement of such service shall be filed simultaneously with the Board. Such briefs may be reproductions of those previously filed with the regional director and/or other briefs which shall be limited to the issues raised in the request for review. Where review has been granted, the Board will consider the entire record in the light of the grounds relied on for review. Any request for review may be withdrawn with the permission of the Board at any time prior to the issuance of the decision of the Board thereon.

* * * * *

(j) Upon transfer of the case to the Board, the Board shall proceed, either forthwith upon the record, or after oral argument or the submission of briefs, or further hearing, as it may determine, to decide the issues referred to it or to review the decision of the regional director, and shall direct a secret ballot of the employees or the appropriate action to be taken on impounded ballots of an election already conducted, dismiss the petition, affirm or reverse the regional director's order in whole or in part, or make such other disposition of the matter as it deems appropriate.

[FR Doc.77-23429 Filed 8-12-77;8:45 am]

Title 32—National Defense

CHAPTER 1—OFFICE OF THE SECRETARY OF DEFENSE

PART 199—IMPLEMENTATION OF THE CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS)

Opportunity for Oral Presentation of Views on CHAMPUS Regulation DOD 6010.8–R

AGENCY: Office of the Secretary of Defense.

ACTION: Public hearing.

SUMMARY: This document announces a public hearing on the recently adopted CHAMPUS Regulation DOD 6010.8–R (42 FR 17972, April 4, 1977). The purpose of the hearing is to provide an opportunity for oral presentation to those who had submitted written comments on the CHAMPUS Regulation during the period April 4 to June 4, 1977, the formal comment period.

DATES: September 7, 8, and 9, 1977, between the hours of 8:30 a.m. to 12 noon, and 1:15 p.m. to 3:45 p.m.

ADDRESSES: Air Force Auditorium, Room GE086, Forrestal Building, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Commander James T. Dalton, Room 3E172, Pentagon, Washington, D.C. 20301; Telephone 202–697–2115.

SUPPLEMENTARY INFORMATION: Any changes resulting from these written comments and oral presentations which operate to increase the rights, benefits, or privileges currently provided in the Regulation as published in the FEDERAL REGISTER, Part II, April 4, 1977, pages 17972 through 18032, and to be codified as 32 CFR 199, will be effective retroactively to April 4, 1977, insofar as administratively feasible. Those who submitted written views during the sixty-day comment period and who wish to supplement their views orally may request to make a presentation at the hearing by writing or calling Lieutenant Commander James T. Dalton. A request should include a general description of the subject to be addressed and the names and titles of those who will appear at the hearing to make the oral presentation. Requesters will be notified individually of the hearing schedule as soon after the close of the fourteen day period for requests as practicable.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Office of the Assistant Secretary of Defense (Comptroller).

AUGUST 8, 1977.

[FR Doc.77-23440 Filed 8-12-77;8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76-210]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Niagara River, N.Y.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the operation regulations for the Canadian National Railway Company drawbridge across the Niagara River, mile 0.6, to allow the draw to remain closed to the passage of vessels. The draw was last opened for the passage of vessels in 1946. The amendment will relieve the owner of the bridge of the burden of maintaining it in operable condition.

EFFECTIVE DATE: This amendment is effective on September 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G–WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590 (202–426–0942).

SUPPLEMENTARY INFORMATION: On November 18, 1976, the Coast Guard published a proposed rule (41 FR 50842) concerning this amendment. The Commander, Ninth Coast Guard District, also published this proposal as a public notice dated December 20, 1976. Interested persons were given until January 21, 1977, to submit comments.

DRAFTING INFORMATION

The Principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant Edward J. Gill, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

Two comments were received which objected to the proposal on the grounds that there might be a need in the future for this bridge to be operational. The Coast Guard feels that since no opening for navigation has been required for 31 years, and alternate routes are available, the regulations, as proposed, should be adopted.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.708 to read as follows:

§ 117.708 Niagara River; Canadian National Railway bridge (International Bridge) between Buffalo, N.Y., and Fort Erie, Ontario, Canada.

The draw need not open for the passage of vessels. However, the draw shall be returned to operable condition within six months after notification from the Commandant, U.S. Coast Guard, to take such action.

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

NOTE.—The Coast Guard has determined that this document does not contain a major proposal requiring preparation of Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A–107.

Dated: August 8, 1977.

O. W. SILER,
Admiral, U.S. Coast Guard, Commandant.

[FR Doc.77-23467 Filed 8-12-77;8:45 am]

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

[ER 1130-2-413]

PART 274—PEST CONTROL PROGRAM FOR CIVIL WORKS PROJECTS

AGENCY: Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: The final rule assigns responsibilities and prescribes procedures

concerning the use of chemicals in the pest control program at all Civil Works projects. It also presents guidance for the preparation and submission of pest control reports. Under the provisions of Section 4, Pub. L. 92-516, the Environmental Protection Agency is responsible for Federal certification of pesticide applicators through its development of a single Government Agency Plan (GAP). By letter dated 30 December 1976, the Administrator of the Environmental Protection Agency has stated that Federal certification will no longer be undertaken pursuant to a single GAP. Instead, the Environmental Protection Agency will exercise its responsibilities by approving individual Agency Plans which will permit each Federal Agency to certify its own employees. The Department of Defense has developed an Agency Plan for certification of its pesticide applicators which has been approved in principle and concept. It has been determined that the DOD Agency Plan satisfies the training requirement for certification of civil works personnel. Pending final approval of the DOD Agency Plan, Corps of Engineers pesticide supervisors and applicators will be certified in accordance with the criteria described in the regulation. The effect of this action is to make the public aware of the procedures concerning the use of pesticides by Corps of Engineers personnel at all Civil Works projects.

EFFECTIVE DATE: The effective date of this regulation is 15 August 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Dale Crane, (202-693-7177), Recreation-Resource Management Branch, HQDA (DAEN-CWO-R), WASH DC 20314.

NOTE: The U.S. Army Corps of Engineers has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: August 4, 1977.

JAMES N. ELLIS,
Colonel, Corps of Engineers, Chief of Staff

Accordingly, 33 CFR is amended by adding Part 274 as follows:

PROJECT OPERATION

Sec.
274.1 Purpose.
274.2 Applicability.
274.3 References.
274.4 Pesticide management.
274.5 Certification.
274.6 Division/district pest control programs.
274.7 Authorization of pesticide use.

AUTHORITY: Pub. L. 92-516, Federal Insecticide, Fungicide and Rodenticide Act of 1972 (86 Stat. 973, 21 Oct 72, 40 CFR Part 171, Federal Certification of Pesticide Applicators.

PROJECT OPERATION

§ 274.1 Purpose.

The purpose of this regulation is to assign responsibilities and prescribe procedures concerning the use of chemicals in the Corps pest control program at all civil works projects. It also presents guidance for the preparation and submission of an annual pest control summary report.

§ 274.2 Applicability.

This regulation is applicable to all OCE elements and all field operating agencies having Civil Works responsibilities.

§ 274.3 References.

(a) Public Law 92-516, Federal Insecticide, Fungicide and Rodenticide Act of 1972, (86 Stat 973), 21 October 1972.

(b) Public Law 91-596, Occupational Safety and Health Act of 1970, (84 Stat. 1609, 29 USC 668) 29 December 1970.

(c) Medical Surveillance Guide, U.S. Army Environmental Hygiene Agency, January 1975.

(d) Guide for the Medical Surveillance of Pest Controllers, U.S. Army Environmental Hygiene Agency, March 1976, as amended.

(e) Pesticide Applicator Training Manual, Cornell University, Ithaca, New York, September 1974.

(f) Plan for Certification of Pesticide Applicators, DOD, June 1976.

§ 274.4 Pesticide management.

(a) *Administration.* The Division Engineer is responsible for implementation of the program, and providing for the training of pest control personnel, safe use of highly toxic materials and the proper application of restricted-use pesticides. District programs will be reviewed by the Division Engineer for the selection of suitable pest control agents, up-to-date and economical methods of control, and the proper use and maintenance of pest control equipment. Field Operating Agencies (FOA) will designate a single point of contact for pesticide matters.

(b) *Personnel actions.* Pesticide duties will be identified in applicable job descriptions whether they constitute a major duty or not. Such job descriptions will also note the employees responsibility for using personal protective equipment and clothing provided and for following established health and safety practices and procedures. Standard Form 78 medical examination will be augmented by the specific diagnostic tests for the occupations identified in § 274.4(c). Prescribed preplacement medical examinations will be provided as part of the personnel action process before anyone is permitted to perform pesticide duties

(c) *Medical surveillance.* Preplacement, periodic and pretermination medical examinations of the type and extent set forth in Section III, U.S. Army Environmental Hygiene Agency (USAEHA) "Guide for the Medical Surveillance of Pest Controllers" will be provided for personnel involved in pesticide operations. Additional information is contained in USAEHA "Medical Surveillance Guide (Guide for Job-Related Examinations)." Appropriate medical records will be maintained in official personal folders.

(d) *Personnel training.* All personnel directly involved in pest control must be properly trained in the safe application of herbicides, insecticides, rodenticides, fumigants and fungicides. The current plan for training and certification of pest control personnel requires that all pest control applicators and/or supervisors satisfactorily complete (1) the correspondence course, "Basic Pest Control Technology" NTTC 150, available from NAVFAC Technical Training Command, Norfolk, Virginia 23511 and a three day (20 hr) conference training course conducted by the Army Health Services Command (AHSC) at Fort Sam Houston, Texas 78234, for Civil Works personnel, or a three day (20 hr) special training course conducted by the Division Engineer, to include information presented in the "Pesticide Applicator Training Manual", § 274.3(e) or (2) a B.S. degree in agronomy, entomology, forestry or horticulture from an accredited college or university.

(e) *Restricted-use pesticide training.* For agency certification § 274.3(f) Civil Works supervisors and applicators using the higher toxicity Restricted-Use pesticides are required to complete Restricted-Use Pesticide training as given at Navy facilities at Jacksonville, Florida or Alemeda, California, Wichita Falls Air Base, or the Army Health Services Command, Fort Sam Houston, Texas. College and University programs which are acceptable for State certification of restricted-use pesticide applicators may be used in lieu of the above.

(f) *Coordination with EPA.* The Environmental Protection Agency is expected to publish regulations listing pesticides classified for restricted-use by October 1977. The Division Engineer will be responsible for close coordination with EPA Regional Offices in order to comply with the regulatory requirements for restricted-use pesticides.

(g) *Exposure to and protection from pesticide hazards.* Basic health and safety practices and procedures including personal protective equipment and clothing, work area layouts, storage and application considerations are identified in Appendix A of this regulation. Additional guidance is contained in Section II and Appendix A of the USAEHA "Guide for Medical Surveillance of Pest Controllers."

(h) *Contracting for pest control services.* All contracts for pest control services must receive Technical review and approval from professional pest control management personnel prior to advertisement of the contract and procurement of services. The contractor will be required to submit proof that his supervisory personnel to be employed on the contract are certified in the specific categories for operations being conducted in accordance with an approved state plan in effect in the area concerned.

§ 274.5 Certification.

Under the provisions of Section 4, Pub. L. 92-516, the Environmental Protection Agency is responsible for Federal certification of pesticide applicators through its development of a single Government Agency Plan (GAP). By letter dated December 30, 1976, the Administrator of the Environmental Protection Agency has stated that Federal certification will no longer be undertaken pursuant to a single GAP. The Department of Defense has developed an Agency Plan for certification of its pesticide applicators which has been approved in principle and concept. It has been determined that the DOD Agency Plan satisfies the training requirements for certification of Civil Works personnel. Pending final approval of the DOD Agency Plan, all Corps of Engineers pesticide applicators will be certified in accordance with the criteria described in this regulation by issue of a certificate of training and competency (DA Form 87, 1 Sep 54), signed by the Training Officer and the Division Engineer.

§ 274.6 Division/district pest control programs.

(a) *Guides.* Referenced technical manuals, and Engineer Circulars issued from time to time, will be used as guides in selecting the type of chemicals and the method of application in the control of vegetation and pests at civil works projects.

(b) *Responsibilities and reports (RCS DAEN-CWO-48).* Districts will prepare and submit to the Divisions detailed descriptions or their anticipated use of pesticides for review and approval by the appropriate Division.

§ 274.7 Authorization of pesticide use.

(a) Programs approved in § 274.6(b) must be those as described on the pesticide label. Pesticide uses which are different from the registered use, require amendment of the label, approved by the Environmental Protection Agency. Data requirements for this use must be supplied before an amendment will be made by the Agency. Substantial Time and effort are required for such action.

(b) If an unexpected outbreak of a pest requires control measures which are not according to the registered use, such control effort is viewed as an emergency measure and may be undertaken at the discretion of the Division Engineer. An emergency will be deemed to exist when:

(1) A pest outbreak has or is about to occur and no pesticide registered for the particular use, or alternative method of control, is available to eradicate or control the pest.

(2) Significant economic or health problems will occur without the use of the pesticide.

(3) The time available from discovery or prediction of the pest outbreak is insufficient for a pesticide to be registered for the particular use. In determining whether an emergency condition exists, the Administrator will also give consideration to such additional facts requiring the use of Section 18 § 274.3(a) as are presented by the applicant.

(c) Emergency operations should be documented by a request for a specific exemption, prepared by the District and forwarded through channels to HQDA (DAEN-CWO-R) WASH DC 20314 for transmittal to EPA.

(1) Each specific exemption must be requested in writing, by the head of the Federal agency or the Governor of the State involved, or other official designee, addressed to the Administrator, setting forth the following information:

(i) The nature, scope and frequency of the emergency.

(ii) A description of the pest known to occur, the places or times it may be likely to occur and the estimated time when treatment must be commenced to be effective.

(iii) Whether a pesticide registered for the particular use, or other method of eradicating or controlling the pest, is available to meet the emergency, and the basis for such determination.

(iv) A listing of the pesticide or pesticides the agency proposes to use in the event of an outbreak.

(v) Description of the nature of the program for eradication or control. Such description should include:

(A) Quantity of the pesticide expected to be applied;

(B) Specific Area or place of application;

(C) Method of application;

(D) Duration of application;

(E) Qualifications of personnel involved in such application.

(vi) Statement of economic benefits and losses anticipated with and without the exemption and under reasonable alternatives.

(vii) Analysis of possible adverse effects on man and the environment. If an Environmental Impact Statement has been prepared by an agency, in accordance with that agency's regulations implementing the National Environmental Policy Act of 1969, and is relevant to the above, it shall be submitted with the application.

(viii) Such exemptions, if granted, are valid only for the specific situation involved and are subject to such restrictions as the Administrator may prescribe in granting the exemption. Such restrictions may include, among others, limitations on the quantity of the pesticide to be used, the conditions under which the pesticide may be applied, restrictions as to the person who may apply the pesticide and the type of monitoring activities which should be conducted. Within one year of the granting of the exemption, a summary report on what action was taken to meet the emergency and on the outcome of such action, must be forwarded to HQDA (DAEN-CWO-R) WASH DC 20314, for forwarding to EPA.

APPENDIX A

PREVENTIVE SAFETY MEASURES IN HANDLING OF PESTICIDES

1. Follow the label on each container before using the contents. The manufacturers are required by law to list recommendations and precautions.

2. Weather conditions are important. Winds could carry toxic sprays and dusts to areas not under your control, causing accidental poisoning to the public or domestic animals.

3. Smoking is not permitted while pesticides are being handled.

4. All pesticides must be handled in well-ventilated areas to minimize inhalation of toxic vapors.

5. Shower and washing facilities must be near pesticide mixing areas.

6. Any contamination of skin, particularly with liquid concentrations or solutions, must be immediately washed off with detergent and water.

7. Protective clothing is used in conjunction with respiratory protective devices to prevent skin contact and inhalation of pesticides. Recommended articles of protective clothing are rubber aprons, coveralls, chemical splash goggles, safety shoes, and hard hats. A lightweight water and chemical resistant throw away type protective clothing that is impervious to herbicides is now available. In warm geographical areas this type of lightweight protective clothing would be beneficial in reducing physical stress to applicators. Additional protection is afforded by protective skin cream.

8. Clothing contaminated by spillage must be removed immediately and thoroughly laundered before wearing. Special care is required to prevent contamination of the inside of gloves.

9. Approved respirators must be worn while pesticides are being mixed, and when dusts or liquids are being handled or sprayed. Care should be exercised when selecting the respirator type to insure that it is designated specifically for the substance to be used. Each respirator must be labeled and approved by the U.S. Department of Agriculture or NIOSH. Filters or canisters must be changed after 8 hours use and more often if odor of the pesticide is detected. (Always have extra cartridges available when needed).

10. Pesticide storage, mixing, and formulation facilities:

(a) All pesticides must be stored in a dry, well ventilated, separate room, building, or covered area not accessible to unauthorized personnel or the public and placed under lock and key.

(b) Identification signs should be placed on rooms, buildings, and fences to advise of the contents and warn of their hazardous nature.

(c) Where applicable, the outside of each storage area should be labeled with "Danger," "Poison," and "Pesticide Storage" signs.

(d) Fire extinguishers must be installed near the door of materiel storage rooms. Diluted oil based pesticides are flammable and must be stored separae from other materials.

(e) All pesticide storage, mixing, and formulation areas must have adequate ventilation in order to reduce inhalation of toxic vapors. Sparkproof lighting fixtures should be installed in closed storage areas to eliminate ignition hazards.

11. Empty pesticide containers must be disposed of properly. Do not burn them. When herbicides or defoliants volatilize the resulting vapors may be poisonous to humans, and they may damage nearby plants, crops, or shrubbery; also, pesticides or defoliants containing chlorates may be a serious fire hazard when heated.

12. Glass pesticide containers should be disposed of by breaking. Chop holes in top, bottom, and sides of metal containers or crush them so they cannot collect water or be reused. After breaking or puncturing

them, bury the containers at least 18 inches deep in an isolated area provided for this purpose, away from water supplies or high water tables. Records to locate such buried pesticides within the landfill site should be maintained. Post warning signs.

13. Safety programs developed for the safe handling and mixing of toxic chemicals should be coordinated with the Safety Office prior to implementation.

[FR Doc.77-23872 Filed 8-12-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 772-3]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLAN

California Plan Revision: Ventura County APCD

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, disapprove or take no action on changes to the Ventura County Air Pollution Control District (APCD) portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: August 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 100 California Street, San Francisco, CA 94111, Attn.: David R. Souten, 415-556-7288.

SUPPLEMENTARY INFORMATION: On April 29, 1977, in 42 FR 21819, EPA published a notice of proposed rulemaking for revisions to the Ventura County Air Pollution Control District Rules and Regulations submitted on December 13, 1972; July 25, 1973; July 19, 1974; October 23, 1974; November 3, 1975; April 21, 1976; and November 10, 1976, by the California Air Resources Board for inclusion in the California SIP. Because the July 25, 1973 submission supersedes the December 13, 1972 submission, the latter submission is not addressed in this notice.

Rules concerning in-stack monitoring, gasoline vapor recovery, emergency episode action, equipment malfunction (Rule 32) and new source review have all been submitted; however, no action is being taken at this time, and these rules will be acted upon in separate FEDERAL REGISTER notices.

The changes contained in these submittals and being acted upon by this notice include the following: changes to incorporate the recodification of the California Health and Safety Code; administrative and procedural changes in fee requirements and in advisory committee and hearing board activities; the deletion of final compliance dates that have already passed; the renumbering of regulations; additions and amendments to the "Definitions" rule; new rules dealing with public records and public availability of emission data; the inclusion of levee and reservoir maintenance, range improvement, and forest management as permissible open fires; a replacement of the emission limitation for disposal of solid and liquid wastes in incinerators with a performance specification; the inclusion of control requirements for dry cleaning, metal surface coating thinners and reducers and surface cleaning and degreasing in the "Organic Solvent" rule; the addition of new source performance standards; and the addition of emission standards for hazardous air pollutants. A list of the Rules being considered by this action was published as part of the notice of proposed rulemaking and can be found in 42 FR 21819 (April 29, 1977).

No comments were received addressing the proposed action.

It is the purpose of this notice to approve all changes contained in the July 25, 1973; July 19, 1974; October 23, 1974; November 3, 1975; April 21, 1976; and November 10, 1976 submittals and incorporate them into the California SIP with the exceptions of those rules not being acted upon and the rules discussed below.

Rule 31, Public Disclosure of Data, has been revised and regulation IX, Public Records (Rule 200-204), has been added; these rules are consistent with the requirements of 40 CFR 51.10(e). These new and revised rules are being approved, and Ventura County is being rescinded from the disapproval notice in 40 CFR 52.224(a) and from the substitute regulation in 40 CFR 52.224(b).

Rule 37, Source Recordkeeping and Reporting, has been added and is consistent with the requirements of 40 CFR 51.19. This rule is being approved, and Ventura County is being rescinded from the disapproval notice in 40 CFR 52.234 (a) and from the substitute regulation in 40 CFR 52.234(d).

Rule 66, Organic Solvents, has been revised by adding three new sections that contain control requirements for dry cleaning, metal surface coating thinners and reducers, and surface cleaning and degreasing. These sections contain control requirements analogous to Federally promulgated regulations, 40 CFR 52.246, 52.253, and 52.252, respectively. These new sections are being approved, and Ventura County is being rescinded from those Federally promulgated regulations. EPA is approving Rules 72 and 73, rules establishing New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants. The State of California, on behalf of the Ventura County APCD, has received delegation of authority for Rules 72.1-72.8 and for Rules 73.1-73.4. This approval does not constitute delegation of authority for Rules 72.9 and 72.10, which will be the subject of a separate FEDERAL REGISTER notice.

Regulation VII, Procedures for Variances, is being approved, however, each variance that is granted must satisfy the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51 in order to be approved by EPA as a revision to the SIP.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

Pursuant to Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions. The Administrator finds good cause for making this rulemaking effective immediately since the regulations being approved are currently being enforced by the State and County Air Pollution Control Agencies, and therefore pose no further requirements on any affected facility.

(Sections 110 and 301 of the Clean Air Act, as amended, 40 U.S.C. 1857c-5 and 1857(g).)

Dated: August 8, 1977.

DOUGLAS COSTLE,
Administrator.

Subpart F of Part 52 of Chapter I, Title 40, of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraph (c) is amended as follows:

§ 52.220 **Identification of plan.**

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(c) * * *

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(21) * * *

(xiii) Ventura County APCD.

(A) Rules 2, 37, 56, 59, 60, and 101.

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(24) * * *

(x) Ventura County APCD.

(A) Rules 2, 3, 31, 32, 200, 203, and 204.

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(25) * * *

(v) Ventura County APCD.

(A) Rules 2 and 125.

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(29) * * *

(vi) Ventura County APCD.

(A) Rules 65, 66, 72, and 73.

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(31) * * *

(xiii) Ventura County APCD.

(A) Rules 2, 4, 36, 40, 41, 42, 43, 104, 201, and 202.

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(35) * * *

(iii) * * *

(A) * * *

(B) Rules 2, 57, 72, and 73 and Regulation VII (Rules 110-129).

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2. Section 52.224 is amended as follows:

§ 52.224 General requirements.

(a) * * *

(8) Metropolitan Los Angeles Intrastate:

(i) Ventura County APCD.

* * * * *

3. Section 52.234 is amended as follows:

§ 52.234 Source surveillance.

(a) * * *

(4) Metropolitan Los Angeles Intrastate:

(i) Ventura County APCD.

* * * * *

4. Section 52.246 is amended as follows:

§ 52.246 Control of dry cleaning solvent vapor losses.

(a) * * *

(b) * * *

(2) In the following portions of the Metropolitan Los Angeles Intrastate Region, this section is rescinded:

(i) Ventura County APCD.

* * * * *

5. Section 52.252 is amended as follows:

§ 52.252 Control degreasing operations.

(a) * * *

(b) * * *

(2) In the following portions of the Metropolitan Los Angeles Intrastate Region, this section is rescinded:

(i) Ventura County APCD.

* * * * *

6. Section 52.253 is amended as follows:

§ 52.253 Metal surface coating thinner and reducer.

(a) * * *

(b) * * *

(2) In the following portions of the Metropolitan Los Angeles Intrastate Region, this section is rescinded:

(i) Ventura County APCD.

* * * * *

7. Section 52.273 is amended as follows:

§ 52.273 Open burning.

(a) * * *

(2) Los Angeles Metropolitan Intrastate Region:

(i) Ventura County APCD.

(A) Paragraph (A) (1) of Rule 56.

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[FR Doc.77-23484 Filed 8-12-77;8:45 am]

[FRL 777-2]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Amendments to Subpart D; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction.

SUMMARY: This document corrects the final rule that appeared at page 51397 in the FEDERAL REGISTER of Monday, November 22, 1976 (FR Doc. 76-33966).

EFFECTIVE DATE: August 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, N.C. 27711, Telephone No. 919-541-5271.

Dated August 8, 1977.

EDWARD F. TUERK,
Acting Assistant Administrator, for Air and Waste Management.

In FR Doc. 76-33966, §§ 60.45(f) (4) and 60.45(f) (5) on page 51399 are corrected as follows:

§ 60.45 [Amended]

1. In § 60.45(f) (4) (iii) "F_c=0.384 scm CO_2/J" in the fourth line is corrected to read "F_c=0.384×10^{-7} scm CO_2/J."

2. In § 60.45(f) (4) (iv) a left parenthesis is inserted in the second line between "dscm/J" and "8,740."

3. § 60.45(f) (4) (v) is corrected to read as follows:

§ 60.45 Emission and fuel monitoring.

* * * * *

(f) * * *

(4) * * *

(v) For bark F=2.589×10^{-7} dscm/J (9,640 dscf/million Btu) and F_c=0.500×10^{-7} scm CO_2/J (1,860 scf CO_2/million Btu). For wood residue other than bark F=2.492×10^{-7} dscm/J (9,280 dscf/million Btu) and F_c=0.494×10^{-7} scm CO_2/J (1,840 scf CO_2/million Btu).

* * * * *

4. In § 60.45(f) (5) the F factor and F_c factor equations in SI units are corrected to read as follows:

$$F=10^{-6}\frac{[227.2\ (\text{pct. H})+95.5\ (\text{pct. C})+35.6\ (\text{pct. S})+8.7\ (\text{pct. N})-28.7\ (\text{pct. O})]}{\text{GCV}}.$$

$$F_c=\frac{2.0\times10^{-5}\ (\text{pct. C})}{\text{GCV}}.$$

(Sec. 111, 114, 301(a) of the Clean Air Act as amended (42 U.S.C. 1857c-6, 1857c-9, 1857g(a)).)

[FR Doc.77-23402 Filed 8-12-77;8:45 am]

Title 43—Public Lands: Interior

CHAPTER I—BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR

PART 423—1976-77 DROUGHT LOANS, GRANTS, AND DEFERMENTS

Rules for Emergency Loans, Grants, and Deferments Under the Emergency Drought Act of 1977

AGENCY: Bureau of Reclamation, Interior.

ACTION: Final rules.

SUMMARY: These rules amend the rules published on April 14, 1977, in 42 FR 19610 to provide guidelines on the implementation of the Bureau of Reclamation Emergency Drought Act of 1977, approved April 7, 1977. This legislation allows qualified applicants to obtain loans, grants, and deferments to remedy the effects of actual or prospective substantial economic injury resulting from the 1976-77 drought. Areas eligible for assistance may be designated by the President or by the Secretary of the Interior. The program authorizes short-term studies and actions to increase water supplies; makes funds available for loans for the purpose of undertaking construction, management, conservation activities, or the acquisition and transportation of water which can be expected to have an effect in mitigating losses and damages resulting from the 1976-77 drought period, and provides authority to establish a water bank of available water for redistribution.

DATES: These rules are effective on publication and expire on September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Eugene Hinds, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240 (202-343-5104).

SUPPLEMENTARY INFORMATION: These amendments bring the rules into conformity with the Memorandum of Understanding between the Bureau of Reclamation, Department of the Interior, and the Farmers Home Administration, Department of Agriculture, entered into on July 15, 1977. That agreement and these rules provide for the aid available under the Act to individual irrigators, as defined in Section 3(b) of the Act. A new § 423.22 has been added to govern applications by individual irrigators.

Section 5 of the Act provides that actions taken pursuant thereto are in response to emergency conditions. To effect their prompt implementation, it has been decided not to publish the rules in proposed form for public comment. However, the public may submit comments for consideration in possible future revisions.

Section 5 further provides that such actions are not a major Federal action significantly affecting the quality of the human environment for the purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)).

This document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and Office of Management and Budget (OMB) Circular A-107.

The primary author of this document is Kerry McDonald, Attorney Advisor,

Office of the Solicitor, Department of the Interior, Washington, D.C. 20240 (202–343–6980).

Under authority of Pub. L. 95–18, it is proposed to amend Subtitle B, Chapter I, Title 43 of the Code of Federal Regulations by amending Part 423, Subpart A, as set forth below.

Section 423.3 (following the caption) is amended to read as follows:

§ 423.3 Applicant eligibility.

(a) Irrigators in an area that has been determined by the President and/or the Secretary of the Interior to be an emergency drought impact area are eligible for loans and/or deferments. An irrigator is any person or legal entity who holds a valid existing water right for irrigation purposes within Federal reclamation projects or within projects constructed by the Secretary for Indians.

(b) Applications for assistance by individual irrigators shall be governed by § 423.22.

Section 423.4 is further amended by adding subsection (i) and (j) as follows:

§ 423.4 Definitions.

* * * * *

(i) Secretary's designee—Commissioner or whomever the Commissioner designates.

(j) Federal Reclamation Project—Any project constructed or funded under federal reclamation law and specifically including projects having approved loans under the Small Reclamation Projects Act of 1956 (70 Stat. 1044) as amended.

Section 423.15 (following the caption) is amended to read as follows:

§ 423.15 Eligibility.

Entities which qualify as irrigators under § 423.3 and which operate and maintain irrigation facilities constructed by the Bureau of Reclamation under contract with the United States are eligible for loans under this section. In addition, projects financed through loans pursuant to the Small Reclamation Projects Act of 1956 (70 Stat. 1044) as amended and irrigation projects financed with non-Federal funds are eligible: *Provided, however,* That each non-federally funded project may receive a loan of not more than $1 million, and only 15 percent of the total funds available under this authority may be used for non-federally funded projects.

Section 423.22 is added and reads as follows:

§ 423.22 Procedures for processing applications by individual irrigators for assistance.

Procedures for processing applications for assistance by individual irrigators who are eligible under § 423.3 have been agreed upon in a Memorandum of Understanding between the Bureau of Reclamation (BR) and the Farmers Home Administration (FmHA), Department of Agriculture, dated July 15, 1977. Those procedures as set forth in the Memorandum are as follows:

(a) "Irrigators" are persons or legal entities who hold a valid existing water right for irrigation purposes within Federal reclamation projects. Federal reclamation projects means any project constructed or funded under Federal reclamation law and specifically including projects having approved loans under the Small Reclamation Projects Act of 1956, as amended.

(b) FmHA shall make and service loans to individual irrigators as authorized by the Act pursuant to its SW program and applicable FmHA regulations except as modified hereby.

(c) The loans shall be only for the purposes relating specifically to irrigation and set forth in FmHA Instructions 443.2, IV A 1, A 8, B 1, B 2, and C. The loans shall be interest free. Loans for water acquisition and transportation shall be repaid over a period not to exceed 5 years. Other loans shall be repaid over a period not to exceed 5 years except such loans which generate benefits which are usable beyond 1977 shall be repaid within a period which shall be the shorter of the estimated useful life of the facilities or the reasonable payment capacity of the irrigator but in no event to exceed 40 years. All loans shall be obligated not later than September 30, 1977, and any construction related to any loan must be completed by November 30, 1977.

(d) Services rendered by FmHA pursuant to this Memorandum of Understanding shall be on a nonreimbursable basis to the irrigator. For services rendered, BR shall pay to FmHA a charge of 5 percent of principal of each loan. BR directs that FmHA disburse such service charge to itself directly upon the closing of each loan.

(e) Three million dollars shall be transferred to FmHA by Standard Form 1151, which amount shall be available for construction, management, and conservation activities. An additional sum of $5 million may be made available upon request of FmHA for the acquisition and transportation of water.

(f) Monthly report: FmHA shall submit a Standard Form 133, Report on Budget Execution, in accordance with OMB Circular A–34, to the Bureau of Reclamation, Washington, D.C., 20240, attention code 370.

(g) Accomplishment: FmHA shall submit to the Bureau of Reclamation, Washington, D.C. 20240, attention code 400, a complete report on expenditures and accomplishments under this Memorandum on January 16, 1978.

Dated: August 10, 1977.

CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc.77-23518 Filed 8-12-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20665; RM–2224]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Hay Springs-Scottsbluff, Nebr.

Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This Report and Order in Docket 20065 reassigns television Channel 4 in the Table of TV Assignments from Hay Springs, Nebraska, to Hay Springs-Scottsbluff, Nebr. This will permit consideration of an application by the licensee of a station on Channel 4 to change its city of license from Hay Springs to Scottsbluff.

EFFECTIVE DATE: September 15, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Jonathan David, Broadcast Bureau, 202–632–7792.

SUPPLEMENTARY INFORMATION:

Adopted: August 2, 1977.

Released: August 9, 1977.

By the Chief, Broadcast Bureau:

In the Matter of Amendment of Section 73.606(b), Table of Assignments, Television Broadcast Stations. (Alliance, Hay Springs, and Scottsbluff, Nebr.).

1. The Commission has before it a "Notice of Proposed Rule Making" (39 FR 19239), in this proceeding proposing to make VHF Channel 4, now assigned to Hay Springs, Nebr., a "hyphenated" assignment. The three alternative forms of hyphenation proposed were:

City	Plan I, channel No.		Plan II, channel No.		Plan III, channel No.	
	Present	Proposed	Present	Proposed	Present	Proposed
Alliance	*13–	*12–	*13–	*13–	*13–	*13–
Hay Springs	4+	...	4+	...	4+	...
Scottsbluff	10–	10–	10–	10–	10–	10–
Scottsbluff-Hay Springs	...	4+	...	...	...	...
Alliance-Hay Springs	...	...	...	4+	...	...
Scottsbluff-Alliance-Hay Springs	...	...	...	...	...	4+

2. Duhamel Broadcasting Enterprises, the licensee of Hay Springs Station KDUH–TV sought (Plan I) to have the channel reassigned on a hyphenated basis to permit a change in city of license from Hay Springs to Scottsbluff and a relocation of the main studio, now near Hay Springs, to Scottsbluff, 120 kilometers (75 miles) southwest of Hay Springs. Wyneco Communications, Inc., licensee of VHF television Station KSTF, Scottsbluff, Nebr., opposed Duhamel's rule making petition and submitted a counterproposal to move it to Alliance, Nebr. Since there is no interest in any such use at Alliance, the two plans (II

and III) involving hyphenated Alliance assignments need not be discussed.

3. Our Notice observed that no change of the Channel 4 transmitter site, now located between Hay Springs and Scottsbluff, was involved and we proposed that any change in the city of license be conditioned on maintaining an auxiliary studio at Hay Springs.[1] Duhamel, in its rule making petition, had agreed to this.

4. Duhamel's Hay Springs station and Wyneco's Scottsbluff station are the only commercial[2] television facilities serving the western Nebraska panhandle, and they occupy the only two commercial television channels assigned in that area. Duhamel's Hay Springs station is a satellite of Station KOTA-TV, Rapid City, South Dakota, approximately 161 kilometers (100 miles) north of Hay Springs. Wyneco's Station KSTF, Scottsbluff, is a satellite of Station KYCU-TV, Cheyenne, Wyo.[3] Hay Springs' 1970 population of 682 represented a 17.1% decrease from the 823 total in 1960 and Sheridan County (1970 population 7,285), also experienced a sharp decline (19.5%) in population between 1960 and 1970. On the other hand, Scottsbluff (1970 population 14,507) and Scotts Bluff County (1970 population 36,432) each gained population between 1960 and 1970, at rates of 8.4% and 7.8%, respectively.

5. Station KDUH-TV moved its transmitter site from the vicinity of Hay Springs to its present location and erected a 610 meter (2,000 foot) "tall tower" so that it could obtain the support of a group of communities and the coverage of a larger population to provide the funds necessary to implement the programming responsive to the needs and interests of the area. With these facilities, for the first time KDUH-TV provided a predicted principal city signal to Scottsbluff. Duhamel sought authority to move the KDUH-TV main studio from Hay Springs to Scottsbluff, but after it was granted waiver to permit it to identify the station with Alliance and Scottsbluff as well as Hay Springs, it requested dismissal of its main studio relocation application.

6. Both Duhamel and Wyneco have adhered to the basic postures they took in their earlier filings, focusing on the economic condition of Station KDUH-TV which was thought to be of "decisional significance." However, we have concluded that this issue does not need to be and, in fact, should not be resolved in this context. Rather, arguments regarding the survival of Channel 4 as a local television outlet for the Nebraska panhandle can be better considered in connection with the application to change station location.[4] Hence, no extensive discussion of the topic is warranted here, but we do observe that the differences of opinion are substantial and have been vociferously pursued. We shall consider the other points which were discussed in the filings of Duhamel and Wyneco which do require discussion.

7. In support of a reassignment, Duhamel points to the fact that the bulk of the population and retail sales in KDUH-TV's service area are located around Scottsbluff. Duhamel argues that it needs better access to this population center and that in small markets advertisers often prefer to appear on the air to show his products live, something which is a problem due to the remoteness of the KDUH-TV studios. Duhamel states that as an "area-wide" station it needs to locate its main studio where the station's main economic support exists, and it contends that its proposal should be accepted as a "logical extension" of the "area-wide" station concepts advanced when changing site.

8. In response, Wyneco contends that Duhamel is trying to abandon Hay Springs for Scottsbluff pointing to KDUH-TV's expansion of facilities, its tri-city ID, and its earlier application for main studio relocation. Wyneco argues that the proposed reassignment and main studio change to Scottsbluff would foreclose Duhamel's continuing to provide a meaningful local service for Hay Springs. It asserts that Duhamel has provided no details regarding programming that an auxiliary Hay Springs studio would provide and asserts that the Hay Springs area would have to look to Scottsbluff for effective service and that the shift would remove the only local television outlet now available to several area communities in northwest Nebraska and southwest South Dakota.

9. The Association of Maximum Service Telecasters, Inc. ("AMST") and the Hilliard Company ("Hilliard"), licensee of AM Station KOLT, Scottsbluff, also filed formal comments. AMST's only concern is with avoiding any infringement of the Commission's mileage separation requirements. No such infringement is involved. Hilliard objects on the ground that a move to Scottsbluff would reduce the revenue raising abilities of stations in the Scottsbluff area. However, a rule making is not the appropriate place to raise what amounts to a Carroll issue—see fn. 4.

10. Duhamel seeks a hyphenated assignment to enable it to select Scottsbluff, Nebraska, as its new city of license. The hyphenated assignment is a separate matter which can be resolved in rule making, but the proposal to change the city of license can be done by application, and we can proceed with hyphenation without resolving the other issue now.[5] If we were inclined toward effecting a change in station location now, there is a serious question about whether such a modification of license to change city would be an appropriate step to take in rule making. See the recent Report and Order in Santa Ana, Calif., Docket No. 20727 (FCC 77-543) where the assignment was changed in rule making but the petitioner was directed to seek the desired change in station location by application.

11. In endeavoring to allocate television assignments in a fair, efficient, and equitable manner, we give recognition to the need for local service. When a change in an assignment could result in a loss of a community's only station, we look to be sure that the proponent has carried its burden to show that the public interest nonetheless would be served. In granting Station KDUH-TV authority to expand its facilities, we recognized that the transmitter site move would extend an alternative television signal to a greater number of people and would enhance the station's economic condition. Much of what Duhamel seeks and Wyneco dislikes has in effect already happened. With this in mind, there is all the more reason to allow consideration of whether a town of less than one thousand, losing considerable population, must remain the city of license. We believe that Duhamel has provided a sufficient basis to permit consideration of such a change, and therefore find that the adoption of Plan I would serve the public interest.

12. Accordingly, *it is ordered*, That Section 73.606(b) of the Commission's Rules IS AMENDED, insofar as the listed community is concerned, as follows, effective September 15, 1977:

	Channel No.
City: Hay Springs-Scottsbluff, Nebr...	4+

13. Authority for the adoption of the amendment contained herein appears in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules and Regulations.

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

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303).

FEDERAL COMMUNICATIONS COMMISSION,

WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-23458 Filed 8-12-77;8:45 am]

[1] Scottsbluff already receives principal city coverage from Station KDUH-TV, and the Commission, in authorizing the site change, waived the city coverage requirements for Hay Springs, requiring Duhamel to install and maintain sufficient translators to serve those viewers who lost such service as a result of the transmitter move.

[2] Educational VHF television Stations KTNE-TV, Alliance, and KRNE-TV, Merriman (80 kilometers (50 miles) northeast of Hay Springs) also serve the panhandle area.

[3] Duhamel has another satellite station at Lead, S. Dak., and Wyneco has another satellite at Sterling, Colo.

[4] As with "Carroll" issues, we believe that rule making does not offer the proper setting for resolving such disputes.

[5] Although the point was not emphasized in the Notice, we did point out in paragraph 28 that hyphenation is an assignment tool used "where it seemed best to postpone until the application * * * stage any unresolved * * * questions as to which of the communities warranted the assignment." While Hay Springs may not be the usual example of such a case, it does fit this test.

[Docket No. 20727; RM-2557; FCC 77-543]

PART 73—RADIO BROADCAST SERVICES

TELEVISION BROADCAST STATIONS IN RIVERSIDE AND SANTA ANA, CALIFORNIA

Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This action assigns TV Channel 40 to Santa Ana, California, as a first commercial TV channel in that community. It also deletes the assignment of the same channel from Riverside, California, and its utilization by Station KLXA at Fontana, California, under the 15-mile rule. The licensee of Station KLXA was denied modification of its license on a permanent basis so that other interested persons may apply for this new commercial station at Santa Ana, Calif.

EFFECTIVE DATE: Non/Applicable at this time.

FOR FURTHER INFORMATION CONTACT:

Mark N. Lipp, Broadcast Bureau. (202-632-7792).

SUPPLEMENTARY INFORMATION: A separate Order will be issued upon receipt of Mexican approval.

Adopted: July 27, 1977.

Released: August 9, 1977.

By the Commission: Commissioner Washburn absent.

1. Before the Commission for consideration is the Notice of Proposed Rule Making[1] (41 FR 9568), released February 26, 1976, which proposed the assignment of UHF TV Channel 40 to Santa Ana, Calif., and the deletion of the same channel from Riverside, Calif., but which denied a request by petitioner, International Panorama TV, Inc., licensee of Station KLXA-TV (Channel 40), Fontana, Calif.,[2] to have its license modified to specify the community of Santa Ana. Comments have been filed by petitioner and by Golden Orange Broadcasting Co., Inc., permittee of UHF TV Station KGOF (Channel 56), Anaheim, Calif.

2. Santa Ana (pop. 155,762),[3] the seat of Orange County (pop. 1,420,676) is located approximately 53 kilometers (33 miles) southeast of Los Angeles. It has no local commercial TV service and its only TV assignment, Channel 50, is reserved for noncommercial use and licensed to serve Huntington Beach, Calif., under section 73.607(b) of the Commission's Rules. Orange County has one other TV assignment, Channel 56, Anaheim, Calif. (permit issued to Golden Orange Broadcasting Co., Station KGOF).

3. Riverside (pop. 140,089) is the seat of Riverside County (pop. 459,074). It has two UHF TV channel assignments, 40 and 46. Channel 40, presently licensed to serve Fontana, is the subject of this proceeding. Fontana (pop. 20,673) is located in San Bernardino County (pop. 682,233). It has no TV channel assignments listed in the Table. The other Riverside assignment, Channel 46, is used by Station KBSA, which is licensed to serve Guasti, Calif., under section 73.607(b) of the Commission's Rules.

4 In order to put this case into perspective, we here set out some of the background leading up to the Notice. Petitioner became the licensee of Channel 40 in August 1974.[4] Its predecessor already had been granted permanent authority to operate with the main studio at North Hollywood rather than at Fontana, the city of license.[5] Petitioner later moved its studio from North Hollywood to Santa Ana, but this was done without obtaining prior Commission approval as required by section 73.613(b), and the Commission imposed a forfeiture of $5,000, *International Panorama TV, Inc.*, 52 F.C.C. 2d 258 (1975). Thereafter the Commission, in a letter to petitioner dated March 25, 1975, granted temporary authority for a main studio location at Santa Ana, provided a petition to have Channel 40 reassigned to that community were filed.

5. In the Notice issued in response to this petition, we agreed to consider reassigning Channel 40 to Santa Ana, but we refused to propose a modification of petitioner's license to specify Santa Ana as it also had requested. Instead, we stated that if the channel assignment were made, petitioner, along with any other interested persons, could file applications for the channel. Santa Ana has no commercial television station and Channel 40 would become the first one available to that community. In such cases we concluded that the addition of the channel called for permitting other filings, something all the more important when the channel was the first one to be assigned to the community.

6. In rejecting the license modification approach, the Notice cited four cases[6] which related to what action the Commission should take when a frequency becomes available for the first time to a community. Our view was that the proper procedure to follow in such cases is to allow applications to be filed under section 309(a) of the Communications Act of 1934, as amended, and we found no contrary authority in the cited cases. Petitioner emphasizes that it did not intend any such change in the character of the service rendered to its coverage area as a whole, and therefore, insists that its license should be modified to reflect the change in the Table. Not only does petitioner dispute any view that a reading of these cases would lead us to conclude that modification would be inappropriate here, but it asserts that we overlooked a case, *Henderson, Nev.*, 24 R.R. 1530 (1962), where the licensee requested a change in community designation without a change in facilities and where the Commission did modify the license to specify the larger city of Las Vegas, Nev. Petitioner argues that it also seeks such a change in location to a more desirable community in order to survive against existing competition.[7] Petitioner cites these and several other cases in an effort to demonstrate that the Commission has the authority in a case such as this to modify pursuant to a request under Section 316(a) without issuing a show cause order.

7. One of the key elements in the question of the possible modification of license was the applicability of the *Ashbacker* doctrine to the present case. Petitioner argues that since it is presently occupying Channel 40 and no new service is proposed, there is no rational basis for permitting a competing application to be filed. Petitioner concedes that the *Ashbacker* doctrine ordinarily does have applicability where a new frequency becomes available to a community but argues that the doctrine does not suggest that situations be created so that competing applications can be filed.

8. Petitioner argues that if we modified its license to specify Santa Ana, we would be merely permitting the station to conform to the realities of its existing operation by having the main studio at the city of license, and it notes in passing that other stations designated to Riverside have moved closer to Los Angeles.[8] Petitioner asserts that it would not be entering a new market but would be continuing to meet the needs of its present service area. Moreover, petitioner states that it operates a station with religious programming which serves a special need of the Los Angeles area, an effort which

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[1] The Commission previously denied by Memorandum Opinion and Order a petition for reconsideration of the Notice on May 25, 1976, FCC 76-486, Mimeo 40744.

[2] Channel 40 is assigned to Riverside and petitioner's station is licensed to serve Fontana under the "15-mile" rule (section 73.607(b) of the Commission's Rules).

[3] All population data are taken from the 1970 U.S. Census, as corrected.

[4] Petitioner states that the Trinity Broadcasting Network, Inc., purchased the stock of International Panorama TV, Inc., from Angel Lerma Maler on August 2, 1974.

[5] The move of the main studio to North Hollywood from Fontana was approved on November 10, 1972. The transmitter site is located on Mount Wilson, approximately 64 kilometers (40 miles) west of Fontana and 64 kilometers (40 miles) north of Santa Ana. Santa Ana is located approximately 56 kilometers (35 miles) southwest of Fontana.

[6] *Community Telecasting Co.* v. *F.C.C.*, 255 F. 2d 891 (D.C. Cir. 1958), *Community Broadcasting Co.* v. *F.C.C.*, 274 F. 2d 753 (D.C. Cir. 1960), *Rhode Island Telecasting Corp.* v. *F.C.C.*, 320 F. 2d 762 (D.C. Cir. 1963) and *Louisiana Television Broadcasting Corp.* v. *F.C.C.*, 347 F. 2d 808 (D.C. Cir. 1965).

[7] Petitioner also referred to *Modesto and Stockton, Calif.*, 4 F.C.C. 2d 839 (1966), but that case only involved a change in channel, not station location as is involved here.

[8] Petitioner notes that the licensee of Channel 46, assigned to Riverside and licensed to Guasti, Calif., has permanent authority to locate its studio at Los Angeles and the licensee of Channel 52 assigned and licensed to Corona, Calif., has permanent authority for a Los Angeles studio.

has been well supported by area residents.[9]

9. As to the appropriateness of reassigning the channel from Fontana to Santa Ana, petitioner stated that Fontana has never supported its station even when the main studio was located there. Furthermore, it noted that service to Fontana could be provided through the assignment of Channel 62 which could be made available in accordance with the Commission's minimum mileage separation requirements. Santa Ana is described by petitioner as the 10th largest community in California and the 88th largest in the United States. As stated in the Notice, the community is a major manufacturing, agricultural and retail sales center. Orange County, although contiguous to Los Angeles, is independent economically, socially, and governmentally.

10. In opposition, Golden Orange Broadcasting Co. argues that Channel 40 should not be reassigned to Santa Ana. Although it does not contest the assertion that Station KLXA-TV lost money under its previous operation when located in Fontana, it argues that no showing was made that the reason for the losses were the lack of support for a TV station there. On the contrary, Golden Orange believes that Channel 40's Spanish programming format, which now has been superseded, could have been a factor. Further, it contends that the proposed move only serves the private interest and convenience of petitioner, not that of the public. But, in any event, Golden Orange asserts that its own operation, when inaugurated, would respond to the need for additional local TV service in Orange County, and that the requested Santa Ana station would be merely another Los Angeles metropolitan station. This it said was a fact which specifically concerned the Commission when it assigned Channel 56 to Anaheim and announced that any TV station licensed to Orange County must provide local service and not operate as an additional Los Angeles station. Finally, Golden Orange complains that an additional TV station in Orange County could "provide a substantial economic threat to the ability of Golden Orange to operate its station successfully".

11 We believe that an adequate showing of need for a first local commercial TV station at Santa Ana has been made. The community is large and growing, with interests distinct from the central city of Los Angeles. Allegations regarding the potential economic impact on the proposed Anaheim station can more appropriately be considered in connection with the filing of an application for a station on Channel 40 at Santa Ana. With respect to the issue of the loss of local service at Fontana, we note that no interest has been expressed in the operation of a local TV station there, and that Channel 62 is available for assignment should such an interest arise in the future. As for Riverside, where Channel 40 is presently assigned, a recent proceeding to assign a VHF-TV channel there was dismissed for lack of an expression of interest. See *Riverside and San Bernardino, Calif.*, Docket No. 19742, 40 Fed. Reg. 51038 (1975). However, if an interest does develop, Channel 62 is available for assignment at Riverside. In view of the lack of demonstrated need for local commercial TV service at either Fontana or Riverside and the interest expressed at Santa Ana, we believe the public interest would be served by the assignment of Channel 40 to Santa Ana and the deletion of that channel from Riverside.

12. The answer to the question of whether to modify petitioner's license rather than open the channel to other filings depends on a reading of our authority under section 316 in the context of the *Ashbacker* doctrine. In *Ashbacker Radio Corp.* v. *F.C.C.*, 326 U.S. 327 (1945), the Supreme Court held that the Commission could not grant one application for an available frequency without first giving comparative consideration to other mutually exclusive applications filed for the frequency. The Commission could not, in the Court's opinion, make the requisite public interest finding as to which applicant was the best qualified to render the best service without a hearing in which all mutually exclusive applications are given comparative analysis. Since the case involved the use of an AM frequency, no amendment to the Commission's rules was necessary to establish the availability of the particular frequency. However, in administering the channels set aside for television use, the assignments are made through a Television Table of Assignments which designates those channels which are available to the various communities. Thus, the assignment of a particular TV channel to a community presents the first and only opportunity (other than filing against a renewal application) for those interested in serving that community to apply for the channel. If we were to adopt petitioner's urgings, we would be selecting a Santa Ana licensee without ever having permitted a choice to be made between applicants for that particular community. This opportunity for competing filings is not only required under *Ashbacker* but in policy terms alone is preferable because it allows us to select the applicant which will best serve the public interest. No public interest justification has been offered for adopting an approach which would foreclose the opportunity for such comparative analysis. We believe that the *Ashbacker* case reasoning applies to the instance facts where the petitioner proposes a change in its studio location and has announced its intention to no longer serve Fontana, and in fact to all cases where, in response to a petition, an assignment becomes available for the first time in a community. See, e.g., *Community Broadcasting Co., Inc.* v. *F.C.C., supra*.

13. Nor, contrary to petitioner's argument, do the cases cited in the Notice support a different conclusion here. Thus, in none of the cases cited on which modification was permitted did the petitioner propose to cease providing a transmission service to its formerly specified community of license. Rather, in each case it was found (either in light of specific representations that the petitioner would continue to be primarily responsible for providing for the needs of that community and/or retention of the main studio in the community) that such service would continue. See *Community Telecasting Co.* v. *F.C.C., supra; Rhode Island Television Corp.* v. *F.C.C., supra;* see also *Henderson, Nev.*, 24 R.R. 1530 (1962). The critical distinction, therefore, is whether or not there is a continuation of meaningful service to the community of license and not, as petitioner would urge, of existing facilities or service area.

14. Therefore we believe that our refusal to modify pursuant to delegated authority was not only proper, but was required. We also should point out that we have previously offered guidance on the related point of the implications of the substitution of a Class C FM channel for a Class A channel in the same community.[10] Those cases follow lines parallel to the ones we are following here. In sum, petitioner has not convinced us that there are compelling reasons to permit it to shift its operation to a new community in a manner which would exclude others who may wish to submit an application for the channel now being assigned to Santa Ana. Although twice put on notice as to our view that it would be necessary to allow the filing of competing applications, petitioner did not indicate that it would rather withdraw its proposal if its license were not modified along with the reassignment of Channel 40. Therefore, we are proceeding to reassign the channel as requested even though we are not modifying the station's license.[11]

15. Accordingly, *it is ordered*,[12] That the Television Table of Assignments (section 73.606(b) of the Commission's

[9] Petitioner informs us that after taking control in August 1974, it changed the station's programming from all Spanish to religious and at the same time made a series of technical improvements. Petitioner states that its viewers supported this effort by donating over 2.5 million dollars during three fund-raising telethons. In addition, we are told, that over 1 million dollars in revocable trust funds have been committed by its viewers. These figures are set forth to inform us about what could be jeopardized if other applications were accepted.

[10] See *Cheyenne, Wyo.*, 62 F.C.C. 2d 63 (1976); *Mitchell, S. Dak.*, 62 F.C.C. 2d 70 (1976); and *Crestview and Fort Walton Beach, Fla.*, 62 F.C.C. 2d 76 (1976).

[11] Our action here is not intended to grant permanent or interim authority to operate as a Santa Ana station. Those matters are to be considered based on the filing of appropriate applications.

[12] This action is being taken subject to receipt of concurrence from the Mexican government. Upon obtaining the concurrence, an Order will be released announcing the effective date of this action and termination of this proceeding.

Rules) is amended with respect to the following communities:

City:	Channel No.
Riverside, Calif.	46
Santa Anna, Calif.	

16. Authority for the action taken herein is found in sections 4(i), 5(d)(1), 303 (g) and (r) and 407(b) of the Communications Act of 1934, as amended.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-23456 Filed 8-12-77;8:45 am]

[Docket No. 20496]

PART 76—CABLE TELEVISION SERVICES

Modifying or Eliminating the Use of Signal Strength Contours for Purposes of Cable Television Systems Regulation; Correction

AGENCY: Federal Communications Commission.

ACTION: Erratum to rule change.

SUMMARY: A rule change was adopted on July 7, 1977, which included a change in cable television syndicated program exclusivity rules. The erratum corrects a designation for one paragraph, clarifies that certain material immediately following the amended language remains unchanged, and substitutes correct terminology recently adopted in cable regulation. The erratum has no substantive changes.

EFFECTIVE DATE: August 26, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Tom Hendrickson, Cable Television Bureau (202-632-6468).

Released: August 9, 1977.

In the matter of amendment of Part 76 of the Commission's rules and regulations to modify or eliminate the use of signal strength contours for purposes of cable televisions systems regulation.

In the First Report and Order in the above-entitled matter, FCC 77-480 published in the FEDERAL REGISTER at 42 FR 36831, Instruction 4 of Appendix A should be revised by substituting the phrase "community unit" in paragraphs (a) and (b) in place of the phrase "cable television system"; and redesignating the paragraph following the "NOTE" from (1) to: (i), and paragraph (ii) of the "NOTE" and all of NOTE 2 are retained without change.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-23459 Filed 8-12-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Seedskadee National Wildlife Refuge, Wyoming, to Public Hunting of Antelope

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to public hunting of Antelope on Seedskadee National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 3, 1977, through September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

H. J. Johnson, Refuge Manager, Seedskadee National Wildlife Refuge, Fontenelle Route, Via Kemmerer, Wyoming 83101, area code 307-877-6334.

SUPPLEMENTARY INFORMATION:

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

Public hunting of Antelope is permitted on Seedskadee National Wildlife Refuge, Wyoming. All of the refuge area, comprising 14,284 acres, and so designated by signs, is open to hunting. Maps of the area are available at the refuge office, Fontenelle Route, Via Kemmerer, Wyoming 83101 and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, CO 80225. Hunting shall be in accordance with all applicable State regulations governing the hunting of Antelope.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

AUGUST 5, 1977.

H. J. JOHNSON,
Refuge Manager.

[FR Doc. 77-23468 Filed 8-12-77;8:45 am]

PART 32—HUNTING

Opening of Seedskadee National Wildlife Refuge, Wyo., to Public Hunting of Cottontail Rabbits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to public hunting of Cottontail Rabbits on Seedskadee National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 1, 1977, through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

H. J. Johnson, Refuge Manager, Seedskadee National Wildlife Refuge, Fontenelle Route, Via Kemmerer, Wyo. 83101, Area Code 307-877-6334.

SUPPLEMENTARY INFORMATION:

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

Public hunting of Cottontail Rabbits is permitted on Seedskadee National Wildlife Refuge, Wyo. All of the refuge area, comprising 14,284 acres, and so designated by signs, is open to hunting. Maps of the area are available at the refuge office, Fontenelle Route, Via Kemmerer, Wyoming 83101 and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Col. 80225. Hunting shall be in accordance with all applicable State regulations governing the hunting of Cottontail Rabbits.

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. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

H. J. JOHNSON,
Refuge Manager.

AUGUST 3, 1977.

[FR Doc.77-23469 Filed 8-12-77;8:45 am]

PART 32—HUNTING

Opening of Seedskadee National Wildlife Refuge, Wyo., to Public Hunting of Moose

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to public hunting of Moose on Seedskadee National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 24, 1977, through October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

H. J. Johnson, Refuge Manager, Seedskadee National Wildlife Refuge, Fontenelle Route, Via Kemmerer, Wyo. 83101, Area Code 307-877-6334.

SUPPLEMENTARY INFORMATION:

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

Public hunting of Moose is permitted on Seedskadee National Wildlife Refuge, Wyo. All of the refuge area, comprising 14,284 acres, and so designated by signs, is open to hunting. Maps of the area are available at the refuge office, Fontenelle Route, Via Kemmerer, Wyoming 83101 and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colo. 80225. Hunting shall be in accordance with all applicable State regulations governing the hunting of Moose.

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. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

H. J. JOHNSON,
Refuge Manager.

AUGUST 4, 1977.

[FR Doc.77-23470 Filed 8-12-77;8:45 am]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

Incidental Taking of Marine Mammals and Importation of Yellowfin Tuna and Tuna Products

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Final rulemaking.

SUMMARY: The amendment will establish an increased allowable take and mortality of whitebelly spinner dolphin and finalize portions of the interim final amendments published in the FEDERAL REGISTER on May 16, 1977 (42 FR 24742).

EFFECTIVE DATE: August 15, 1977.

ADDRESSES: Comments or questions may be directed to Director, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

W. P. Jensen, Marine Mammal and Endangered Species Division, National Marine Fisheries Service, Washington, D.C. 20235 (202-634-7287)

SUPPLEMENTARY INFORMATION: The National Marine Fisheries Service published proposed rules in the FEDERAL REGISTER on June 9, 1977 (42 FR 29533), proposing an increase in the quota for whitebelly spinner dolphin from 7,840 to 11,219. The 1977 general permit issued to the American Tunaboat Association on April 15, 1977, was proposed to be amended in a similar fashion. The basis for the increased quota was a revision of the population estimate for whitebelly spinner from 549,000 to 690,000. One comment was received. It opposed the proposed increase, questioning whether the increase complied with the Act's ethical goal to reduce incidental mortality regardless of compliance with the scientific goal of the Act (OSP). The Director's decision published in the FEDERAL REGISTER on March 1, 1977 (42 FR 12015-12020), was to establish a quota at 7,840 based on the mid-point estimates of population and reproductive capacity of the stock. The 11,219 quota is based on the mid-point estimate of the revised population increase. Because the aggregate porpoise mortality limit for 1977 is still far below the 1976 quota, NMFS believes that this amendment is consistent with the purposes of the Act to reduce incidental mortality.

On May 16, 1977 (42 FR 24742), interim final rules were published, effective immediately, to amend the regulations affecting importations of yellowfin tuna, extend the date when an embargo would be effective and to further allow an extension of time for installation of fine mesh webbing on tuna purse seiners. Two comments were received regarding these amendments. One comment was directed toward the importation amendments and embargo date extension, and will be the subject of a separate notice regarding further proposed amendments to the importation regulations. A second comment did not oppose the amendments, but requested that a final limit be placed on allowed time extensions for installation of fine mesh webbing. The amended language provides for the granting of limited time extensions only and this is believed to be sufficient to insure full compliance with the fine mesh webbing requirement. Therefore the amendment set forth on May 16, 1977, regarding the granting of limited time extensions for installation of fine mesh webbing, is herein made final.

Accordingly, § 216.24 of the National Marine Fisheries Service marine mammal regulations (16 U.S.C. 216.24) is hereby amended as follows:

§ 216.24 [Amended]

1. Section 216.24(d)(i)(A) is amended to add, following the second sentence immediately after "in the general permit," the following clause: "except that the quota for spinner dolphin (Whitebelly) which may be taken in 1977 is limited to 2.120,000 taken; 1,402,000 encircled; and 11,219 killed."

2. Section 216.24(d)(2)(iv)(L) is amended by adding the following wording to the last sentence; "* * *, unless the Southwest Regional Director determines that the ordering of fine mesh webbing has been documented in accordance with paragraph (c)(5)(vi) but has not been delivered, or is not otherwise available to the vessel for installation, and that a limited time extension should therefore be granted."

Associate Director, National Marine Fisheries Service.

AUGUST 3, 1977.

[FR Doc.77-23417 Filed 8-12-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 9—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

PATENTS, DATA AND COPYRIGHTS

Final Regulations

Correction

In FR Doc. 77-19987 appearing at page 36120 in the issue for Wednesday, July 13, 1977, make the following corrections:

A. On page 36121, in the middle column, the paragraph numbered "4" should be changed to indicate that § 9-3.150-5 was removed and that §§9-3.151, 9-3.151-1, 9-3.151-2, 9-3.151-3, and 9-3.152 were added rather than revised. As corrected, paragraph 4 should read:

4. Revise §§ 9-3.150, 9-3.150-1 9-3.-150-2, 9-3.150-3, 9-3.150-4 to read as set forth below. Remove § 9-3.150-5. Add §§ 9-3.151, 9-3.151-1, 9-3.151-2, 9-3.152 to read as set forth below.

B. In § 9-9.102-2 on page 36125, under the heading "Patent Indemnity", in the second line, "$100,000" should read "$10,000".

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER G—TRANSPORTATION AND MOTOR VEHICLES

[FPMR Amdt. G-43]

PART 101-41—TRANSPORTATION DOCUMENTATION AND AUDIT

Audit of Payments for Transportation Services Furnished for the Account of the United States

Correction

In FR Doc. 77-20074 appearing at page 36671 as a Part IV in the issue for Friday, July 15, 1977 make the following corrections:

(1) On page 36674, the 9th entry under Subpart 101-41.8, change the table of contents entry now reading "101-41.805-3 Vouchers payable in foreign currency" to read "101-41.804-3 Combining payments due a single payee."

(2) On page 36680, first column, the last word in the section heading for § 101-41.208-4 now reading "* * * signed." should have read "* * * assigned."

(3) On page 36682, first column, in the 4th line of § 101-41.214-2(b), the word "access" should have read "excess".

(4) Also on page 36682, second column, in the 8th line of § 101-41.214-5(c), the word "initiated" should read "initialed".

(5) On page 36683, first column, at the end of the first line of paragraph (q) of § 101–41.302–1 insert the word "Transit" after the words "U.S. Government".

(6) On page 36684, third column, the second and third lines of § 101–41.304–1 are reversed and therefore should be switched.

(7) On page 36685, third column, in the section heading for § 101–41.305, the word "transmit" should read "transit".

(8) On page 36690, middle column, the 6th line from the bottom of § 101–41.503 should be deleted entirely.

(9) On page 36691, middle column, in the 7th line of § 101–41.603–2, the words "* * * paid by the carrier * * *" should have read "* * * paid the carrier * * *".

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 926]

TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIF.

Proposed Expenses, Rate of Assessment and Carryover of Unexpended Funds

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comment on proposed expenses of $140,642, a rate of assessment of eight cents per lug (23 pounds) of grapes for the functioning of the Industry Committee for the 1977–78 fiscal period, and approval to carry over unexpended funds from the previous fiscal period as a reserve. The Committee locally administers a Federal marketing order regulating the handling of Tokay grapes grown in San Joaquin County, Calif. The regulation would enable the Committee to collect assessments from handlers of all assessable grapes handled and to use the resulting funds for its expenses.

DATES: Comments must be received by September 2, 1977. Proposed effective dates: April 1, 1977, through March 31, 1978.

ADDRESS: Comments may be addressed to: Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Two copies of all written comments should be submitted, and they will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C., telephone 202–447–3545.

SUPPLEMENTARY INFORMATION: The proposal was submitted by the Industry Committee, established under marketing Order No. 926 (7 CFR Part 926), regulating the handling of Tokay grapes grown in San Joaquin County, Calif., under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer its terms and conditions.

The proposal would add a new section reading as follows:

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

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Industry Committee during the period April 1, 1977, through March 31, 1978, will amount to $140,642.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each first handler in accordance with § 926.46, is fixed at eight cents ($0.08) per No. 38L grape lug (as specified in § 1380.19 of the Regulations of the California Department of Food and Agriculture) or equivalent quantity of Tokay grapes.

(c) *Reserve.* Unexpended assessment funds in excess of expenses incurred during the fiscal period which ended March 31, 1977, shall be carried over as a reserve in accordance with the applicable provisions of § 926.47.

Dated: August 10, 1977.

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

[FR Doc.77–23483 Filed 8–12–77;8:45 am]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Parts 308, 311]

SUNSHINE ACT AMENDMENTS

Notice of Proposed Rules

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: These provisions (1) amend the FDIC's implementing regulations for the Government in the Sunshine Act, and (2) implement the prohibitions against ex parte communications contained in the Sunshine Act. The amendments to Part 311 are designed to make clear that FDIC's Board considers the public interest before it closes a meeting and that individuals may photograph or record open meetings in a nondisruptive manner. The amendments to Part 308 prohibit ex parte communications between interested parties and individuals involved in the decision-making process during formal "on the record" hearings.

DATES: Written comments must be received on or before September 12, 1977.

ADDRESSES: Direct written comments to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT:

Mark Rosen, Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, D.C. 20429. 202–389–4422.

SUPPLEMENTARY INFORMATION: On March 12, 1977, the Federal Deposit Insurance Corporation adopted regulations implementing the Government in the Sunshine Act (5 U.S.C. 552b). In light of its experience since that time, the FDIC believes that two provisions of the regulations are unclear. Section 311.2(d) of the regulations currently provides that individuals may witness an opening meeting, but not record, photograph, or otherwise electronically or mechanically reproduce the meeting without prior Corporation approval. The sole purpose of this provision was to prevent disturbance of meetings. It was not intended, as some have interpreted it, to require prior approval for attendance at a meeting or to prevent individuals from taking notes. The proposed amendment is intended to make clear that individuals can record the meeting without any prior notification to the Corporation in any manner they desire, provided that the proceedings are not disturbed.

The proposed amendment also makes clear that closing a meeting or portion of a meeting under the Sunshine Act is a two-step process. First, it must be determined whether the information likely to be disclosed at the meeting comes within one of the Act's exemptions. Second, the agency must decide whether the public interest requires an open meeting, despite the availability of the exemption. Although the FDIC's regulation captures this two-step process in two places (§ 311.3(b) and § 311.6(c)(2)), the proposed amendment makes an additional reference to the public interest determination in § 311.5 (Regular Procedure for Closing Meetings), where it had previously been inadvertently omitted.

Section 4 of the Government in the Sunshine Act prohibits ex parte communications between interested parties from outside the agency and persons involved in the decision-making process during formal, "on the record" hearings. An ex parte communication is an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given. Requests for status reports, however, are not ex parte communications under the Act. The only formal hearings conducted by the FDIC to which these prohibitions apply are the administrative enforcement hearings conducted pursuant to Section 8 of the FDI Act (13 U.S.C. 1818). Therefore, the proposed implementing regulation will be added to the FDIC regulations which deal with practice and procedure during administrative hearings (12 CFR § 308).

Section 308.5(c) of the current FDIC regulations prohibts an administrative

law judge from consulting any person on a fact in issue without notice to all parties. In one sense, the Sunshine Act prohibition is broader than this since it applies not only to an administrative law judge but also to any person involved in the decisional process. However, the existing regulation would prohibit ex parte communications between an administrative law judge and any person, including a person within the Corporation, while the Sunshine Act deals only with communications between outsiders and decision-makers. The prohibition against an administrative law judge communicating ex parte with a person within the Corporation on a fact in issue (§ 308.5(c) of the current regulations) is integrated into the new paragraph.

Written comments are invited and should be received on or before September 12, 1977, by the Office of the Executive Secretary, Federal Deposit Insurance Cooperation, Washington, D.C. 20429. This proposal may be changed in light of the comments received.

It is proposed that § 311.2(d) and § 311.5(b)(1) be amended, and a new paragraph (b–1) be added to § 308.5 as set forth below.

By Order of the Board of Directors, August 8, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

1. In § 311.2, paragraph (d) is amended to read as follows:

§ 311.2 Definitions.

* * * * *

(d) "Open to public observation" and "open to the public" mean that individuals may witness the meeting but not participate in the deliberations. The meeting may be recorded, photographed, or otherwise reproduced if the reproduction does not disturb the meeting.

* * * * *

(5 U.S.C. 552b, 12 U.S.C. 1819.)

2. In § 311.5, paragraph (b)(1) is amended by adding the sentence "In deciding whether to close a meeting or portion of a meeting, the Board will consider whether the public interest requires an open meeting" after the word "action."

(5 U.S.C. 552b, 12 U.S.C. 1819.)

3. In § 308.5, a new paragraph (b–1) is added and paragraph (c) is revised to read as follows:

§ 308.5 Conduct of hearings.

* * * * *

(b–1) *Ex parte communications prohibited.*

(1) For purposes of this paragraph, "ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but does not include requests for status reports. The following prohibitions against ex parte communications apply from the time a proceeding is noticed for hearing unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions apply from the time of acquisition of such knowledge.

(2) No interested person outside the Corporation shall make or knowingly cause to be made an ex parte communication relevant to the merits of the proceeding to anyone who is or may reasonably be expected to be involved in the decisional process.

(3) No person who is or may reasonably be expected to be involved in the decisional process shall make or knowingly cause to be made an ex parte communication relevant to the merits of the proceeding to any interested person outside the Corporation.

(4) If an ex parte communication is made, or is knowingly caused to be made, the following will be placed on the public record—

(i) All such written communications;

(ii) Memoranda stating the substance of all such oral communications; and

(iii) All written responses and memoranda stating the substance of all oral responses to the materials described in (i) and (ii).

(5) Upon receipt of a communication knowingly made or caused to be made in violation of paragraph (2), the responsible party may be required to show cause why his claim or interest should not be dismissed, denied, or otherwise adversely affected. To the extent consistent with the interests of justice and the policy of the Federal Deposit Insurance Act, a knowing violation of subparagraph (2) may be grounds for a decision adverse to the responsible party.

(6) Except as authorized by law, the administrative law judge shall not consult any person or party within the Corporation on any fact in issue unless upon notice and opportunity for all parties to participate, and the administrative law judge shall not be responsible to or subject to the supervision or direction of any officer, employee, or agent engaged in the performance of investigative or prosecuting functions. Except as authorized by law, no officer, employee, or agent engaged in the performance of investigative or prosecuting functions in any case shall, in that case or a factually related case, participate or advise in the decision of the administrative law judge except as a witness or counsel in the proceedings.

(c) *Prehearing conference.*

(1) The administrative law judge may, on his own initiative or at the request of any party, direct counsel for all parties to meet with him at a specified time and place prior to the hearing, or to submit suggestions to him in writing, for the purpose of considering any or all of the following:

(i) Simplification and clarification of the issues;

(ii) Stipulations, admissions of fact and of contents and authenticity of documents;

(iii) Matters of which official notice will be taken; and

(iv) Other matters which may aid in the orderly disposition of the proceeding, including disclosure of the names of witnesses and of documents or other physical exhibits which will be introduced in evidence in the course of the proceeding.

(2) The conference shall, at the request of any party, be recorded and at its conclusion, the administrative law judge shall enter in the record an order which recites the results of the conference. This order shall include the adminisrtative law judge's rulings upon matters considered at the conference, together with appropriate directions to the parties, if any. The order shall control the subsequent course of the proceedings, unless modified to prevent manifest injustice.

* * * * *

(5 U.S.C. 557(d), 12 U.S.C. 1819.)

[FR Doc.77-23416 Filed 8-12-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 77-SW-29]

AIRWORTHINESS DIRECTIVES

Bell Helicopter Textron Model 47 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to add an Airworthiness Directive (AD) applicable to certain Bell Helicopter Textron helicopters that would require an inspection to the tail rotor drive input pinion shaft for proper size and surface treatment and to replace the supporting duplex bearing with a duplex bearing of an improved type. These inspections and replacements are to insure higher reliability of these components which, if failed in flight, could result in partial loss of control of the helicopter.

DATES: Comments must be received on or before September 4, 1977. Proposed effective date of the Airworthiness Directive will be October 31, 1977.

ADDRESS: Send comments on this Notice of Proposed Rulemaking in triplicate to:

Regional Counsel, ASW-7, Attention: Docket No. 77-SW-29, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT:

Wilbur F. Wells, Propulsion Section, Engineering and Manufacturing Branch, ASW-214, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Texas 76101. Telephone number 817-624-4911, extension 525.

SUPPLEMENTARY INFORMATION: A significant failure history has developed with both the part number 47-620-629

-3 or -5 duplex bearing and the input pinion shaft, part number 47-645-205-3. These items are a part of the drive arrangement for the tail rotor (used for directional control) of Bell Helicopter Textron Model 47 series helicopters. Bell Helicopter Textron Service Bulletin No. 47-77-1, dated February 14, 1977, pertains to these inspections and the replacement requirements.

Interested persons are invited to participate in the development of the final rule by submitting written comments as desire. All comments will be recorded and considered by the Director before taking final action, and the proposal may be changed as a result of the comments received. All comments will be available for examination before and after the closing date for comments in the Office of the Regional Counsel, Southwest Region, 4400 Blue Mound Road, Forth Worth, Texas.

DRAFTING INFORMATION

The principal authors of this document are Wilbur F. Wells, Aerospace Engineer, Flight Standards Division, and Alan G. Sumberg, General Attorney, ASW-7, Southwest Region, Federal Aviation Administration.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

BELL: Applies to all Model 47 helicopters with tail rotor gear boxes, part number 47-640-075-1 or -7 installed.

NOTE.—Retrofit kits incorporating these gear boxes or the associated internal gears and bearing delivered from Bell Helicopter Textron after December 1, 1976, have been verified to be in compliance with this Airworthiness Directive and will not require inspection and/or further retrofit.

Compliance required within the next 100 hours time in service after the effective date of this Airworthiness Directive unless already accomplished.

To minimize the possibility of loss of directional control of the helicopter resulting from failure of the part number 47-620-629 -3 or -5 bearing, or failure of the part number 47-645-205-3 input pinion shaft located in the part number 47-640-075 -1 or -7 tail rotor gear box, conduct the inspection and replacement activities prescribed by paragraphs 1, 2, 2a, 2b, 3 and 4 of Bell Helicopter Textron Service Bulletin No. 47-77-1, dated February 14, 1977, or later FAA approved revision. Comments in paragraphs 5 and 6 of this bulletin involving warranties, replacement parts sources or reporting activities are not a part of this Airworthiness Directive.

After accomplishment of items 1, 2, 3, and 4 of Service Bulletin No. 47-77-1, reassemble and reinstall the tail rotor gear box in accordance with the Maintenance and Overhaul Instructions for the applicable model helicopters.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Service Manager, Bell Helicopter Textron, Post Office Box 482, Fort Worth, Texas 76101. These documents may also be examined at Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas 76101, and at Federal Aviation Administration Headquarters, 800 Independence Avenue SW., Washington, D.C. 20591.

Equivalent means of compliance with the modifications prescribed by this Airworthiness Directive may be approved by the Chief, Engineering and Manufacturing Branch, Flight Standards Division, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, Texas 76101.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and CFR 11.85).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Forth, Texas on July 27, 1977.

PAUL J. BAKER,
Acting Director,
Southwest Region.

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

[FR Doc.77-23338 Filed 8-12-77;8:45 am]

[14 CFR Part 39]

[Docket No. 77-WE-16-AD]

AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-8 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require repetitive inspections of the flap link support fitting on McDonnell Douglas Model DC-8 Series airplanes for stress corrosion/fatigue cracks to preclude failure of the fitting that could result in loss of a flap.

DATES: Comments must be received on or before September 19, 1977. Proposed effective date: September 14, 1977.

ADDRESS: Send comments on the proposal to: Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

FOR FURTHER INFORMATION CONTACT:

Wallace M. Frei, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009; Telephone 213-536-6351.

SUPPLEMENTARY INFORMATION: The flap link support fittings on McDonnell Douglas DC-8 airplanes were originally made of 7075-T6 aluminum material. During the production run, however, 7075-T73 aluminum material was substituted. The -T6 and -T73 suffixes designate the heat treat process used to harden the material although the -T6 process gives superior static strength capabilities, the -T73 process gives a much improved stress corrosion threshold stress.

During the operating life of the DC-8, there have been several cases of stress corrosion cracking found in fittings made of 7075-T6 aluminum, some with as few as 3,500 hours time in service. However, there are no known cases of stress corrosion cracks in fittings of 7075-T73 aluminum.

Cracking of the 7075-T6 fitting has occurred primarily at two locations. They are on the top surface, running from and through the spring cover attach bolt holes; and in the area of the side brace attach bolt hole. Cracks in the top surface are in a non-load carrying part of the fitting and are not considered a safety problem. However, cracks in the side brace bolt hole area could cause complete loss of load carrying ability for that fitting. The flap link support fittings at the three inboard wing flap stations on the DC-8 are not failsafe and have a safe life limitation. Consequently, loss of a flap link support fitting's structural integrity could cause loss of the flap segment.

The FAA became concerned that the saw tooth edge caused by a stress corrosion crack in the side brace attach hole area could initiate fatigue cracking which would eventually lead to complete failure of the fitting at the side brace attach hole. McDonnell Douglas obtained a fitting which had been removed from service and initiated a crack in the side brace attach area where cracking has been found. The fitting was then cycled from 0 to 97% of limit load until the crack progressed to the side brace attach bolt hole. The fitting was then loaded statically until failure occurred at 104% of limit load.

Based on the data from these tests, it has been determined that the 7075-T6 fittings should be inspected for cracks in the side brace attach area at intervals not to exceed 1,000 landings in order to assure continued airworthiness of the flap system.

McDonnell Douglas has issued DC-8 Service Bulletin 27-260 containing procedures for determining the heat treat of the fittings and inspection for cracks if the fitting is determined to be the 7075-T6 heat treat condition. If cracking is found, the fitting is to be replaced.

Since this condition is likely to exist or develop in other aircraft of the same type design, the proposed AD would require compliance with the inspection and replacement requirements of DC-8 Service Bulletin 27-260.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Information on the economic, environmental, and energy impact that might result because of the adoption of the proposed rule is also requested. Communications should identify the airworthiness docket number and be submitted in duplicate to the Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received before the closing date will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in the notice may be changed in light of comments received. All comments will be available, both before and after the closing date for comments, in the Airworthiness Rule Docket for examination by interested persons.

DRAFTING INFORMATION

The principal authors of this document, are Everett W. Pittman, Aircraft Engineering Division, and Richard G. Wittry, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

McDONNELL DOUGLAS. Applies to Model DC-8 Series airplanes, certificated in all categories.

Compliance required as indicated.

To detect cracks and prevent failure of the flap link support fittings, comply with the following:

(a) Within the next 1,000 landings after the effective date of this AD, unless already determined, use the eddy current procedure of McDonnell Douglas DC-8 Service Bulletin 27-260 dated July 12, 1977, or later FAA approved revision, to determine whether the flap link support fittings at stations X_w 97.-906, X_t 219.498, and X_t 339.723 are 7075-T6 or 7075-T73 aluminum. If the fitting is 7075-T73 aluminum, no further action is necessary per this AD. If the fitting is 7075-T6 aluminum, accomplished Paragraph (b).

(b) Within the next 1,000 landings after the effective date of this AD, unless already accomplished, and thereafter at intervals not to exceed 1,000 landings, perform the ultrasonic inspection procedure for cracks per McDonnell Douglas DC-8 Service Bulletin 27-260 dated July 12, 1977, or later FAA approved revision.

(c) Failed or cracked fittings must be replaced with like serviceable parts before further flights.

(d) Spare parts must be examined and identified in accordance with the procedures of Paragraph (a) before installation on an airplane.

(e) Equivalent inspections and repairs may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(f) Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to authorize operation of an airplane to a base for the accomplishment of the inspections and repairs required by this AD.

Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Aircraft Engineering Division, FAA Western Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

(Sec. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif., on August 3, 1977

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.77-23425 Filed 8-12-77;8:45 am]

[14 CFR Part 39]

[Docket No. 17127]

AIRWORTHINESS DIRECTIVES

Rolls-Royce Aero Engines, Inc., Model RB211-22B Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require an inspection for proper rigging, and re-rigging, if necessary, and modification of the cold stream reverser on certain Rolls Royce Aero Engines, Inc., Model RB211-22B engines to prevent unwanted deployment of the reverser which could seriously reduce the controllability of the airplane.

DATES: Comments must be received on or before September 29, 1977.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC-24) Docket No. 17127, 800 Independence Avenue SW., Washington, D.C., 20591.

The applicable service bulletins may be obtained from: Rolls Royce Aero Engines, Inc., Aero Engine Division, P.O. Box 31, Derby, England DE 2 8BJ.

A copy of the applicable service bulletins is contained in the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Mr. D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Telephone 513.38.30.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the date specified above will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

There have been reports of cold stream reverser lock mechanism failures on certain Rolls Royce Model RB211-22B engines, which the FAA believes to have been caused at least in part by misrigging of the cold stream reverser. Since this condition is likely to exist or develop in other engines of the same type design, the proposed airworthiness directive would require an inspection of the rigging of the cold stream reversers, and re-rigging, if necessary, and modification of the reverser lock indicating system on certain Rolls Royce Model RB211-22B engines.

The principal authors of this document are D. C. Jacobsen, Chief, Europe, Africa, and Middle East Region, T. Loftus, Flight Standards Service, and R Lane, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

ROLLS-ROYCE AERO ENGINES, INC. (formerly Rolls-Royce (1971) Limited). Applies to Model RB211-22B engines that incorporate Rolls Royce Service Bulletin No. 78-3282, dated January 21, 1974, as revised September 22, 1975.

Compliance is required as indicated.

To prevent unwanted reverser operation, accomplish the following for engines that do not incorporate Rolls Royce RB211 Service Bulletin Nos. 72-4073, dated January 22, 1976, as revised February 27, 1976, 78-3753, dated June 27, 1975, as revised May 26, 1976, and 78-3769, dated June 27, 1975 (hereinafter referred to as the service bulletins), or an FAA-approved equivalent of each:

(a) Except as provided in paragraphs (b), (c), and (d) of this AD, within the next 500 hours engine time in service after the effective date of this AD, unless already accomplished, inspect the engine cold stream reverser locking mechanism rigging and re-

rig, if necessary, in accordance with Rolls Royce RB211 Maintenance Manual, Chapter 78-30-00, block 501, revision dated September 1975, or by an equivalent means approved by the Chief, Aircraft Certification Staff, Europe, Africa, and Middle East Region, FAA, c/o American Embassy, APO New York, N.Y. 09667.

(b) If compliance with paragraph (a) of this AD was accomplished prior to the effective date of this AD, and a cold stream reverser unit that affects reverser locking mechanism rigging has been disturbed or removed subsequent to compliance with paragraph (a) of this AD, but prior to the effective date of this AD, comply with paragraph (d) of this AD before further flight.

(c) If, at any time after the effective date of this AD, a cold stream reverser unit that affects reverser locking mechanism rigging is disturbed or removed, comply with paragraph (d) of this AD before further flight.

NOTE.—Chapter 78-30-00, pages 568 and 578, of the RB211 Maintenance Manual contains information on maintenance that will affect proper rigging.

(d) Re-rig the reverser in accordance with paragraph (a) of this AD or deactivate and secure the reverser mecahnism in accordance with the Rolls Royce RB211 Maintenance Manual, or an FAA-approved equivalent.

(e) Within 3,000 hours engine time in service after the effective date of this AD, unless already accomplished, modify the cold stream thrust reverser translating cowl lock indication system in accordance with the service bulletins or FAA-approved equivalents of each.

NOTE.—A service bulletin which may be helpful is Rolls Royce Service Bulletin 78-A3672, dated January 14, 1975, as revised February 17, 1976.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR § 11.85.)

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 8, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77-23427 Filed 8-12-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-EA-48]

PINEVILLE, W. VA.

Proposed Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Pineville, W. Va., Transition Area, over Kee Field, Pineville, W. Va. The 243° radial of the Beckley VORTAC will be a reference radial for a new area extension while the extension on the 243° bearing of the Pineville, W. Va., radio beacon will be eliminated. This results from the development of a new VOR runway 25 approach procedure.

DATE: Comments must be received on or before September 12, 1977.

ADDRESS: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J. F. K. International Airport, Jamaica, New York 11430. Telephone 212-995-3391.

The docket may be examined at the following location: FAA, Office of the Regional Counsel, AEA-7, Federal Building, J. F. K. International Airport, Jamaica, New York 11430.

COMMENTS INVITED

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J. F. K. International Airport, Jamaica, New York 11430. All communications received on or before September 12, 1977, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling 212-995-3391.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area over Kee Field, Pineville, W. Va. The area will be altered by establishing an area extension 5 miles each side of the Beckley VORTAC 243° radial extending from 9 miles southwest of the VORTAC to 26 miles southwest of the VORTAC and deleting the Pineville, W. Va. radio 243° bearing extension.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by amending the description of the Pineville, W. Va. 700-foot floor transition area as follows: Delete, "and within 3 miles each side of a 243° bearing from the Pineville, W. Va. radio beacon (lat. 37°36'11" N., long. 81°33'35" W.) extending from the radio beacon to 8.5 miles southwest of the radio beacon."

Insert the following in lieu thereof, "within 5 miles each side of the Beckley VORTAC 243° radial, extending from 9 miles southwest of the VORTAC to 26 miles southwest of the VORTAC."

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, New York, on July 28, 1977.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc.77-23309 Filed 8-12-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-EA-49]

WILLIAMSBURG, VA.

Proposed Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a Williamsburg, Va., Transition Area, over Williamsburg-Jamestown Airport, Williamsburg, Va. This designation will provide protection to aircraft executing the new instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATE: Comments must be received on or before September 12, 1977.

ADDRESS: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Adminis-

tration, Federal Building, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. Telephone 212-995-3391.

The docket may be examined at the following location: FAA, Office of the Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

COMMENTS INVITED

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before September 12, 1977, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedure Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling 212-995-3391.

Communications must identify the notice number of this NPRM Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area over Williamsburg-Jamestown Airport, Williamsburg, Va. The area will commence at 700 feet above the surface extending out to a 6.5-mile radius around the center of the airport.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating a Williamsburg, Va. transition area as follows:

WILLIAMSBURG, VA.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 37°14'20" N., 76°42'28" W., of Williamsburg-Jamestown Airport.

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Issued in Jamaica, New York, on July 28, 1977.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc.77-23310 Filed 8-12-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-EA-51]

FORT INDIANTOWN GAP, PA.

Proposed Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a Fort Indiantown Gap, Pa., Transition Area, over Muir Army Air Field, Fort Indiantown Gap, Pa. This designation will provide protection to aircraft executing the new instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATE: Comments must be received on or before September 12, 1977.

ADDRESS: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, Telephone: 212-995-3391.

The docket may be examined at the following location: FAA, Office of the Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430.

COMMENTS INVITED

Interested parties may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430. All communications received on or before September 12, 1977, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430, or by calling 212-995-3391.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area over Muir Army Air Field near Indiantown Gap, Pa. The area will commence at 700 feet above the surface. It will extend out generally to the west through northeast for approximately 14 miles; and then to the east for approximately 12 miles and to the southeast for approximately 8 miles. The southerly portions will already be covered within existing transition areas.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating a Fort Indiantown Gap, Pa. transition area as follows:

FORT INDIANTOWN GAP, PA.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 40°26'00" N, 76°34'00"

W. of Muir AAF, Fort Indiantown Gap, Pa.; within a 12-mile radius of the center of the airport, extending clockwise from a 230° bearing to a 252° bearing from the airport; within a 14.5-mile radius of the center of the airport, extending clockwise from a 252° bearing to a 037° bearing from the airport; within a 12.5-radius of the center of the airport, extending clockwise from a 037° bearing to a 086° bearing from the airport; within an 8-mile radius of the center of the airport, extending clockwise from a 086° bearing to a 136° bearing from the airport; within 4.5 miles each side of the 097° bearing from the Bellgrove, Pa. RBN, extending from the RBN to 10 miles east of the RBN.

(Section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Issued in Jamaica, N.Y., on July 28, 1977.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc.77-23311 Filed 8-12-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-EA-57]

SHAMOKIN, PA.

Proposed Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to designate a Shamokin, Pa., Transition Area, over Northumberland County Airport, Shamokin, Pa. This designation will provide protection to aircraft executing the new instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATE: Comments must be received on or before September 12, 1977.

ADDRESS: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, Telephone: 212-995-3391.

The docket may be examined at the following location: FAA, Office of the Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430.

COMMENTS INVITED

Interested parties may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430. All communications received on or before September 12, 1977, will be considered before action is taken on the proposed amendment. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430, or by calling 212-995-3391.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a transition area over Northumberland County Airport, Shamokin, Pa. The area will commence at 700 feet above the surface extending out to a 6.5-mile radius around the center of the airport and to approximately 11 miles to the east. Due to contiguous transition areas, the remaining portions described in the area will be overlapped.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating a Shamokin, Pa. transition area as follows:

SHAMOKIN, PA.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, 40°50'15" N., 76°33'00" W., of Northumberland County Airport, Shamokin, Pa.; within a 7-mile radius of the center of the airport, extending clockwise from a 035° bearing to a 069° bearing from the airport; within an 11.5-mile radius of the center of the airport, extending clockwise from 069° bearing to a 110° bearing from the airport; within a 10.5-mile radius of the center of the airport, extending clockwise from a 110° bearing to a 157° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 157° bearing to a 260° bearing from the airport; within 4.5 miles each side of the Selinsgrove, Pa. VORTAC 080° radial, extending from the 6.5-mile radius area to the Selinsgrove, Pa. VORTAC.

(Section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Issued in Jamaica, N.Y., on July 28, 1977.

L. J. CARDINALI,
Acting Director,
Eastern Region.

[FR Doc.77-23312 Filed 8-12-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 76-AL-16]

ALASKAN REPORTING POINTS

Proposed Designation and Redesignation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to designate and alter two reporting points southwest of Annette Island, Alaska, for use by both high and low altitude en route air traffic to make position reports to Vancouver and Anchorage air traffic control centers. Reporting at these points will help to expedite the flow of air traffic on routes northwest of Sandspit, British Columbia, Canada.

DATES: Comments must be received on or before September 26, 1977.

ADDRESSES: Send comments on the proposal in triplicate to:

Director, FAA Alaskan Region, Attention: Chief, Air Traffic Division, Docket No. 76-AL-16, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501.

The official docket may be examined at the following location:

FAA Office of the Chief Counsel, Rules Docket, (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence

Avenue, SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501. All communications received on or before September 26, 1977 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR 71) to designate the MOCHA Alaska high and low altitude reporting point at Lat. 54°30'13" N., Long. 133°01'40" W. (INT Annette Island, Alaska, 237°T (210°M), and Sandspit, British Columbia, Canada, 331°T (305°M), radials) and the FRIED Alaska high and low altitude reporting point at Lat. 54°14'23" N., Long. 133°39'49" W. (INT Annette Island, Alaska, 237°T (210°M), and Sandspit, British Columbia, Canada, 313°T (287°M) radials). Because the MUZON reporting point is located near the MOCHA reporting point, it is no longer required and its rescission is being considered at this time. Only the supplementary information, and not the description of the Alaskan low altitude reporting points "MOCHA" and "FRIED" would be changed to reflect the correct radials.

ICAO CONSIDERATIONS

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to mpriove the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Subpart I of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 626) as follows:

In § 71.211 (42 FR 638) FRIED: "(INT Nichols, Alaska, NDB 236°; Sandspit, British Columbia, Canada, NDB 314° bearings)." is deleted and "(INT Annette Island, Alaska, 237°, Sandspit, British Columbia, Canada, 313° radials)." is substituted therefor.

In § 71.211 (42 FR 638) MOCHA: "(INT Nichols, Alaska, NDB 236°; Sandspit, British Columbia, Canada, 331° bearings)." is deleted and "(INT Annette Island, Alaska, 237°, Sandspit, British Columbia, Canada, 331° radials)." is substituted therefor.

In § 71.211 (42 FR 638 MUZON: title and text is deleted.

In § 71.213 (42 FR 640) "FRIED: Lat. 54°14'23" N., Long. 133°39'49" W. (INT Annette Island, Alaska 237°, Sandspit, British Columbia, Canada, 313° radials)." is added.

In § 71.213 (42 FR 640) "MOCHA: Lat. 54°30'13" N., Long. 133°01'40" W. (INT Annette Island, Alaska, 237°, Sandspit, British Columbia, Canada, 331° radials)." is added.

(Secs. 307(a), 313(a) and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 5, 1977.

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

[FR Doc.77-23313 Filed 8-12-77;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 77-EA-20]

CONTROL AREA

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The FAA is considering an amendment to alter the Barnegat, N.J., Control Area by expanding the boundaries approximately 25 miles northeast and lowering the 2,000 feet MSL floor in the present area to 1,200 feet and to 700 feet in the proposed expanded area. At the present time there are no charted IFR routes between the shoreline and numerous offshore oil exploration sites. This proposed action would support IFR routes to the numerous offshore oil exploration sites and encompass IFR arrival and departure procedures.

DATES: Comments must be received on or before September 12, 1977.

ADDRESSES: Send comments on the proposal in triplicate to:

Director, FAA Eastern Region, Attention: Chief, Air Traffic Division, Docket No. 77-EA-20, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430.

The official docket may be examined at the following location:

FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before September 12, 1977 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

This notice proposes to alter the Barnegat, N.J., Control Area by expanding the boundaries approximately 25 miles northeast into the confines of portions of Warning Area W-107 and Control Area 1147 and lowering the 2,000 feet MSL floor in the present area to 1,200 feet and to 700 feet in the proposed expanded area. Warning Area is specified international airspace within which may exist activities constituting a potential danger to aircraft. Warning areas are depicted on aeronautical charts to alert nonparticipants to the existence of possible hazardous conditions. However, no restriction to flight is imposed because flight within international airspace cannot legally be restricted.

The oil industry has advised the FAA that it will require IFR service for helicopters to the numerous offshore drilling sites in the mid-Atlantic Outer Continental Shelf in support of oil exploration. This project is part of the United States Government's effort to reduce dependency on foreign energy sources. The lowering of these airspace floors would provide the FAA with some flexibility in establishing off airway routes to the oil exploration sites adjacent to the New Jersey shoreline and encompass planned instrument approach procedures to the various oil rig sites.

ICAO CONSIDERATIONS

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in conconance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

DRAFTING INFORMATION

The principal authors of this document are Mr. Richard Huff, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.-163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 348) as follows:

In § 71.163 in Barnegat, N.J.: 1. "2,000 feet MSL" would be deleted and "1,200 feet MSL" substituted therefor.

2. Following "Lat. 39°44'00" N." add "that airspace extending upwards from 700 feet MSL beginning at Lat. 39°40'00" N., Long. 73°29'00" W.; to Lat. 39°40'00" N., Long. 72°50'00" W., to Lat. 39°34'00" N., Long. 72°50'00" W.; thence along Lat. 39°34'00" N., to the northeast edge of Control 1147; southeast along the northeast edge of Control 1147 to Lat. 39°19'00" N.; thence to Lat. 38°33'00" N., Long. 73°08'00" W.; west along Lat. 38°33'00" N., to the northeast edge of Control 1148; thence northwest along the northeast edge of Control 1148 to Long. 73°50'00" W.; to Lat. 38°58'00" N., Long. 73°50'00" W.; to Lat. 38°58'00" N., Long. 73°13'00" W.; to Lat. 39°09'00" N., Long. 73°13'00" W.; to Lat. 39°09'00" N., Long. 73°29'00" W.; to point of beginning.

(Secs. 307(a), 313(a) and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 4, 1977.

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

[FR Doc.77-23314 Filed 8-12-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release Nos. 34-13661, IC-9824; File No. S7-654]

SECURITIES CONFIRMATIONS

Proposed Rulemaking

Correction

In FR Doc. 77-18681,appearing at page 33348 in the issue of Thursday, June 30, 1977, the following changes should be made:

1. On page 33351, third column, in the third line of § 240.10b-10(a)(6)(ii), after the comma insert the words, "if he is not a market maker in that security and if, after having received".

2. On page 33352, first column, the fifth word in the fourth line should read, "account".

3. On page 33352, second column, the second word in the fifth line of § 240.-10b-10(d)(5)(iii) should read "designated" and the fourth word in the third line of § 240.10b-10(d)(5)(iii)(A) should read, "total".

[17 CFR Parts 239, 270, and 274]

[Release Nos. 33-5849, IC-9882; File No. S7-697]

INVESTMENT COMPANY REGISTRATION AND REPORT FORMS AND REPORTING REQUIREMENTS

Extension of Comment Period for Proposed Revision of Forms, Reports and Regulations

AGENCY: Securities and Exchange Commission.

ACTION: Extension of comment period.

SUMMARY: This notice extends the period for comments on the notice published May 31, 1977, proposing a new rule and forms intended to create an integrated registration and reporting system designed to reduce both the number of forms and the duplicative information filed by management investment companies. Specifically, the Commission is proposing a revised notification of registration under the Investment Company Act of 1940 ("1940 Act"), new registration statements forms for registration of open and closed-end investment companies under the 1940 Act and of their securities under the Securities Act of 1933 ("1933 Act"), a revised annual report form for annual reports under the 1940 Act, and a new rule under the 1940 Act requiring an annual update of the 1940 Act registration statement.

DATE: Comments must be received on or before September 19, 1977.

ADDRESS: Comments should be sent to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 N. Capitol Street Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Glen Payne, Special Counsel, Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-0230.

SUPPLEMENTARY INFORMATION: Notice was published on May 31, 1977, 33-5829, IC-9782 [42 FR 29716, June 9, 1977] proposing the adoption of Rule 8b-16 [17 CFR 270.8b-16] under the 1940 Act [15 U.S.C. 80a et seq.] and new and amended forms under the 1933 Act [15 U.S.C. 77a et seq.] and the 1940 Act. A request for an extension of the comment period to September 19, 1977, has been submitted on behalf of the Association of Publicly Traded Investment Funds ("Association"). The Association stated that because of the personal commitments and schedules of members of the Association and the large volume of material that must be analyzed, it would not be feasible for it to comment by August 15, 1977, the present expiration date of the comment period. In view of this request, the Commission has authorized an extension until September 19, 1977, of the due date for submitting comments with respect to the proposed rule and forms. The Commission believes that this extension is appropriate and will not result in undue delay. All interested persons are invited to submit their written views and comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 on or before September 19, 1977. All such communications should refer to File No. S7-697, and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street NW., Washington, D.C.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

August 8, 1977.

[FR Doc.77-23498 Filed 8-12-77;8:45 am]

[17 CFR Part 270]

[Release No. IC-9883; File No. S7-698]

INVESTMENT COMPANY ANNUAL REPORTS

Extension of Comment Period for Proposed Revision of Regulations

AGENCY: Securities and Exchange Commission.

ACTION: Extend of comment period.

SUMMARY: This notice extends the period for comments on the notice published May 31, 1977, proposing a revision of the Commission's regulations on the filing of investment company annual reports to require that such reports be filed within 90 days (rather than the current 120 days) after the end of the fiscal year. This will make available to the staff of the Commission information relating to a company's most recent fiscal year at the time that it reviews a posteffective amendment to that company's registration statement under the Securities Act of 1933. It will also bring the required filing date for annual reports into line with the required filing date for annual reports filed by industrial companies.

DATE: Comments must be received on or before September 19, 1977.

ADDRESS: Comments should be sent to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT:

Glen Payne, Special Counsel, Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-0230.

SUPPLEMENTARY INFORMATION: Notice was published on May 31, 1977, IC-9783 [42 FR 29828, June 9, 1977] proposing the adoption of an amendment to Rule 30a-1 [17 CFR 270.30a-1] under the Investment Company Act of 1940 [15 U.S.C. 80a et seq.]. A request for an extension of the comment period to September 19, 1977, has been submitted on behalf of the Association of Publicly Traded Investment Funds ("Association"). The Association stated that because of the personal commitments and schedules of members of the Association and the large volume of material that must be analyzed, it would not be feasible for it to comment by August 15, 1977, the present expiration date of the comment period. In view of this request, the Commission has authorized an extension until September 19, 1977, of the due date for submitting comments with respect to the proposed rule amendment. The Commission believes that this extension is appropriate and will not result in undue delay. All interested persons are invited to submit their written views and comments in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 on or before September 19, 1977. All such communications should refer to File No. S7-698, and will be available for public inspection at hte Commission's Public Reference Room, Room 6101, 1100 L Street, N.W., Washington, D.C.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

AUGUST 8, 1977.

[FR Doc.77-23499 Filed 8-12-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 777-1]

[40 CFR Part 211]

NOISE LABELING STANDARDS GENERAL PROVISIONS

Public Hearings; Extension of Comment Period

AGENCY: Environmental Protection Agency.

ACTION: Notice of public hearings; notice of extension of comment period.

SUMMARY: By this notice the Environmental Protection Agency announces that public hearings will be held in Washington, D.C., Cedar Rapids, Iowa, and San Francisco, Calif., concerning the general provisions of its recently proposed product noise labeling regulatory program; and that the public comment period for that proposed regulatory action is being extended from September 20, 1977, to October 28, 1977. The general provisions for the labeling program were proposed in the FEDERAL REGISTER on June 22, 1977, 42 FR 31722. The purpose of the hearings is to help provide the Agency with a complete and broad-based public response to the proposed labeling program, especially from private citizens, and consumer and public interest groups, as well as product manufacturers and retailers. The Agency believes this form of public comment, in addition to written comments, will materially aid it in identifying and addressing all of the public's questions, concerns, and data, and resolving all associated issues, in developing final noise labeling regulatory provisions, and in implementing its product noise labeling program.

DATES:

Hearings

WASHINGTON, D.C.

Date: September 16, 1977.
Place: Capitol Hilton Hotel, 16th and K Street NW., Washington, D.C. 20036.
Time: 9 a.m. to 5 p.m.

CEDAR RAPIDS, IOWA

Date: September 20, 1977.
Place: Kirkwood Community College, 6301 Kirkwood Boulevard SW., Cedar Rapids, Iowa 52406.
Time: 9 a.m. to 9 p.m.

SAN FRANCISCO, CALIF.

Date: September 22, 1977.
Place: San Francisco Hilton Hotel, Mason and O'Farrell Streets, San Francisco, Calif. 94109.
Time: 9 a.m. to 9 p.m.
Scheduling statements by September 9, 1977.
Comment period extension until October 28, 1977.

ADDRESSES: Those persons wishing to make statements at the hearings should notify the EPA at the following address by September 9, 1977, so that presentations may be scheduled: Director, Standards and Regulations Division (AW 471), Office of Noise Abatement and Control, Attn.: Noise Labeling Public Hearings, U.S. Environmental Protection Agency, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Ted Ricci, Project Officer, Standards and Regulations Division (AW-471), U.S. Environmental Protection Agency, Washington, D.C. 20460 (703-557-2710).

SUPPLEMENTARY INFORMATION: See following text.

In the FEDERAL REGISTER of June 22, 1977, 42 FR 31722, the Environmental Protection Agency proposed to establish the general provisions of a product noise labeling regulatory program. The proposed general provisions concern those aspects of the program which the Agency intends to implement in a uniform manner with respect to the majority of products that will be considered for possible noise labeling action. Product-specific labeling requirements for individual products or product classes will be added to the proposed provisions by future rulemaking actions.

The major purpose of the regulatory program is to provide accurate and understandable information to consumers concerning the noise generating or noise reducing properties of products so that meaningful comparisons can be made by the public concerning such properties as part of purchase or use decisions.

In the FEDERAL REGISTER notice of June 22, 1977, the Agency indicated that it would hold public hearings concerning the general provisions of the proposed noise labeling program if public response during the comment period indicated that they would be in the public interest. Public response to this date has demonstrated widespread interest in the proposed regulations. The EPA, therefore, feels that public hearings would provide a significant opportunity for it to receive a more complete indication of the public's views, questions, concerns, and ideas about the proposed federal program.

Final regulations for the product noise labeling program will be promulgated after the review of all comments received in response to the published proposal. The information gained from the hearings is necessary, therefore, for the Agency to ensure that all issues associated with the regulatory program have been identified and adequately addressed.

The EPA is especially interested in hearing from private citizens, and consumer and public interest groups, in addition to product manufacturers and retailers, during the formal comment period and at the public hearings being scheduled.

Topics appropriate for consideration at the hearings include all aspects of the Agency's product noise labeling program and the proposed general provisions. These may include, but are not limited to, aspects such as: the need for noise labeling for products; possible product candidates for labeling; product selection process; proposed label format and content; methods of displaying relative ratings for products; associated public education and awareness program; costs of the program; and methods for ensuring compliance by those who may be required to label products.

All interested parties are encouraged to attend the hearings which will be held in Washington, D.C., Cedar Rapids, Iowa, and San Francisco, Calif., on the dates and at the places and times indicated above.

All interested persons will be given an opportunity to make a statement at the hearings. Such persons should notify the EPA of their intentions to make a statement at the address and by the date indicated above. Persons who have not given such notice will be heard as time permits following the scheduled statements. If possible, it is requested that speakers submit a copy of their statement no later than the day on which they appear. The hearings will be conducted informally. Technical rules of evidence will not apply. The hearings in Cedar Rapids and San Francisco are scheduled to include some evening hour sessions to facilitate testimony by the general public. Persons wishing to be heard in the evening hours should so specify when notifying the EPA of their desire to make a statement.

The transcript of the hearings and any materials submitted for the record will become part of the official public docket for the Proposed Product Noise Labeling Standards—General Provisions, Docket No. ONAC-77-8.

The official public comment period for the proposed regulatory action is being extended because of the decision to schedule public hearings. The comment period will now extend to October 28, 1977.

Dated: August 8, 1977.

EDWARD F. TUERK,
Acting Assistant Administrator, For Air and Waste Management.

[FR Doc.77-23403 Filed 8-12-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[45 CFR Part 11]

CLOSING OF ADVISORY COMMITTEE MEETINGS

Intent To Amend Regulations

AGENCY: Health, Education, and Welfare Department.

ACTION: Notice of intent to amend rule.

SUMMARY: The Secretary of Health, Education, and Welfare has under consideration a proposed amendment to the Department's Committee Management Interim Regulations published Monday, August 23, 1976, 41 FR 35654-8. In particular, the Secretary will propose amendments to 45 CFR 11.5(a)(6) "Closing Advisory Committee Meetings." Changes are required because of the amendment to the Federal Advisory Committee Act by the enactment of the Government in the Sunshine Act (Pub. L. 94-409, § 5). That amendment changed the criteria for the closing of meetings of Federal Advisory Committees. Instead of relying on the exemption under the Freedom of Information Act, agencies now must utilize the criteria of the Government in the Sunshine Act in order to close committee meetings.

While making the technical changes required by the amendment to the Federal Advisory Committee Act, the Secretary wishes to review the Department's overall policy on the closing of advisory committee meetings. He therefore invites comments on policies and procedures regarding the closing of such meetings. In considering changes, the Secretary particularly wants to comply with the Congressional intent that, in general, meetings be open to the public. He recognizes, however, that there will be situations which will dictate that certain meetings or portions of meetings be closed. The proposed amendment to the regulation should establish criteria which must be met before a determination can be made to close a meeting or any portion of a meeting. The Secretary specifically invites comments on how such criteria may be refined in order to assure that meetings which should be closed may be closed, but to assure, to the extent feasible, that meetings which do not need to be closed are open to the public.

DATES: Comments must be received on or before September 29, 1977.

ADDRESSES: Mail comments to: Department Committee Management Offi-

cer, 330 Independence Avenue SW., Washington, D.C. 20201. Comments may be hand delivered to Room 4357, 330 Independence Avenue SW. All comments received may be reviewed in Room 4357, 330 Independence Avenue SW.

FOR FURTHER INFORMATION CONTACT:

Russell M. Roberts. (202–245–7578).

SUPPLEMENTARY INFORMATION: The following issues are presented for comment. In considering these issues, the Secretary will also consider any additional questions raised by the comments.

1. *Protection of personal privacy.* The protection of personal privacy is of great concern to the Secretary. Advisory committee meetings may be closed under present law where an open meeting would "disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy" (5 U.S.C. 552b(c)(6)).

Can guidelines be formulated which would assist a government official in determining whether the right of the public to have access to information concerning a particular individual's background, qualifications, competence, financial situation, or the like, outweigh the right of an individual to personal privacy regarding such factors of his personal life?

Should the criteria for closing meetings of committees such as the Boards of Scientific Counselors, which review in-house research activities of government employees, differ from those for peer review committees which assess the work of non-Federal principal investigators on funded or potential grants and contracts?

Would discussion in an open forum in the nature of performance evaluation or appraisal of Federal employees, whether or not engaged in research, constitute a clearly unwarranted invasion of privacy?

Should the level of position or responsibility of the Federal employee affect what constitutes a clearly unwarranted invasion of privacy?

If a Federal employee is not entitled to privacy protection, is the Department entitled to discuss performance appraisal of employees in evalulating the Department's efficiency in closed sessions because such matters relate to personnel rules and practices?

2. *Trade secrets, commercial, or financial information.* To what extent should a person supplying trade secrets, commercial, or financial information to the Department, knowing that such information will be reviewed by an advisory committee, have a role in determining whether such information is privileged or confidential, thereby participating in the deliberation to close the advisory committee meeting on that basis?

Should the Department notify persons who have submitted trade secrets, commercial, or financial information prior to submitting such information for discussion in open session by an advisory committee?

Will people doing business with the Department submit proprietary information in sufficient detail to be useful to the Department if there is a possibility that such information may be disclosed in an open committee meeting?

What other safeguards should be established to assure that proprietary interests of the providers of information are fully protected, while at the same time assuring the right of the public to attend and participate in the deliberations of advisory committees to the fullest extent possible?

3. *Law enforcement investigations.* What guidelines can be established to determine when disclosure of investigatory information might interfere with enforcement proceedings?

4. *Procedures.* The interim regulations provide that the Executive Secretary of an advisory committee is responsible for justifying why a meeting, or a portion thereof, should be closed when submitting a request to the appropriate official for a determination to close a meeting. The request is to be submitted 60 days prior to the scheduled date of the meeting. Any determination to close the meeting, or any portion thereof, must be in writing and likewise contain specific reasons to support the determination. Any such determination must be reviewed and approved by the Office of General Counsel and the Office of Public Affairs.

Are further procedural requirements appropriate to prevent the improper closing of advisory committee meetings?

5. *Separating open portions of meetings from portions which may be closed under the criteria to be formulated in the regulation.* The Secretary is concerned that any determination to close a meeting, or portion thereof, restrict such closing to the shortest reasonable time. The Secretary recognizes however that under certain circumstances discussions which may fall within the criteria for closing will intertwine with discussions of matters which do not meet such criteria.

What guidelines can be established for the least amount of time consumed in mixed discussion?

Should the determination to close a meeting include a provision that the chairman, or the Federal official required to be in attendance, may open a meeting, or portion thereof, if it appears that the discussions are not intertwined or do not otherwise meet the criteria for closing meetings?

The issues set forth above are those which reflect the special concerns of the Secretary. Interested parties need not confine their comments in response to this notice of intent to the issues set forth in this notice. Any additional issues concerning the closing of advisory committee meetings may be submitted and will be considered by the Secretary in formulating his notice of proposed rule- making.

Dated: August 6, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc.77-23404 Filed 8-12-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21352; RM-1754; FCC 77-564]

[47 CFR Part 73]

PUBLIC NOTICE OF INTENT TO SELL BROADCAST STATION

Inquiry and Memorandum Opinion and Order

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry and memorandum opinion and order.

SUMMARY: The Commission proposes a rule requiring owners of broadcast stations to publish notice of intent to sell 45 days before signing a contract of sale. The purpose is to increase minority ownership of stations. Since many station sales are arranged privately, minority investors, who are not socially or professionally close to station owners, do not hear that the stations are for sale in time to offer to buy them. The Commission also denied a petition asking that sellers broadcast notice that they have sold the station and give information concerning the buyer since its rules already provide for this.

DATES: Comments must be filed on or before October 3, 1977, and reply comments on or before November 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Carol P. Foelak, Broadcast Bureau (202–632–7792).

SUPPLEMENTARY INFORMATION:

ADOPTED: July 27, 1977.

RELEASED: August 9, 1977.

By the Commission: Commissioner Hooks issuing a separate statement.

1. This is an Inquiry into whether it would be desirable to require a licensee to give public notice of its intent to sell a broadcast station as a means of increasing minority ownership of stations.

2. This Notice is the Commission's own proposal, originally suggested by Commissioner Benjamin L. Hooks; it also deals with a petition filed February 22, 1971, by Stephen H. Paul and Howard B. Sandler (hereinafter petitioners), students at the Indiana University School of Law.

COMMISSIONER HOOKS' PROPOSAL

3. At our recent Minority Ownership Conference, minority broadcasters and investors complained that they do not learn that desirable broadcast properties are for sale until it is too late to offer to buy them. They stated that agreements for the sale of the desirable stations are made privately, a process in which they are unlikely to participate since minority investors are likely not to be socially or professionally close to those who already own broadcast stations. To remedy this problem, Commissioner Hooks proposed that a licensee be required to give notice that its station was for sale at least 45 days before signing a contract to sell it,

so that those who are not part of the existing "establishment" can learn of opportunities to acquire stations. We believe that his proposal could ameliorate this situation since it would require broadcasters to give such notice. Correspondingly, the burden involved would be very small and, indeed, there could be a benefit to the seller through receiving a higher price as a result of the larger group of buyers that might bid for the station.

4. The proposed notice requirement should not apply to any pro forma (Form 316) assignments and transfers. Clearly a notice requirement should not apply to involuntary Form 316 applications since they are involuntary and are necessarily followed by a long form transfer or assignment application when the executor, administrator, trustee, etc. disposes of the estate, bankrupt's assets, etc. Also it clearly should not apply in the case of a voluntary Form 316 application where the station is being transferred from a corporation, partnership, joint venture, or sole proprietorship to another entity with the same or similar beneficial ownership.

5. There are some situations in which a Form 316 application may be used but in which control actually passes from one individual to another, as in the case where a minority shareholder who has previously been passed on in a long form application acquires an additional interest sufficient to make him the majority shareholder. Usually these situations involve a small percentage change in ownership, often of a small station owned by a partnership or close corporation with no outsiders, "establishment" or otherwise being involved. For these reasons and for administrative convenience we believe that all Form 316 applications should be exempt from the notice requirement. Any other choice would involve us in a time consuming process of determining which Form 316 applications should be subject to the requirement and which should be exempt.

6. We would also exempt stations which are being transferred by gift, intestacy, or pursuant to the terms of a will or divorce or separation agreement. Since these stations are not being sold, there is no reason to apply a rule applicable to contemplated sales. Of course, notice would be given if the recipient decided to sell the station rather than operate it.

7. We would not apply the notice requirement to the exercise of an option not involving outsiders to purchase a controlling interest in a station. Opinions are often part of an employment agreement, given perhaps to induce a station manager to remain at the station or to accept a lower salary and are also a common part of an agreement among partners or stockholders in a close corporation. If notice were required at the time of giving the option, the notice would be meaningless; if required at the time of exercise, then options would be meaningless since the station owners could not guarantee to sell their stations at any particular price or to the optionee. Although we would anticipate good faith, we emphasize our concern that options must not be used as a means to circumvent the purpose of the notice requirement. An option would appear to be in good faith where it was coupled with some other transaction or previous relationship, such as an employment contract or agreement among partners or shareholders or where a great deal of time had passed since the option was given.

8. We believe that the proposal could enhance minority ownership opportunities. We are interested in receiving comments on any aspect of such a rule and its administration and in particular on whether our basic assumptions, that a rule would increase minority purchases while placing a minimal additional burden on broadcasters, are correct. Some of the issues which should be addressed are as follows: Would the burden on broadcasters be greater than we have assumed, with the additional waiting period causing substantial economic or other difficulties in completing station sales? Would the notice reach minority investors and actually increase the number of offers to buy? Specifically, would local notice, which would be similar to what we require for broadcast applications, be effective in reaching minority buyers throughout the country? The purpose of local notice for transfer, renewal, and other broadcast applications is to enable members of the public whom the station is supposed to serve to comment on the applications, but interested minority buyers, like any other buyers, might well be outside the station's service area. We are inclined to think that this is not really a problem because minority investors interested in broadcasting and their brokers would read the trade press which would doubtless learn of and report stations for sale when notice was given. Assuming that more minority investors learn of stations for sale, because of the notices, would this actually lead to a greater number of offers to buy with resulting purchases by them?

9. Is 45 days the appropriate time period? On the one hand, too long a delay would harm broadcasters, since a station would be operating in an uncertain status for a longer period, with lowered employee morale, employees leaving, and possible decline in revenue. On the other hand, if the time were too short, minority buyers would not be able to investigate the market and assemble the needed capital.

10. As indicated above, we need more than simple arguments pro and con and seek specific discussion of both procedural and substantive facets of a rule and its likely impact on affected parties. In commenting, parties should consider that we suggest a straightforward requirement with uncomplicated exceptions because evaluating requests for exemption from the requirement could cause more delay in the sale of a station than merely waiting 45 days before signing a contract of sale.[1]

11. Section 310(d) of the Communications Act, 47 U.S.C. section 310(d), provides in pertinent part that in acting on a transfer or assignment application "the Commission may not consider whether the public interest * * * might be served by the transfer, assignment, or disposal of the permit or license to a person other than the proposed transferee or assignee."[2] Thus enforcement of any such rule would be limited to ensuring that the seller publishes and files proof of publication of the notice with its transfer or assignment application. In accord with section 310(d), the Commission does not have the authority to interfere with the licensee's choice of a buyer. However, that does not necessarily preclude action designed to potentially increase the number of buyer from which the licensee may choose.

THE PAUL AND SANDLER PETITION

12. The petition urges that the Commission amend its ruels to require a seller to broadcast advance notice of a transfer to the local public and asks that the Commission urge Congress to amend section 310 to permit it to consider a competing transferee. To this end, petitioners propose that 30 days before filing a transfer application, the seller broadcast notice of its intent to transfer the station, announcing that a written statement concerning the transfer is available at the station and inviting interested

[1] For example, while time may be of the essence in some cases which fall within the exceptions to the Three Year Rule (Sec. 1.597 (a) (3) of the Rules, 47 CFR sec. 1.597(a) (3)), it is not possible to determine which applications do fall within the exceptions until after examination of the applications. Thus as much time might be required to decide whether to waive the notice requirement as would be consumed by following the notice procedure.

[2] Congress added this language to Section 310 in 1952, because it wished to make sure that the Commission did not reinstate its former "Avco" rule. The Commission had announced the Avco rule in *Powel Crosley, Jr.*, 11 F.C.C. 1 (1945), stating that when a transfer or assignment application was filed, the Commission would give public notice and require the applicant to give public notice locally of the proposed sale and to invite others to apply for the facilities on the same contract terms. The Commission would hold the application for 60 days to allow competing applications to be filed. If no one filed another application, the original application would be considered on its merits. If others filed, all would be considered to determine which was the best qualified. If a competing applicant were preferred, the original transfer application would be denied and consent would be given to transfer to the preferred applicant if the parties made a contract and filed a new application within thirty days. The Commission followed this procedure, garnting waivers in some instances, for a few years but abandoned it in 1949. Congress amended section 310 to add the quoted language to make sure that the Commission did not reinstate the procedure. See S. Rept. No. 142, 82nd Cong. 1st Sess., 8-9 (1951).

persons to comment to the FCC on the merits of the transfer. The written statement would contain information about the buyer, its programming plans, and a statement that any interested party objecting to the transfer can file a petition to deny it. Petitioners state that public participation in the transfer process would help the Commission decide whether a transfer is in the public interest and "[t]he rationale for this proposed rule is the same rationale that underlies allowing petitions to deny renewal of licenses."

13. It appears that petitioners are unaware of our existing rules requiring publication of notice of transfers in almost the same manner they recommend. Further, the type of rule about which we are inquiring in this Notice would provide the public with even more information regarding an impeding transfer than the rules presently require.

14. Section 1.580 (c) and (d) of our Rules, 47 CFR section 1.580 (c) and (d), require a seller to publish in a local newspaper and broadcast over its station notice of the transfer or assignment application and of any major amendment to it after it tenders for filing at the Commission the aypplication or amendment. Section 1.580(f) lists information that the notice must contain, which must include the name of the transferee, the names of the partners if the transferee is a partnership, the names of officers and directors and principal stockholders if the transferee is a corporation, and a statement that a copy of the application and related material is available for public inspection at a specified location. Procedures for objecting to the application[3] are described in the FCC publication, *The Public and Broadcasting*, 39 F.R. 32288, September 5, 1974, which is required, by section 1.526(a)(6) of the Rules, 47 CFR section 1.526(a)(6), to be kept in a station's public file along with applications.

15. In summary, the present rules provide essentially all the procedures which petitioners request to enable the public to participate in the Commission's decisionmaking process on a transfer application. The seller is required to alert the public to the transfer and to provide information regarding it. Thereafter the public may participate formally or informally in the Commission's deliberations. Therefore we see no need to consider petitioners' proposal, and we will deny this part of the petition.

16. *Proposed amendment of section 310.* Petitioners also ask the Commission to urge Congress to amend section 310 of the Communications Act, 47 U.S.C. section 310, to allow the Commission to consider a competing transferee to a limited extent. Their proposal differs from the former "Avco" procedure described in footnote 3, supra, in that it would give a preference to the buyer proposed by the licensee, require the competing applicant to pay the seller's price in cash, to pay the seller's costs in the hearing and the buyer's costs if the buyer prevails (but not otherwise), and require an expedited hearing process which would take no longer than the time to process a transfer application not involving a hearing.

17. While petitioners' ideas are interesting, we do not believe their suggestions are workable as proposed. In our experience, in most cases where a transfer application is designated for hearing, to determine the transferor's or transferee's qualifications, it is withdrawn because the parties do not wish to go through the time and expense of a hearing. Petitioners' proposal for comparative hearings would not cure this problem. The transferee would still risk bearing the expenses if it lost. Also it is impossible for the Commission to speed up the hearing process to be able to conclude the hearing in the time it takes to process a routine application. As petitioners are undoubtedly aware, hearings often take months or, in many instances, years, while a routine transfer application is processed in about 90 days. The length of time of a hearing is not entirely within the Commission's control as the parties themselves take time for discovery and file various motions which often delay the process. Further, even if the entire record were certified immediately to the Commission after the conclusion of the hearing, the parties still may appeal to the courts, a right which cannot be foreclosed by the FCC. Finally, although under section 310 the Commission cannot consider a competing transferee, such an applicant can always file a competing application against the station's next renewal application and seek comparative consideration at that time.

18. Authority for the institution of this proceeding is contained in section 403 of the Communications Act of 1934, as amended.

19. Pursuant to procedures set forth in section 1.415[4] of the Commission's Rules, interested persons may file comments on or before October 3, 1977, and reply comments on or before November 1, 1977. The Commission will consider all relevant and timely comments and may also consider other relevant information before it before taking further action in this proceeding.

20. In accordance with the provisions of section 1.419 an original and five copies of all comments, replies, briefs, and other documents shall be furnished the Commission. Further, members of the general public who wish to participate informally in the proceeding may submit one copy of their comments, specifying the docket number in the heading. All filings in this proceeding will be available for examination by interested persons during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

21. *It is ordered*, That the petition filed by Stephen H. Paul and Howard B. Sandler (RM-1754) is denied.

FEDERAL COMMUNICATIONS COMMISSION
VINCENT J. MULLINS,
Secretary.

SEPARATE STATEMENT OF COMMISSIONER BENJAMIN L. HOOKS

From a procedural standpoint, I would have desired that this inquiry would have been accompanied by a rule proposal to effectuate the concept should the Commission find it meritorious.

While I freely admit that the notice of intended sale under consideration herein is by itself no panacea for the problem of negligible minority broadcast ownership, such pre-sale notice could open up the marketplace in station properties to those unsophisticated in the assignment process. If nothing else, it would also enlighten the public about the nature of broadcast station acquisition and give citizens in the licensee community an awareness of the availability of a particular station, thereby encouraging both local and minority interest.

[FR Doc.77-23457 Filed 8-12-77;8:45 am]

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[3] Petitioners do not appear to be aware that section 309(d) of the Communications Act and section 1.580(i) of the Rules permit interested parties to file petitions to deny transfer applications within 30 days following public notice of their acceptance for filing and that section 1.587 of the Rules permits anyone to file an informal objection to any application, at any time before the application is granted. Moreover, section 309(b) of the Communications Act and section 1.580(b) of the Rules provide that the Commission cannot grant a transfer application earlier than 30 days following public notice of its acceptance for filing, which follows at least several days after its tendering for filing.

[4] Pursuant to section 1.430 of the Commission's Rules the various procedural requirements applicable to rule making proceeding apply to proceedings on a notice of inquiry.

[47 CFR Part 91]

[Docket No. 21342; RM-2792; FCC 77-510]

ALLOWING TRANSMISSION OF PULSED CARRIER EMISSIONS ON THE FREQUENCIES 154.570 AND 154.600 MHZ

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: This notice is in response to formal petition requesting amendment of the Commission's rules and regulations to allow "pulsed carrier" emmission on the low power Business Radio Service frequencies 154.570 and 154.600 MHz.

The objective is to permit operation of a vehicle guidance system designed by the petitioner specifically for vehicles which are used to apply fertilizer, pesticides, and herbicides on farm crops. Apparently, there is a significant problem with either skipping over or overlapping areas which this guidance system would eliminate.

A rule amendment is needed because the present rules do not allow the transmission of "pulse" emissions on those frequencies.

DATES: Comments must be received on or before August 29, 1977, and reply comments must be received on or before September 9, 1977.

ADDRESS: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

John Wood, Industrial and Public Safety Rules Division, Safety and Special Radio Services Bureau, Federal Communications Commission, Washington, D.C. 20554 (202-632-6497).

NOTICE OF PROPOSED RULE MAKING

Adopted: July 14, 1977.

Released: July 22, 1977.

In the matter of amendment of section 91.554 (a) and (b) of the Commission's rules and regulations to allow transmission of pulsed carrier emissions on the frequencies 154.570 and 154.600 MHz.

By the Commission:

1. The Commission has before it the above-entitled petition filed by Ag Nav, Inc. (Ag Nav), requesting amendment of section 91.554 of the Commission's rules to permit pulsed carrier type emissions on the frequencies 154.570 and 154.600 MHz.

2. Ag Nav has developed a vehicle guidance system designed to facilitate the more efficient application of fertilizers, herbicides, and other chemicals used in agriculture by permitting more accurate measurement of the distance from the last applied path of chemical and thus eliminate skips and overlaps. It is claimed that there is not an effective vehicle guidance system in agricultural spraying operations, and, Ag Nav claims, this results in substantial crop damage as well as excessive use of chemicals.

3. The Ag Nav system uses a pulsed carrier, low power, narrow channel (5 kHz) VHF radio transmission technique to guide the spraying vehicles. Although only a single, simplex frequency assignment is required for each system, division of the two frequencies into three 5 kHz channels each will facilitate the operation of up to six systems in adjacent fields or within potential interference range of each other.

4. Ag Nav argues that the proposed use of the frequencies 154.570 and 154.600 MHz will have minimal impact on existing users. These frequencies are available in the Business Radio Service for low power (up to 2 watts output) general use. The petitioner's system would use about 1 watt of power and this, Ag Nav believes, would limit its interference potential to less than 2 miles. In addition, Ag Nav points out that this use will be concentrated in rural areas, whereas most existing users are in urban areas. Finally, the petitioner notes that non-voice facilities are already permitted on the subject frequencies and the proposed pulsed carrier transmission would pose no more serious interference potential.

5. Sears, Roebuck and Co. (Sears) was the only party which filed comments. Sears stated that it should be possible to accommodate the needs of Ag Nav without interfering with ordinary Business Radio communications; but, to minimize the possibility of such interference, Sears urged that any proposed rule specifically include the 2 watt power and 25 foot antenna height limits contained in section 91.554(b) (13), and (14) of the Commission's Rules, that this operation be prohibited within 25 miles of urbanized centers with a population of 100,000 or more, and that the operation be authorized on a secondary, non-interference basis to voice operations.

6. We have considered that petition and the comments on it and it appears to us that Ag Nav's proposal could be accommodated on the frequencies mentioned without disruptions or serious interference problems; that the proposal could enhance spectrum utilized; and that it would benefit the public through improved agricultural production. We have considered Sears' suggestions, but we do not believe that the restrictions proposed would be necessary, although parties may want to address this matter further in the comments.

7. In view of the foregoing, we propose to amend section 91.554(b) of the Rules to allow pulsed carrier (P0 or P2) emissions of 5 kHz bandwidth limited to peak power outputs of 1 watt centered on 154.570 and 154.600 MHz or 5 kHz above or below these frequencies. In addition, we ask for comments on whether pulsed carrier emissions should be permitted in the remaining low power frequencies now allocated in the Business Radio Service.

8. The proposed rule amendment is issued under sections 4(i) and 303(r) of the Communications Act of 1934, as amended. Pursuant to applicable procedures set forth in section 1.415 of the Commission's rules, interested persons may file comments on or before August 29, 1977, and reply comments on or before September 9, 1977. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

9. In accordance with the provisions of section 1.419 of the Commission's rules, an original and five copies of all statements, briefs, or comments filed shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

It is proposed that the Commission's rules and regulations be amended as follows:

Section 91.554(a) is amended by the addition of a new limitation (51) to the frequencies 154.570 and 154.600 MHz, and paragraph (b) is amended to read as follows:

§ 91.554 Frequencies available.

(a) * * *

Frequency or band	Class of station(s)	General reference	Limitations
*	*	*	*
MHz			
*	*	*	*
154.570	Mobile	Low power general use.	13, 14, 44, 51
154.600	do	do	13, 14, 43, 51
*	*	*	*

(b) * * *

(51) This frequency may be used, with the transmitter carrier centered on the designated frequency or 5 kHz above or below the designated frequency, with P0 or P2 emission, using a bandwidth of 5 kHz and a power not to exceed 1 watt peak power output.

* * * * *

[FR Doc.77-23461 Filed 8-12-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC-88 (Sub-No. 1)]

[49 CFR Part 1307]

FREIGHT RATE TARIFFS, SCHEDULES, AND CLASSIFICATIONS OF MOTOR CARRIERS

Detention of Motor Vehicles—Alaska

AGENCY: Interstate Commerce Commission.

ACTION: Institution of proceeding to consider amending a final rule.

SUMMARY: The Interstate Commerce Commission is instituting a proceeding to consider exceptions from the free time allowances and detention charges prescribed in Ex Parte No. MC-88, Detention of Motor Vehicles Nationwide, 126 M.C.C. 803, for origins and destinations within the state of Alaska. The proceeding is being instituted in response to petitions filed pursuant to the Commission's report on reconsideration, 126 M.C.C. 803. The impact of this proceeding will be confined to origins and destinations within Alaska.

DATES: Persons wishing to participate must file statements of intent to participate on or before September 4, 1977.

ADDRESSES: Send statements of intent to participate to: Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, Deputy Director, Section of Rates, or Harvey Gobetz, Assistant Deputy Director, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423. 202-275-7963 or 275-7656.

A proceeding is instituted to consider amending 49 CFR 1307.35(e).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-23479 Filed 8-12-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 20]

MIGRATORY BIRD HUNTING

Proposed Frameworks for Late Season Migratory Bird Hunting Regulations for Waterfowl

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Supplemental proposed rule.

SUMMARY: This document supplements proposed rulemakings published in the FEDERAL REGISTER on March 10 and May 25, 1977, and proposes to establish frameworks, that is, the outer limits for dates and times when shooting may begin and end, and the number of birds which may be taken and possessed for late season migratory bird hunting regulations. The Service annually prescribes hunting regulations framework to the States. The effects of this proposed rule are to facilitate the selection of hunting seasons by the States and to establish late season migratory bird hunting regulations for the 1977–78 season.

DATES: Comments due by August, 25, 1977.

ADDRESS: Comments to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202–343–8827).

SUPPLEMENTARY INFORMATION: The annual process for developing migratory game bird hunting regulations is divided into those for "early" seasons adn those for "late" seasons. Early seasons include those which open before October 1 while late seasons open on or after October 1. Regulations are developed independently for early and late seasons. The early season regulations cover mourning doves, white-winged doves, band-tailed pigeons, rails, gallinules, woodcock, common snipe, sea ducks in the Atlantic Flyway, teal in September in the Central and Mississippi Flyways, lesser sandhill cranes in North Dakota and South Dakota, doves in the Virgin Islands and Hawaii, all migratory game birds in Puerto Rico and Alaska, and special falconry seasons. Late seasons include the general waterfowl seasons; special seasons for scaup and goldeneyes; extra scaup and blue-winged teal in regular seasons; most sandhill crane seasons in the Central Flyway; coots, gallinules, and snipe in the Pacific Flyway; and special falconry seasons.

Certain general procedures are followed in developing regulations for both the early and the late seasons. Initial regulatory proposals are first announced in a FEDERAL REGISTER document in early March, and opened to public comment. As additional information becomes available, and comments are received and considered to the initial proposals, a supplemental proposed rulemaking is announced in the FEDERAL REGISTER. At the termination of the comment periods and following a public hearing, the Service develops and publishes the proposed frameworks for times of seasons, season lengths, shooting hours, daily bag and possession limits, and other regulatory restraints or options. Following another public comment period, and after consideration of additional comments, the Service publishes in the FEDERAL REGISTER the final frameworks. Using these frameworks, State conservation agencies select hunting season dates and offered options. States may select more restrictive seasons and options than those offered in the Service's frameworks. The final regulations, reflected in amendments to Subpart K of 50 CFR 20, then appear in the FEDERAL REGISTER, and become effective upon publication.

On March 10, 1977, the Service published for public comment in the FEDERAL REGISTER (42 FR 1331) proposals to amend 50 CFR 20, with a comment period ending May 18, 1977. That document dealt with minor modifications in § 20.11 of Subpart B, the addition of § 20.40 in Subpart D, and with establishment of seasons, limits and shooting hours for migratory birds under §§ 20.101 through 20.107 of Subpart K. On May 25, 1977, the Service published for public comment in the FEDERAL REGISTER (42 FR 26669) a second document in the series consisting of supplemental proposed rulemaking dealing specifically with a number of supplemental or modified proposals and clarification or correction of minor portions of the earlier document. On July 5, 1977, the Service published in the FEDERAL REGISTER (42 FR 34305) a third document in the series consisting of final rulemaking dealing specifically with final frameworks from which wildlife conservation agency officials in Puerto Rico and the Virgin Islands could select season dates for hunting certain migratory birds in Puerto Rico and the Virgin Islands during the 1977–78 season. On July 5, 1977, the Service also published for public comment in the FEDERAL REGISTER (42 FR 34342) a fourth document in the series consisting of supplemental proposed rulemaking dealing specifically with proposed frameworks for early season migratory bird hunting regulations from which, when finalized, States could select season dates and daily bag and possession limits for the 1977–78 season. On July 15, 1977, the Service announced in a fifth document in the FEDERAL REGISTER (42 FR 36495) the availability of a draft environmental assessment on shooting hours and allowed a 10-day public comment period. On July 22, 1977, the Service published in the FEDERAL REGISTER (42 FR 37552) a sixth document in the series consisting of final rulemaking dealing specifically with final frameworks (except shooting hours) for early season migratory bird hunting regulations in all States during the 1977–78 seasons from which States selected early season dates and daily bag and possession limits for the 1977–78 season. On August 9, 1977, the Service published in the FEDERAL REGISTER (42 FR 40211) a seventh document in the series consisting of final rulemaking dealing specifically with final frameworks for shooting hours for early season migratory game bird hunting regulations in all States during the 1977–78 season. On August 5, 1977, the Service delivered to the FEDERAL REGISTER an eighth document in the series consisting of final rulemaking amending Subpart K of 50 CFR 20 to set open hunting seasons, certain closed areas, shooting hours and bag and possession limits for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and gallinules; September teal seasons; sea ducks in certain defined areas of the Atlantic Flyway; sandhill cranes in designated portions of North Dakota and South Dakota; and migratory game birds in Alaska, Hawaii, Puerto Rico and the Virgin Islands which will be published on or about August 17, 1977. This document is the ninth in a series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with proposed regulations frameworks for 1977–78 late hunting seasons on certain migratory game birds.

On June 21, 1977, a public hearing was held in Washington, D.C., as announced in the FEDERAL REGISTER (42 FR 26709; May 25, 1977; and 42 FR 29325; June 8, 1977) to review the status of mourning doves, woodcock, band-tailed pigeons, white-winged doves, rails, gallinules, lesser sandhill (little brown) cranes in North Dakota and South Dakota, and common (Wilson's) snipe. Proposed hunting regulations for these species were discussed plus those governing migratory game birds in Alaska, Puerto Rico, and the Virgin Islands; mourning doves in Hawaii; September teal seasons in the Mississippi and Central Flyways; and special sea duck seasons in the Atlantic Flyway. Statements or comments were invited. On August 2, 1977, a public hearing was held in Washington, D.C., as announced in the FEDERAL REGISTER (42 FR 26709; May 25, 1977; and 42 FR 34897; July 7, 1977), to review information on population status and proposed hunting regulations for waterfowl, coots, and gallinules; lesser sandhill (little brown) cranes in Colorado, New Mexico, Oklahoma, Texas, Montana and Wyoming; common (Wilson's) snipe in the Pacific Flyway; and special falconry

regulations. Statements or comments were invited.

This supplemental proposed rulemaking document identifies a number of changes to the original framework proposals published on March 10, 1977, in the FEDERAL REGISTER, and as supplemented on May 25, 1977. The present supplemental proposals are briefly described as follows.

REVIEW OF PUBLIC COMMENTS AND THE SERVICE'S RESPONSE TO SAME

The public was given several opportunities to comment on regulations being proposed for late seasons during 1977–78. Altogether, 662 written public comments were received by August 4, 1977, and given consideration. The Service advised that interested persons should respond by May 18, 1977, to the initial regulatory proposals shown in the FEDERAL REGISTER dated March 10, 1977, on page 13313. One hundred twenty-eight comments were received. A supplemental proposed rulemaking appeared in the FEDERAL REGISTER on May 25, 1977 (42 FR 26669), and the public was given until July 14, 1977, to submit comments. Twenty-nine comments were submitted. The public was notified in the FEDERAL REGISTER on July 15, 1977, that a draft environmental assessment on shooting hours for migratory game birds was available for review and comment, and that comments would be considered if received by July 25, 1977 (42 FR 36495). Four written comments on the draft environmental assessment were received by July 25, 1977. Five additional written comments were received between July 26 and August 1 after the close of this comment period but were, nevertheless, considered in preparing the final environmental assessment for proposed shooting hours regulations.

Many of the earlier comments dealt with the early season regulations, and these were tabulated and analyzed in the FEDERAL REGISTER dated July 5, 1977, on page 34306, and July 22, 1977, on page 37552. Many letters contained statements on several topics. Some regulatory proposals, such as shooting hours, pertain to both early and late season proposals. Some respondents submitted more than one statement during the overall comment period. Also, some of the comments addressed topics outside the scope of the regulatory proposals, and in this regard, were irrelevant.

The following review of comments includes all those arising from the various comment periods noted above, except for those relating to the draft environmental assessment on shooting hours which were analyzed separately in the FEDERAL REGISTER dated August 9, 1977 (42 FR 40211). In addition to the written comments, four verbal statements were presented at the public hearing in Washington, D.C., on August 2, 1977, at which proposed late season regulations were reviewed and discussed. These statements were offered by the Wildlife Management Institute, the National Audubon Society, the Defenders of Wildlife, and Ducks Unlimited. In addition, two statements were filed by the Wildlife Society and the Ohio League of Sportsmen. The summary of comments and the Service's response are presented with the same numerical identification and sequence as they appeared in the March 10, 1977, FEDERAL REGISTER.

1. *Shooting hours.* Thirty-six comments on shooting hours were reported and evaluated in the FEDERAL REGISTER dated July 22, 1977, on page 37553). That document also described the litigation brought last year by Defenders of Wildlife and the decision rendered by Judge Gerhard A. Gesell of the U.S. District Court, Washington, D.C. The Service subsequently prepared a draft environmental assessment on shooting hours for migratory game birds, solicited and considered comments on it, and issued a final environmental assessment on August 1, 1977, with a declaration that the proposed shooting hours did not constitute a major Federal action which could significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969. The Service finalized shooting hours of one-half hour before sunrise to sunset for most migratory game birds included in early season regulations in the FEDERAL REGISTER dated August 9, 1977 (42 FR 40211). In the meantime, a large number of additional communications were received on the subject of shooting hours. Of the 420 additional comments, 401 private individuals, 8 were from organizations, and 11 were from State conservation agencies. These respondents overwhelmingly favored retention of the usual one-half hour before sunrise to sunset shooting hours for migratory game bird hunting. Only 5 adverse comments, including a telegram from Wildlife Preserves, Inc., were received. The wire from Wildlife Preserves, Inc., simply urged consideration of later opening hours.

Response: The Defenders of Wildlife, the plaintiff in last year's suit, offered extensive comments on the shooting hours environmental assessment. The views of Defenders and others on the assessment were considered before the final environmental assessment on shooting hours was prepared. These comments, and the Service's response to them, was given in the FEDERAL REGISTER dated August 9, 1977, on pages 40212–40213. The provisions of the Endangered Species Act of 1973 were also taken into consideration in developing shooting hours proposals for late season regulations. In view of the information presented in the environmental assessment on shooting hours, including Section 7 consultation, and the overwhelming desire expressed by the public to retain the same hunting hours as in the past, the Service proposes to establish shooting hours of one-half hour before sunrise to sunset in the late season regulations. The Service does not believe that the proposed shooting hours jeopardize the continued existence of any endangered or threatened species of designated critical habitats or affect the Service's obligations to enhance the conservation efforts for such listed species.

2. *Framework dates for ducks and geese in the continental United States.* Thirty-four comments on these proposals were received. They were submitted by 2 waterfowl flyway councils, 12 States, 2 organizations, and 18 individuals. Of these, 24 favored the season frameworks as originally proposed. The opposing comments usually involved minor changes in the season framework to allow earlier or later hunting seasons. The latter usually supported by little or no supporting data or substantial rationale. The Atlantic Flyway Council urged that consideration be given to extending the end of the season framework for Canada geese from January 20 to January 31, 1978, to better accommodate a proposed lengthening of the Canada goose season in certain portions of that Flyway.

Response: The Service believes that it is appropriate to extend the season framework for Canada geese in the Atlanta Flyway to January 31, 1977, but that the extension should be confined to the areas where a longer season is contemplated (Delaware, a portion of southeastern Pennsylvania, and the Delmarva portions of Maryland and Virginia). Because of shorter season lengths elsewhere, there does not appear to be need to extend the framework closing date throughout the Flyway.

3. *Black ducks.* Ten comments were received regarding this species. Six favored retention of the same general hunting regulations as in the past. One organization recommended that reduced limits or closed seasons be considered for species such as the black duck which appear to be declining in abundance or for which adequate information is lacking. Another organization urged that the population status of species such as the black duck should be reviewed immediately and hunting regulations be modified as necessary. None of these statements provided new data or substantive information which would support regulatory changes.

Response: The Service in an earlier FEDERAL REGISTER dated March 10, 1977, on page 13315, reviewed black duck research and management programs, including cooperative international activities. An environmental assessment on black duck hunting regulations was prepared in August 1976. This document, which was made available to the public, reviewed the status of the species, and evaluated several management alternatives. The Service notes that recent surveys indicated decreases in black ducks wintering in the Atlantic and Mississippi Flyways. However, because of the unusual severity of the past winter and its effect upon black duck habitats and distribution, the survey results are not believed to be comparable to those from past years. No change in black duck regulations are contemplated at this time.

4. *Wood duck.* The Service announced in the FEDERAL REGISTER dated March 10,

1977, on page 13315, that it had been requested to consider ways of providing for additional harvest of southeastern wood ducks that would not increase the harvest of wood ducks from breeding populations in the North. The request was based on a general increase in eastern wood duck populations in recent years, and a recent study suggesting that southeastern wood ducks are subjected to lower shooting pressures and have higher survival rates than northern wood ducks. After considering various ways of doing this, the Service proposed in the FEDERAL REGISTER dated May 25, 1977, on page 26670, to allow additional harvest of wood ducks for a period not to exceed 9 days during the period October 1–15 in southeastern States provided that the days taken are a part of the regular waterfowl season days and that this special provision for wood ducks be subject to evaluation and reporting of results by participating States. During the October period, wood ducks would be subjected to no special restrictions under conventional regulations. In States selecting the point system, the species would be allocated 25 points during the early October season.

Fifteen comments were received; 2 were from waterfowl flyway councils, 9 from States, and 4 from individuals. Most of the comments related to the merits of a September hunting period versus an early October hunting period. One comment from an individual who conducted research investigations of southern wood duck populations, expressed the view that northern wood ducks being shot in southern areas would likely increase proportionately from September to November.

Response: Little band recovery data are available by which to assess the movement of northern wood ducks into southern areas. The Service notes that the selection of early October hunting seasons for the purpose of additional harvest of southeastern wood ducks would likely result in reduced harvests later in the season when northern wood ducks are abundant in these areas because fewer hunting days would occur then. Also, the Service does not believe that it would be desirable to set a hunting season in September when all species of ducks could be taken. An environmental assessment on wood ducks is being prepared.

5. *Sea ducks.* Seven comments were received from 5 States, 1 waterfowl flyway council, and 1 private conservation organization. Six of the seven comments favored continuation of special sea duck seasons in the Atlanta Flyway, as in the past. One private organization expressed the view that this and other special seasons should be eliminated in order to simplify regulations and strengthen law enforcement. No data or other supporting information were provided.

Response: The Service is of the view that elimination of this season would significantly reduce the opportunity to hunt sea ducks (scoters, eiders, and oldsquaws) and that this is unnecessary from a management standpoint.

7. *Extra blue-winged teal option.* Of the 8 comments received, 7 favored retention of this option. The dissenting statement was from an organization which provided no data or other supporting information. This organization's views, and the Service's response, are identical to those expressed above for sea ducks.

8. *Special scaup season.* Of the 8 comments received, 6 favored retention of this option. Dissenting comments were submitted by two organizations. One organization suggested elimination of the special season as a means of simplifying regulations, and thus strengthening enforcement programs. The other organization expressed concern about the population status of the goldeneye, a species which may be taken along with scaup in a limited special season with specially restricted bag limits in the Lake Champlain area of New York and Vermont. In addition, the goldeneye may be taken during regular duck hunting seasons. No data or additional information regarding the species were provided.

Response: The Service does not believe that the hunting seasons for scaup or goldeneyes pose any threat to the welfare of the two species, and therefore proposes to allow hunting as in the past. Appropriate action will be taken should harvest or population surveys indicate that it is necessary or desirable.

9. *Extra scaup option.* Eight respondents commented on the proposal to again allow the option for extra scaup during the regular duck season. These included statements from 5 States and 2 waterfowl flyway councils—all of which favored the proposal—and one organization which opposed it. The latter reiterated its opposition to allowing bonus birds in addition to the daily bag limit. No data or additional information were included in the communication.

Response: The Service is of the view that the harvest of scaup that occurs under this option is not excessive. Information from population and harvest surveys are reviewed annually and should it appear that an excessive harvest of scaup is occurring, appropriate action will be taken to modify the regulations.

10. *Mergansers.* Eleven communications were received from 6 States, 2 individuals, 2 organizations, and 1 waterfowl flyway council on this proposal. Opposition was expressed by two organizations. One simply stated its opposition without providing data or other information. The other organization expressed particular concern about the population status of the hooded merganser and the common merganser. One individual suggested that consideration should be given to prohibiting the shooting of any mergansers because they are inedible, and because the status of the hooded merganser is not satisfactory.

Response: The Service notes that the hooded merganser has been accorded special nationwide protection for many years. In States selecting conventional regulations, it is again proposed that only one hooded merganser be allowed daily. A 70-point allocation is again proposed in States selecting the point system means of establishing daily bag limits. The Service does not believe that continuation of the same hunting regulations as in the past poses any jeopardy to the welfare of mergansers. In some locales, mergansers are readily eaten and the hooded merganser especially is considered to be desirable.

11. *Canvasbacks and redheads.* Fourteen comments on one or both of these species were received and considered. Favorable comments originated from 5 States, 4 waterfowl flyway councils, and one individual. Opposing statements were received from 3 organizations and one individual. Two organizations advocated some modification of the closed areas established to protect the species. Another organization expressed concern about population levels of the species. One individual suggested that hunters should be allowed at least one bird daily in the event one were shot accidentally.

Response: The Service conducted an in-depth study of canvasback and redheads management last year in the form of an environmental assessment. Copies were made available to the public. The assessment established criteria for monitoring population levels and setting short- and long-term objectives. According to these standards, the present breeding population index of convasbacks is 12 percent above the short-term objective of 625,000 birds, and 18 percent below the long-term objective of 825,000 birds. The redhead index is 5 percent above the short-term objective of 825,000 birds, and 13 percent below the long-term objective of 1,000,000 birds. A special redhead survey conducted in mid-winter of 1976 indicated the presence of nearly a million birds in the Gulf of Mexico regions of the United States and Mexico. Drought conditions this summer in the prairies suggest that the production of both species probably will be poor. However, the Service anticipates that harvest of both species will be reduced this fall because of reductions in season length in the Mississippi and Central Flyways and the higher than usual proportion of less-vulnerable adult birds in the fall flight. The harvest of both species is restricted substantially under present regulations. Accordingly, no further restrictive measures are proposed at this time.

12. *Point System.* Two waterfowl flyway councils, 8 States, 3 individuals, and 1 organization favored retention of the point system as it is now constituted. Five individuals favored changing the point allocations of certain species, based upon local considerations.

Response: Point system allocations may be modified according to waterfowl abundance and management objectives; however, no changes are contemplated this year, except for wood ducks in southern areas in connection with an early October season option. Other regulatory measures such as season frameworks,

season lengths, and zoning are being utilized to fulfill the needs of the 1977–78 waterfowl regulatory program.

13. *Zoning.* Twenty-seven comments related to zoning proposals were identified in 42 FR 26669; May 25, 1977. These included 2 waterfowl flyway councils, 6 States, 1 organization, and a number of individuals. All were favorable except one which alleged that zoning would unduly complicate regulations.

Response: The Service proposes to allow Illinois, Indiana, Maine, Michigan, Missouri and Ohio the option to establish experimental watefowl seasons by north and south zones. The intention of this provision is to better distribute the waterfowl harvest within each State and not to increase the overall State harvest. Harvests will be monitored for 3 years, and if necessary, regulatory penalties will be imposed. An environmental assessment is being prepared on this management technique.

14. *Goose and brant seasons.* Comments were received from 4 waterfowl flyway councils, 5 States, 5 organizations, and 5 individuals. Eleven statements recommending regulations other than those proposed by the Service generally related to minor changes in season lengths in local areas or to State selections of seasons within framework opening and closing dates. The various proposals and their rationales are summarized by flyways.

Atlantic Flyway. The Atlantic Flyway Council urged that the length of the snow goose season in the Atlantic Flyway be increased to 60 days (30 days last year) and the daily bag limit be increased to 3 (2 last year) because large and concentrated populations are causing habitat destruction, increasing crop depredations, and risk of disease. The Service concurs with the recommendation on season length, and accordingly proposes a 60-day season for 1977, but proposes no change in the daily bag limit at this time. The Service believes that while the Atlantic snow goose population is relatively large, production this summer may be somewhat below average. Under these circumstances, it is believed that regulation changes should be confined to lengthening of the hunting season. The Atlantic Flyway Council recommended, and the Service proposes, that the season length for Canada geese in southeastern Pennsylvania, Delaware, and the Delmarva portions of Maryland and Virginia be increased from 70 to 90 days, and that the daily bag and possession limits be increased to 4 and 8 birds, respectively. These regulatory changes are based on the following considerations: (1) The population is at a record high and is continuing to increase; (2) excessive numbers of geese are concentrating in the above areas during winter; (3) increasing crop depredations; and (4) increasing risk of disease. Two organizations expressed concern about brant, without noting whether the concern was for the Atlantic Flyway brant or for the black brant of the Pacific Flyway. Because of heavy losses among Atlantic Flyway brant from severe habitat conditions the past winter, a closed season is proposed.

Mississippi Flyway. Louisiana requested that it be given authority to set goose seasons by east and west zones as is allowed for duck seasons. The Service concurs with the recommendation, as it is not expected to result in any significant increase in harvests. An earlier FEDERAL REGISTER dated May 25, 1977, on page 26671, proposed a harvest quota of 15,000 Canada geese (Mississippi Valley Population) in Kentucky. This proposal is modified to limit the quota to the Ballard County area only; the few geese harvested elsewhere in Kentucky belong to other management populations. Wisconsin proposed a modification of the Horicon quota zone and the establishment of a second quota zone to facilitate the management of Canada geese. The Service supports these regulatory proposals. A number of other regulatory boundary changes for Canada geese elsewhere in the flyway were recommended by the Mississippi Flyway Council and the Service concurs with these recommendations as means of improving the management of Canada geese.

Central Flyway. The Service proposes to eliminate the two-week season restriction for "dark" (Canada and white-fronted) geese in ten Missouri River counties of South Dakota. This restriction was imposed in 1976 to provide additional control over the harvest of geese in commercial hunting areas. The South Dakota Game, Fish and Parks Commission has adopted State regulations pertaining to commercial hunting (leasing of blinds), the means by which much of the hunting is conducted there.

The Central Flyway Council recommended that the daily bag limit restriction of one Ross' goose be eliminated because the geese are increasing in abundance and the regulation possibly is ineffective. The Service believes that such action should be coordinated with management efforts for the species in Canada, where it is given special protection. Also, the research studies presently underway on the species should be concluded before any such regulatory change is made.

Pacific Flyway. Concern has been expressed about lesser snow geese in the Pacific Flyway, notably the population segment which breeds on Wrangel Island, U.S.S.R. This population has declined in recent years, chiefly because of poor production caused by delayed ice and snow disappearance from the nesting area. The snow goose limit in the Pacific Flyway was reduced several years ago to 3 birds and the Service intends to retain that restriction as one means of providing greater protection to the Wrangel Island population. In addition, further restrictions on season length and bag limits have been imposed in recent years by the State of Washington in the Skagit Flats area where Wrangel Island geese concentrate during fall migration, and by State of Oregon in the area west of the Cascades where these geese may be exposed to hunting. It is expected that these special State restrictions will be continued in 1977. The Wrangel Island geese intermix with other snow geese on the wintering area in the Central Valley of California and it is not practical to apply regulatory restrictions specifically to them in this area. Two organizations expressed concern about the status of lesser snow geese in the northwest but provided no information to support regulatory changes. Several comments related to the closed areas established in California two years ago for Aleutian Canada geese. Because of recent information from field observations and banding, it is proposed to delete Mendocino County, California, from the areas closed to all Canada goose hunting. No observations of wild-produced or breeding Aleutian geese have been reported there the past two years. The lone record was from a captive-reared bird released in Alaska. It is proposed to advance the closure period for the San Joaquin closed area, California, to November 25, 1977, in order to afford more protection to Aleutian Canada geese wintering there. For further discussion about regulatory considerations for this and other endangered or threatened species, see below under "Compliance with Section 7 of Endangered Species Act of 1973." One individual recommended that the black brant season be extended to March 10. Although the black brant population has increased in recent years, the Service does not believe that the framework should be extended into March as most of the harvest would be of brant returning north to the breeding grounds. Also, major regulatory changes should be deferred until a black brant management plan, now in preparation, is completed.

15. *Whistling swans.* The Pacific Flyway Council recommended retention of the regulations as proposed, which represent no change from those of the 1976 hunting season. Two organizations expressed concern about the population status of the species, plus possibility of confusion between the whistling swan and the less abundant trumpeter swan. The hunting of whistling swans is carefully regulated in the three hunting areas (Utah and one county each in Montana and Nevada) by a permit and tag system. Hunting is permitted only in those specified areas where the trumpeter swan seldom if ever occurs. It should be noted that the trumpeter swan is not listed as either an endangered or threatened species under the Endangered Species Act of 1973, and that its population has been increasing gradually. The whistling swan population is increasing steadily. Concern is materializing about crop depredations—swans now feed in croplands of the mid-Atlantic coast, the destruction of natural wetland habitats caused by the feeding of concentrated birds, and increasing risk of disease. Consequently, no further restrictions in hunting regulations seem appropriate.

17. *Migratory game bird seasons for falconers.* This year, for the first time, extended falconry hunting seasons are being offered on a trial basis to States

that agree to monitor the resultant harvest and agree to publish the provisions in State regulations, and have special falconry hunting seasons. Falconry is a permitted means of taking migratory game birds during regular hunting seasons. This proposal would allow States to set additional hunting periods, up to 107 days for regular and special seasons combined, for taking migratory game birds by falconry only. This proposal has been described in detail in the FEDERAL REGISTER dated March 10, 1977, on page 13317. Most of the 22 comments summarized in 42 FR 37533 favored the proposal. One organization, while admitting that falconry would probably have little impact upon prey populations of migratory game birds, expressed concern that the provision might increase the popularity of falconry to the detriment of wild raptor populations.

Response: The Service notes that regulations governing the taking of raptors from the wild for falconry purposes have been established and are covered under Sections 21.28 and 21.29. Since these regulations provide strict criteria and controls over the taking of raptors for falconry, the Service believes that the above proposed regulations governing the taking of migratory game birds by falconry will not be detrimental to wild raptor populations.

18. *Lesser sandhill (little brown) cranes.* Four comments were recevied regarding proposed regulations for this species. One organization stated that the crane population is declining or that inadequate population data are available.

Response: The Service is concluding a three-year study of leser sandhill cranes, and although the final report is not yet available, it seems clear that the Central Flyway population is somewhat larger and more productive than was previously believed. Hunting of the species is confined to designated portions of the Central Flyway, where all hunters must obtain special sandhill crane hunting permits. Based on results of the Service's analysis of the 1976–77 season, 7,393 cranes were taken in the Central Flyway by 5,092 active hunters. The species is extremely wary and the average bag is only 1.5 cranes pre hunter per season. The population is best inventoried during spring migration, when the bulk of the population stages in the Plate River area of Central Nebraska. In 1977, 219,000 cranes, the second highest count on record, was tallied. No hunting is allowed on sandhill cranes in other flyways.

19. *Coots.* Four waterfowl flyway councils and 6 States indicated support of the proposed coot regulations which are unchanged from past years. At the public hearing on August 2, one organization alleged that because coots are seldom eaten, and their taking should be curtailed. In some parts of the United States coots are not only taken incidentally by hunters but are specifically sought because of their eating qualities. The Service is of the opinion that there is insufficient reason to alter the hunting regulations for this abundant waterbird.

PUBLIC COMMENT INVITED

Based on the results of migratory game bird studies now in progress and having due consideration for any data or views submitted by interested parties, the amendments resulting from these supplemental proposals will specify open seasons, shooting hours, and bag and possession limits for waterfowl, coots and gallinules; lesser sandhill (little brown) cranes in portions of the Central Flyway; snipe in the Pacific Flyway; and special falconry regulations.

The Director intends that finally adopted rules be as responsive as possible to all concerned interests. He therefore desires to obtain the comments and suggestions of the public, other concerned governmental agencies, and private interests on these proposals and will take into consideration the comments received. Such comments, and any additional information received, may lead the Director to adopt final regulations differing from these proposals.

Special circumstances are involved in the establishment of these regulations which limit the amount of time which the Service can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: the need, on the one hand, to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms, and on the other hand, the unavailability before late July of specific, reliable data on this year's status of waterfowl. Therefore, the Service believes that to allow a common period past August 25, 1977, is contrary to the public interests.

COMMENT PROCEDURE

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may participate in this rulemaking by submitting written comments to the Director (FWS/MBMO), U.S. Fish and Wildlife Service, 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 2243, Department of the Interior, C Street between 18th and 19th Streets NW., Washington, D.C.

All relevant comments received by August 25, will be considered. The Service will attempt to acknowledge received comments, but substantive response to individual comments may not be provided.

ENVIRONMENTAL REVIEW

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 final environmental assessment on shooting hours (42 FR 40211; August 9, 1977) supplements the discussion on shooting hours in FES 75–54. Likewise, an environmental assessment on September dove hunting (42 FR 37552; July 22, 1977) supplements the discussion on dove hunting in FES 75–54.

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," and "by taking such action necessary to insure that actions authorized, funded, or carried out * * * do not jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species * * * which is determined to be critical." Consequently, the Service reviewed all migratory bird regulations being contemplated for early seasons in the United States this year and concluded in a biological opinion that none of the proposals, including shooting hours, if implemented, would result in jeopardizing the continued existence of any species designated as endangered or threatened under the act, or adversely modify their critical habitat or habitats that may be determined as critical in the future. This opinion resulted from over 500 man-hours of consultation conducted between the Office of Endangered Species and the Office of Migratory Bird Management. Likewise, the biological opinion concluded that the proposed regulations are not contrary to, and do not undermine, the Service's obligation to conserve endangered or threatened species. The proposed late season frameworks were evaluated as to possible impacts upon a number of endangered species, including the Aleutian Canada goose (*Branta canadensis leucopareia*), *Mexican duck* (*Anas diazi*), whooping crane (*Grus americana*), bald eagle (*Haliaeetus leucocephalus*), peregrine falcon (*Falco peregrinus*), and the Everglade kite (*Rostrhamus sociabilis plumbeus*).

Section 7 consultations are presently under way regarding the late season regulatory proposals. It is possible that the findings from the consultation, which will be included in a biological opinion, may cause modification of some of the regulatory measures proposed in this doucment. Any modifications that may be desirable will be reflected in the final rulemaking on regulations frameworks for "late seasons" scheduled for publication in the FEDERAL REGISTER on or about August 30, 1977.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species. An example of such consideration is the closure of a specific area in Alaska to all Canada goose hunting for the protection of the Aleutian Canada goose.

The Service's biological opinions resulting from its consultation under section 7 are considered public documents and are available for public inspection in or available by from the Office of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

DRAFTING INFORMATION

This final rulemaking was authored by Dr. John P. Rogers, Chief, Office of Migratory Bird Management.

PROPOSED REGULATIONS FRAMEWORK FOR 1977–78 LATE HUNTING SEASONS ON CERTAIN MIGRATORY GAME BIRDS

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved proposed framework for season lengths, shooting hours, bag and possession limits, and outside dates within which States may select seasons for hunting waterfowl, coots, and gallinules; cranes in parts of New Mexico, Texas, Colorado, Oklahoma, Montana, and Wyoming; common snipe in the Pacific Flyway; and special extended falconry seasons. States may be more restrictive in selecting season regulations, but may not exceed the framework provisions. For the guidance of State conservation agencies, these frameworks are summarized below.

GENERAL

States may split their seasons for ducks or geese into two segments of equal or unequal lengths. Exceptions are noted in appropriate sections.

Shooting hours in all States, on all species, and for all seasons are ½ hour before sunrise until sunset, except that September teal season shooting hours are sunrise until sunset.

States in the Atlantic, Mississippi, and Central Flyways selecting neither a September teal season nor the point system may select an extra daily bag and possession limit of 2 and 4 blue-winged teal, respectively, for 9 consecutive days designated during the regular duck season. These extra limits are in addition to the regular duck bag and possesion limits.

States in the Atlantic, Mississippi, and Central Flyways may select a special scaup-only hunting season not to exceed 16 consecutive days, with daily bag and possession limits of 5 and 10 scaup, respectively, subject to the following conditions:

1. The season must fall between October 1, 1977, and January 31, 1978, in the Atlantic, Mississippi, and Central Flyways, all dates inclusive.

2. The season must fall outside the open season for any other ducks except sea ducks.

3. The season must be limited to areas mutually agreed upon between the State and the Service prior to September 1, 1977.

4. These areas must be described and delineated in State hunting regulations.

Or, as an alternative, States in the Atlantic, Mississippi, and Central Flyways, except those selecting a point system, may select an extra daily bag and possession limit of 2 and 4 scaup, respectively, during the regular duck hunting season, subject to conditions 3 and 4 listed above. These extra limits are in addition to the regular duck limits and apply during the entire regular duck season.

Selection of the point system for any State entirely within a flyway must be on a statewide basis, except if New York selects the point system, conventional regulations may be retained for the Long Island Area. New York may not select the point system within the upstate zoning option. Maine may not select the point system with the State zoning option.

States that did not select their rail, woodcock, snipe, gallinule, and sea duck seasons in July should do so at the time they make their waterfowl selections.

Frameworks for open seasons and season lengths, bag and possession limit options, and other special provisions are listed below by Flyway.

ATLANTIC FLYWAY

Between October 1, 1977, and January 20, 1978, States in this Flyway may select open seasons on ducks, coots, and mergansers of: (a) 45 days, with basic daily bag and possession limits of 4 and 8 ducks, respectively, of which no more than 2 in the daily bag and 4 in possession may be black ducks; or (b) 45 days, with basic daily bag and possession limits of 5 and 10 ducks, respectively, of which no more than 1 in the daily bag and 2 in possession may be black ducks. Under either Option (a) or (b), a 50-day season may be selected provided the season is opened on a Wednesday with shooting hours beginning at noon on opening day. If the 50-day season is split, each segment must open on a Wednesday with shooting hours beginning at noon on opening day.

Except in closed areas, the limit on convasbacks and redheads is 1 canvasback daily and 1 in possession or 1 redhead daily and 1 in possession. Under the point system, canvasbacks count 100 points each and redheads count 70 points each, except in closed areas. Areas closed to canvasback and redhead hunting are:

New York—Upper Niagara River between the Peace Bridge at Buffalo, New York, and the Niagara Falls. All waters of Lake Cayuga.

New Jersey—Those portions of Monmouth County and Ocean County lying east of the Garden State Parkway.

Maryland, Virginia, and North Carolina—Those portions of each State lying east of U.S. Highway 1.

Under conventional and point system options, the daily bag and possession limits may not include more than 2 and 4 wood ducks, respectively, except that Virginia, North Carolina, South Carolina, Georgia, and Florida may split their regular hunting season in such a way that a hunting season not to exceed 9 consecutive days occurs between October 1 and October 15. During this period under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the flyway in 1977 shall apply to wood ducks. Under the point system, the point value of wood ducks shall be 25 points. For other species of ducks, daily bag and possession limits shall be the same as established for the flyway under conventional or point system regulations. For those States using conventional regulations, the 9 consecutive days extra blue-winged teal option may be selected concurrent with the early wood duck season option. This exception to the daily bag and possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

The daily bag limit on mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

The daily bag and possession limits of coots are 15 and 30, respectively.

The Lake Champlain Area of New York must follow the waterfowl seasons, daily bag and possession limits, and shooting hours selected by Vermont. This area includes that part of New York lying east and north of a boundary running south from the Canadian border along U.S. Highway 9 to New York Route 22 south of Keeseville, along New York Route 22 to South Bay, along and around the shoreline of South Bay to New York Route 22, along New York Route 22 to U.S. Highway 4 at Whitehall, and along U.S. Highway 4 to the Vermont border.

In lieu of a special scaup season, Vermont may, for the Lake Champlain Area, select a special scaup and goldeneye season not to exceed 16 consecutive days, with a daily bag limit of 3 scaup or 3 goldeneyes or 3 in the aggregate and a possession limit of 6 scaup or 6 goldeneyes or 6 in the aggregate, subject to the same provisions that apply to the special scaup season elsewhere.

New York may, for Long Island, select season dates and daily bag and possession limits which differ from those in the remainder of the State.

Upstate New York (excluding the Lake Champlain area) may be divided into three zones (West, North, South) on an experimental basis for the purpose of setting separate duck, coot and merganser seasons. Option (a) or (b) for seasons and bag limits is applicable to the zones in the Upstate area within the Flyway framework; only conventional regulations may be selected. The West Zone will be permitted the full number of days offered under Options (a) or (b), with or without the Wednesday opening with shooting hours beginning at noon on opening day. In addition, a split season without penalty may be selected in the West Zone. The North Zone and the South Zone must take a 5-day reduction in season length under either option, with or without the Wednesday opening, with shooting hours beginning at noon on opening day. The basic daily bag limit on

ducks in each zone and the restrictions applicable to Options (a) and (b) of the regular season for the Flyway also apply. Teal and scaup bonus birds, if offered, shall be applicable to the Upstate zones, but the 16-day special scaup season will not be allowed.

The zones are defined as follows:

The West Zone is that portion of Upstate New York lying west of a line commencing at a point at the north shore of the Salmon River and its junction with Lake Ontario and extending easterly along the north shore of the Salmon River to its intersection with Interstate Highway 81, then southerly along Interstate Highway 81 to the Pennsylvania border.

The North and South Zones are bordered on the west by the boundary described above and are separated from each other as follows:

Starting at the Intersection of Interstate Highway 81 and New York Route 49 and extending easterly along Route 49 to its junction with Route 8 in Utica, then southerly along Route 8 to its Intersection with U.S. Highway 20 in Bridgewater, then easterly along U.S. Highway 20 to the Massachusetts border.

Maine may be divided into two zones (North, South) on an experimental basis for the purpose of setting separate duck, coot and merganser seasons. Option (a) or (b) for seasons and bag limits is applicable to the zones within the Flyway framework; only conventional regulations may be selected. Both zones will be permitted the full number of days offered under options (a) or (b) with or without the Wednesday opening with shooting hours beginning at noon on opening day. In addition, a split season without penalty may be selected in the South Zone. The basic daily bag limit on ducks in each zone and the restrictions applicable to options (a) and (b) of the regular season for the Flyway also apply. Teal and scaup bonus bird options, if offered, shall be applicable, but the 16-day special scaup season will not be allowed.

The Maine zones are defined as follows:

North Zone—Game Management Zones 1, 2 and 3.

South Zone—Game Management Zones 4 through 8.

As an alternative to conventional bag limits for ducks, a 45-day season with a point-system bag limit may be selected by States in the Atlantic Flyway during the framework dates prescribed. A 50-day season may be selected provided the season is opened on a Wednesday with shooting hours beginning at noon on opening day. If the 50-day season is split, each segment must open on a Wednesday with shooting hours beginning at noon on opening day. Point values for species and sexes taken are as follows: In Florida only, the fulvous tree duck counts 100 points each; in all States the canvasback counts 100 points each (except in closed areas); the female mallard, black duck, mottled duck, wood duck (except in Virginia, North Carolina, South Carolina, Georgia, and Florida during the early wood duck season option), redhead (except in closed areas) and hooded merganser count 70 points each; the blue-winged teal, green-winged teal, pintail, gadwall, shoveler, scaup, sea ducks, and mergansers (except hooded) count 10 points each; the male mallard, the wood duck during the early wood duck season option in Virginia, North Carolina, South Carolina, Georgia, and Florida, and all other species of ducks count 25 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

In any State in the Atlantic Flyway selecting both point-system regulations and a special sea duck season, sea ducks count 10 points each during the point-system season, but during any part of the regular sea duck season falling outside the point-system season, regular sea duck daily bag and possession limits of 7 and 14 sea ducks, respectively, apply.

Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the conventional limits.

Between October 1, 1977, and January 20, 1978, Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, West Virginia, New Jersey, Maryland, and Virginia (excluding those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17) may select 70-day seasons on Canada geese; the daily bag and possession limits are 3 and 6 geese, respectively. However, in the area comprised of Delaware, the Delmarva Peninsula portions of Maryland and Virginia, and that portion of Pennsylvania lying east and south of a boundary beginning at Interstate Highway 83 at the Maryland border and extending north to Harrisburg, then east on U.S. Highway 22 to the New Jersey border, the Canada goose season length will be 90 days with the closing framework date extended to January 31, 1978. The daily bag limit within this area will be 4 birds with a possession limit of 8 birds. North Carolina, South Carolina, and those portions of the cities of Virginia Beach and Chesapeake lying east of Interstate 64 and U.S. Highway 17 in Virginia may select 50-day seasons on Canada geese within the October 1, 1977, to January 20, 1978, framework; the daily bag and possession limits are 1 and 2 Canada geese, respectively.

The season is closed on Canada geese in Florida and Georgia.

Between October 1, 1977, and January 20, 1978, concurrent with either the regular waterfowl season or the Canada goose season, States in the Atlantic Flyway may select 60 day seasons on snow geese (including blue geese); the daily bag and possession limits are 2 and 4 geese, respectively.

The season is closed on Atlantic brant.

For snow geese (including blue geese) the Director, U.S. Fish and Wildlife Service, shall close the season within 48 hours should such closure be necessary to avoid excessive harvest.

MISSISSIPPI FLYWAY

Between October 1, 1977, and January 20, 1978, States in this Flyway may select concurrent 45-day seasons on ducks, coots, and mergansers. The daily bag limit for ducks is 5, and may include no more than 2 mallards or 2 black ducks, or one each, and 2 wood ducks (except as noted below). The possession limit is 10, including no more than 4 mallards or 4 black ducks, or 4 in the aggregate, and 4 wood ducks (except as noted below).

Except in closed areas, the limit on canvasbacks and redheads is 1 canvasback daily and 1 in possession or 1 redhead daily and 1 in possession. Under the point system, canvasbacks count 100 points each and redheads count 70 points each, except in closed areas. Areas closed to canvasback and redhead hunting are:

Mississippi River—Entire river, both sides, from Alton Dam upstream to Prescott, Wisconsin, at confluence of St. Croix River.

Alabama—Baldwin and Mobile Counties.

Louisiana—Caddo, St. Charles and St. Mary Parishes; that portion of Ward 1 formerly designated as Ward 6 of St. Martin Parish; and Catahoula Lake in LaSalle and Rapides Parishes.

Michigan—Arenac, Bay, Huron, Macomb, Monroe, St. Clair, Tuscola, and Wayne Counties, and those adjacent waters of Saginaw Bay south of a line extending from Point au Gres in Sec. 6, T. 18 N., R. 7 E. (Arenac County) to Sand Point in Sec. 11, T. 17 N., R. 9 E. (Huron County), the St. Clair River, Lake St. Clair, the Detroit River and Lake Erie, under jurisdiction of the State of Michigan.

Minnesota–Douglas, Mahnomen, Polk, and Sibley Counties. Where the county line of any of the above counties crosses any portion of a lake, that entire lake is closed. In addition, all land in Sec. 13, T. 130 N., R. 31 W. (i.e., land between Lake Christina and Pelican Lake) is closed.

Ohio—Land and water areas comprising Erie, Ottawa and Sandusky Counties.

Tennessee—Kentucky Lake lying north of Interstate Highway 40.

Wisconsin—In the Mississippi River Zone, all that portion of Wisconsin west of the Burlington-Northern Railroad in Grant, Crawford, Vernon, LaCrosse, Trempealeau, Buffalo, Pepin, and Pierce Counties. Also, the following lakes and waters, including a strip of land 100 yards wide adjacent to the shorelines thereof: Lake Poygan in Winnebago and Waushara Counties and Lakes Winneconne and Butte des Morts, including the connecting waters thereof, in Winnebago County.

The daily bag limit on mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

The daily bag and possession limits on coots are 15 and 30, respectively.

As an alternative to conventional bag limits for ducks, a 45-day season with point-system bag and possession limits may be selected by States in the Mississippi Flyway during the framework dates prescribed. Point values for species and sexes taken are as follows: except in closed areas, the canvasback counts 100 points; the redhead (except in closed areas), female mallard, wood duck (except as noted below), black duck and hooded merganser count 70 points each; the pintail, blue-winger teal, cinnamon teal, gadwall, shoveler, scaup, green-winged teal, and mergansers (except hooded merganser) count 10 points each; the male mallard and all other species of ducks count 25 points each. The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days. Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under the conventional limits.

Kentucky, Arkansas, Tennessee, Louisiana, Mississippi and Alabama may split their regular duck hunting seasons in such a way that a hunting season not to exceed 9 consecutive days may occur between October 1 and October 15. During this period, under conventional regulations, no special restrictions within the regular daily bag and possession limits established for the Flyway shall apply to wood ducks, and under the point system, the point value for wood ducks shall be 25 points. For the other species of ducks, daily bag and possession limits shall be the same as established for the Flyway under conventional or point system regulations. In addition, the extra blue-winged teal option available to States in this Flyway that select conventional regulations and do not have a September teal season may be selected during this period. This exception to the daily bag and possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 15.

In that portion of Louisiana west of a boundary beginning at the Arkansas-Louisiana border on Louisiana Highway 3; then south along Louisiana Highway 3 to Shreveport; then east along Interstate 20 to Minden; then south along Louisiana Highway 7 to Ringgold; then east along Louisiana Highway 4 to Jonesboro; then south along U.S. Highway 167 to Lafayette; then southeast along U.S. Highway 90 to Houma; then south along the Houma Navigation Channel to the Gulf of Mexico through Cat Island Pass—the season on ducks, coots and mergansers may extend 5 additional days, provided that the season opens on November 5, 1977. If the 5-day extension is selected, and if point-system regulations are selected for the State, point values will be the same as for the rest of the State.

The waterfowl seasons, limits, and shooting hours in the Pymatuning Reservoir area of Ohio will be the same as those selected by Pennsylvania. The area includes Pymatuning Reservoir and that part of Ohio bounded on the north by County Road 306 known as Woodward Road, on the west by Pymatuning Lake Road, and on the south by U.S. Highway 322.

Michigan, Illinois, Indiana, Ohio and Missouri may select hunting seasons on ducks, coots and mergansers by zones described as follows:

Michigan: *North Zone*—The Upper Peninsula. *South Zone*—The lower Peninsula.

Illinois: *North Zone*—St. Clair, Clinton, Marion, Clay, Richland and Lawrence Counties and all counties to the north. *South Zone*—The remainder of Illinois.

Indiana: *North Zone*—That portion of Indiana north of State Highway 18. *South Zone*—The remainder of Indiana.

Ohio: *North Zone*—That portion of Ohio north of U.S. Highway 30 North. *South Zone*—The remainder of Ohio.

Missouri: *North Zone*—That portion of Missouri north of a line running easterly from the Kansas-Missouri border along U.S. Highway 160 to the junction of U.S. Highway 60 in Springfield, along U.S. Highway 60 to the junction of State Highway 34, and along State Highway 34 to the Illinois-Missouri border along the Mississippi River at Cape Girardeau. *South Zone*—The remainder of Missouri.

Within each State: (1) The season must be continuous in both zones; (2) the same bag limit option must be selected for both zones; and (3) if a special scaup season is selected, it shall not begin until after the latest season closing date in the State.

Between October 1, 1977, and January 20, 1978, States in this Flyway, except Louisiana, may select 70-day seasons on geese, with daily bag and possession limits of 5 geese, to include no more than 2 white-fronted geese. Regulations for Canada geese are shown below by State.

Between October 1, 1977, and February 14, 1978, Louisiana may select 70-day seasons on snow (including blue) and white-fronted geese by zones established for duck hunting seasons, with daily bag and possession limits of 5 geese, to include no more than 2 white-fronted geese. The season on Canada geese is closed in Louisiana.

In Minnesota, in the:

(a) Lac Qui Parle Zone—the season on Canada geese closes after 45 days or when 5,000 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose or 2 white-fronted geese, or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese. The quota zone is that area encompassed by a boundary described as follows: beginning at Montevideo, then west on U.S. Highway 212 to U.S. Highway 75, then north on U.S. Highway 75 to State Highway 7 at Odessa, then north on County State Aid Highway 21, Big Stone County, to U.S. Highway 12, then east on U.S. Highway 12 to County State Aid Highway 17, Swift County, then south on C.S.A.H. 17 and C.S.A.H 9, Chippewa County, to State Highway 40, then east on State Highway 40 to State Highway 29, then south on State Highway 29 to point of beginning at Montevideo.

(b) Southeastern Zone (same as description in 1971)—the season for Canada geese may extend for 70 consecutive days. The daily bag limit is 1 Canada goose or 2 white-fronted geese or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese.

(c) Remainder of the State—the season on Canada geese may not exceed 45 days. The daily bag limit is 1 Canada goose or 2 white-fronted geese or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese.

In Iowa, the season for Canada geese may extend for 45 consecutive days. The daily bag and possession limits are 2 Canada geese.

In Missouri, in the:

(a) Swan Lake Zone (same description as in 1971)—the season on Canada geese closes after 45 days or when 25,000 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose or 2 white-fronted geese, or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese.

(b) Southeastern Area (east of U.S. Highway 67 and south of Crystal City)—State may select a 45-day season on Canada geese between December 1, 1977, and January 20, 1978, with a daily bag limit of 2 Canada geese or 2 white-fronted geese or 1 of each; and a possession limit of 4 Canada and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese.

(c) Remainder of the State—the season on Canada geese may not exceed 45 days. The daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 2 Canada geese and 2 white-fronted geese.

In Wisconsin, the harvest of Canada geese is limited to 35,000. The daily bag limit is 1 Canada goose, 2 white-fronted geese, or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese, except that in the Horicon Zone the possession limit for Canada geese is 1. In the Horicon Zone and the East Central Zone, Canada goose hunting is restricted to those persons holding valid Canada goose hunting permits issued by the State. The Horicon Zone is defined as those portions of the counties of Fond du Lac, Green Lake, Washington and Dodge enclosed by a line beginning at the intersection of County Highway N and State Highway 175 in Fond du Lac County, then southerly on State Highway 175 to its intersection with State Highway 33, then westerly on State Highway 33 to the city of Beaver Dam, then northerly on State Highway 33 to its intersection with County Highway A, then northerly on County Highway A to its intersection with County Highway S, then easterly on County Highway S to its

intersection with County Highway E, then northerly on County Highway E to its intersection with County Highway N, then easterly on County Highway N to the point of beginning.

The East Central Zone is defined as those portions of Fond du Lac, Winnebago, Green Lake, Marquette, Columbia and Dodge Counties enclosed by a line beginning in Winnebago County at the intersection of State Highway 21 and U.S. Highway 45, then southerly on U.S. Highway 45 to its intersection with State Highway 175, then northerly on State Highway 175 to its intersection with County Highway N, then westerly on County Highway N to its intersection with County Highway E, then southerly on County Highway E to its intersection with County Highway S, then westerly on County Highway S to its intersection with County Highway A, then southerly on County Highway A to its intersection with State Highway 33, then southeasterly on State Highway 33 to its intersection with U.S. Highway 151, then southwesterly on U.S. Highway 151 to its intersection with U.S. Highway 16, then northwesterly on U.S. Highway 16 to its intersection with State Highway 73, then northerly on State Highway 73 to its intersection with State Highway 33, then westerly on State Highway 33 to its intersection with State Highway 22, then northerly on State Highway 22 to its intersection with State Highway 23, then northeasterly on State Highway 23 to its intersection with State Highway 49, then ortherly on State Highway 49 to its intersection with State Highway 116, then northerly on State Highway 49 to State Highway 21, then easterly on State Highway 21 to the point of beginning.

In Illinois, the harvest of Canada geese is limited to 35,000, with 29,000 birds allocated to the Southern Illinois Zone (same description as in 1971). The daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 4 Canada geese and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese. The season on Canada geese may open at a later date in the Southern Illinois Zone and extend to January 20, 1978, or until the Zone's quota of 29,000 birds is reached, whichever occurs first.

In Michigan, in the:

(a) Counties of Baraga, Dickinson, Delta, Gogebic, Houghton, Iron, Keweenaw, Marquette, Menominee and Ontonagon—the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese.

(b) Southeastern Canada Goose Management Area—the Canada goose season will open with the duck season and extend through December 9. Through November 14, the daily bag limit will be 1 Canada goose or 2 white-fronted geese or 1 of each; the possession limit is 1 Canada and 2 white-fronted geese. From November 15 through December 9, the daily bag limit will be 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese. The Management Area is encompassed by a boundary described as follows: beginning at the junction of State Highway M–21 and State Highway M–53 in Lapeer County, then south on State Highway M–53 to its junction with Interstate Highway 94, then west on Interstate Highway 94 to its junction with Interstate Highway 75, then south on Interstate Highway 75 to its junction with Gilbralter Road, then west on Gibralter Road to Flat Rock, then west on West Carlton, Oakville and Waltz Roads to the junction with Rawsonville Road, then north on Rawsonville Road to Willow Road, then west on Willow Road to U.S. Highway 23, then south on U.S. Highway 23 to State Highway M–50 in Dundee, then west on State Highway M–50 to State Highway M–52, then south on State Highway M–52 to State Highway M–34, then west on State Highway M–34 to U.S. Highway 127, then north on U.S. Highway 127 to Interstate Highway 69, then north and east on Interstate Highway 69 to State Highway M–21 in Flint, then east on State Highway M–21 to the point of beginning.

(c) Remainder of the State—the daily bag limit is 1 Canada goose or 2 white-fronted geese or 1 of each; the possession limit is 1 Canada goose and 2 white-fronted geese.

In Ohio, the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 2 Canada and 2 white-fronted geese.

In Indiana, the daily bag limit is 1 Canada goose or 2 white-fronted geese or 1 of each, except in Posey County where the daily bag limit on Canada geese is 2; the possession limit is 2 Canada and 2 white-fronted geese.

In Kentucky, the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 4 Canada geese and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese. In the Ballard County Zone, the harvest of Canada geese is limited to 15,000. This zone is described as follows: a bounday beginning at the northwest city limits of Wickliffe in Ballard County to the middle of the Mississippi River; then north along the Mississippi River to the low water mark of the Ohio River along the Illinois shore to the Ballard-McCracken County line; then along the county line south to State Road 358; then south along State Road 358 to its junction with U.S. Highway 60 at LaCenter; then southwest along U.S. Highway 60 to the northwest city limits of Wickliffe.

In Tennessee, the daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese, except in that portion of the State west of State Highway 13, where the daily bag and possession limits are 2 Canada geese.

In Mississippi, in the Sardis Reservoir Area (that area encompassed by Interstate Highway 55 on the west, State Highway 7 on the east, State Highway 310 on the north and State Highway 6 on the south), the daily bag limit is 1 Canada goose and the possession limit is 2 Canada geese. In the remainder of the State, the season on Canada geese is closed.

In Alabama, the season is closed on all geeese in the Counties of Chambers, Henry, Russell and Barbour. Elsewhere in Alabama, the daily bag limit is 2 Canada geese or 2 white-fronted geese or 1 of each; the possession limit is 4 Canada and white-fronted geese in the aggregate, of which no more than 2 may be white-fronted geese.

In Arkansas, the Canada goose season will be concurrent with, and the same length as, the duck season, with a daily bag limit of 1 Canada goose and a possession limit of 2 Canada geese, except that the Canada goose season is closed in that portion of the State east of a line described as follows: beginning at the junction of State Highway 1 and the Arkansas-Missouri border, then south along State Highway 1 to the junction of U.S. Highway 65 at McGehee, then south along U.S. Highway 65 to the junction of U.S. Highway 165, then south along U.S. Highway 165 to the Arkansas-Louisiana border.

When it has been determined that the quota of Canada geese allotted to Illinois and Wisconsin, to the Swan Lake Zone of Missouri, to the Lac Qui Parle Zone of Minnesota, and the Ballard County Zone of Kentucky will have been filled, the season for taking Canada geese in the respective area will be closed by the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing.

Geese taken in Illinois and Missouri and in the Kentucky Counties of Ballard, Hickman, Fulton, and Carlisle may not be transported, shipped, or delivered for transportation of shipment by common carrier, the Postal Service, or by any person except as the personal baggage of the hunter taking the birds.

CENTER FLYWAY

Seasons on ducks (including mergansers) and coots may be selected between October 1, 1977, and January 22, 1978, inclusive, in Central Flyway States and portions of States.

The basic season may include no more than 55 days and bag limits on ducks (including mergansers), singly or in the aggregate, are 5 daily and 10 in possession. The aggregate daily bag limit on ducks (including mergansers) may include no more than 1 hooded merganser, 2 wood ducks and 1 female mallard, and the possession limit may include no more than 2 hooded mergansers, 4 wood ducks and 2 female mallards.

The daily bag and possession limits on coots are 15 and 30, respectively.

The daily bag and possession limits, except in closed areas, may include no more than 1 canvasback or 1 redhead. Except in closed areas, canvasbacks count 100 points each and redheads 70 points each under the point system. The areas closed to canvasback and redhead hunting are:

North Dakota—that portion lying east of State Highway 3, including all or portions of 27 counties.

South Dakota—all of Marshal County; that portion of Day County east of State Highway 25; that portion of Codington County south of State Highway 20 and west of U.S. Highway 81; that portion of Hamlin County west of U.S. Highway 81; and that portion of Kingsbury County east of State Highway 25 and north of U.S. Highway 14.

Texas—the Counties of Brazoria, Chambers, Galveston, Harris, Jefferson, and Orange.

The season is closed on the Mexican duck.

As an alternative to conventional bag and possession limits for ducks, point-system regulations may be selected for States and portions of States in this Flyway. The point system season length in the High Plains Mallard Management Unit is 83 days *provided*, that the last 23 days of such season must begin on or after December 12, 1977. The High Plains Unit, roughly defined as that portion of the Ceneral Flyway which lies west of the 100th meridian, shall be described in State regulations. The season length for the Low Plains Unit (those portions of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas not included in the High Plains Mallard Management Unit) may not exceed 55 days.

The point values for species and sexes taken in the Central Flyway are as follows: except in closed areas, canvasbacks count 100 points each; female mallards, wood ducks, redheads (except in closed areas) and hooded mergansers count 70 points each; blue-winged teal, green-winged teal, cinnamon teal, scaup pintails, gadwalls, shovelers, and mergansers (except the hooded merganser) count 10 points each; all other species and sexes of ducks count 20 points each. The daily bag limit is reached when the point value of the last bird taken, when added to the sum of the point values of other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds which legally could have been taken in 2 days.

Coots have a point value of zero, but the daily bag and possession limits are 15 and 30, respectively, as under conventional limits.

Those portions of Colorado and Wyoming lying west of the Continental Divide, that portion of New Mexico lying west of the Continental Divide plus the entire Jicarilla Apache Indian Reservation, and that portion of Montana which includes the Counties of Hill, Chouteau, Cascade, Meagher, and Park and all counties west thereof, must select open seasons on waterfowl and coots in accordance with the framework for the Pacific Flyway.

Between October 1, 1977, and January 22, 1978, States in this Flyway may select goose seasons as follows:

(a) For the Central Flyway portions of Montana, Wyoming and Colorado, States may select seasons of 93 days, with daily bag and possession limits of 2 and 4 geese, respectively.

(b) For the Central Flyway portion of New Mexico and that portion of Texas west of U.S. Highway 81, States may select seasons of 93 days with a daily bag limit of 5 geese which may include no more than 2 dark (Canada and white-fronted) geese and a possession limit of 5 geese which may include no more than 4 dark geese.

(c) North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas (for that portion east of U.S. Highway 81) may select seasons of 86 days for light (snow and blue) geese and seasons of 72 days for dark (Canada and white-fronted) geese subject to the following:

Seasons for light and dark geese need not be concurrent.

The daily bag and possession limits may not exceed 5 geese during periods when such light and dark goose seasons may be concurrent.

The daily bag and possession limit may include no more than 5 light geese.

The daily bag limit may include no more than 2 dark geese and the possession limit may include no more than 4 dark geese subject to the following:

In North Dakota the daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose or 2 white-fronted geese. The possession limit may include no more than 2 Canada or 2 white-fronted geese or 1 of each. The season on dark geese may not extend beyond November 13, 1977.

In South Dakota, the daily bag may include no more than 1 Canada goose and 1 white-fronted goose and the possession limit may include no more than 2 Canada geese or 2 white-fronted geese or 1 of each. The season on dark geese may not extend beyond November 27, 1977, in the Counties of Buffalo, Brule, Campbell, Charles Mix, Corson, Dewey, Gregory, Hughes, Hyde, Lyman, Potter, Stanley, Sully and Walworth.

In Nebraska, the season on dark geese may not extend beyond December 18, 1977. The daily bag limit may include no more than 1 Canada goose and 1 white-fronted goose and the possession limit may include no more than 2 Canada geese or 2 white-fronted geese or 1 of each except that, in that portion of the State west of U.S. Highway 183, prior to November 21, the daily bag limit may include no more than 2 Canada geese and the possession limit no more than 4 Canada geese.

In Kansas the season on Canada and white-fronted geese may not extend beyond December 25, 1977. The daily bag limit may include no more than 1 Canada and 1 white-fronted goose and the possession limit may include no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

In the Oklahoma Counties of Alfalfa, Bryan, Johnston, and Marshall, the State may select either:

(a) A season of 72 days with a daily bag limit of no more than 1 Canada goose and 1 white-fronted goose, and a possession limit of no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

or

(b) A season of 53 days (within the 72-day period selected for the remainder of the State) with a daily bag limit of no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose, and a possession limit of no more than 2 Canada geese and 2 white-fronted geese or 1 of each.

In the remainder of Oklahoma, the daily bag limit may include no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose and the possession limit no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

In that portion of Texas east of U.S. Highway 81, the State may select either:

(a) A season of 72 days with a daily bag limit of no more than 1 Canada goose or 1 white-fronted goose and a possession limit of no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

or

(b) A season of 64 consecutive days commencing no earlier than November 12, 1977, with a daily bag limit of no more than 1 Canada and 1 white-fronted goose and a possession limit of no more than 2 Canada geese or 2 white-fronted geese or 1 of each.

In all States in the Flyway, the daily bag and possession limits may include no more than 1 Ross' goose.

Colorado, New Mexico, Oklahoma, Texas, Montana and Wyoming may select a lesser sandhill (little brown) crane season with daily bag and possession limits of 3 and 6 respectively, within an October 1, 1977–January 31, 1978, framework as follows:

(a) 37 consecutive days from October 1 through November 6, 1977, in the Central Flyway portion of Colorado except the San Luis Valley area.

(b) 93 consecutive days between October 22, 1977, and January 31, 1978, in the New Mexico Counties of Chaves, Curry, De Baca, Eddy, Lea, Quay, and Rooseveit, and in that portion of Texas west of a boundary from the Oklahoma border along U.S. Highway 287 to U.S. Highway 87 at Dumas, along U.S. Highway 87 (including all of Howard and Lynn Counties) to U.S. Highway 277 at San Angelo, and along U.S. Highway 277 to the International Toll Bridge in Del Rio.

(c) 58 consecutive days on or after November 26, 1977, in that portion of Oklahoma west of U.S. Highway 81, and in that portion of Texas east of a boundary from the Oklahoma border along U.S. Highway 287 to U.S. Highway 87 at Dumas, then along U.S. Highway 87 to San Angelo, and west of a line running north from San Angelo along U.S. Highway 277 to Abilene, along State Highway 351 to Albany, along U.S. Highway 283 to Vernon, and then along U.S. Highway 183 east to the Oklahoma border.

(d) 37 coinsecutive days to open with the goose season in Phillips County, Montana.

(e) 30 consecutive days beginning on or after October 8, 1977, in Platte and Goshen Counties, Wyoming.

All persons hunting sandhill cranes in the above designated areas of the Central Flyway must obtain and possess valid Federal permits issued by the appropriate State conservation agency on an equitable basis without charge.

PACIFIC FLYWAY

Between October 1, 1977, and January 22, 1978, concurrent 93-day seasons on ducks, mergansers, coots, and gallinules may be selected in Pacific Flyway States and portions of States, except the Columbia Basin Area. Basic daily bag and possession limits on ducks are 7 and 14, respectively.

No more than 2 redheads or 2 canvasbacks or 1 of each may be taken daily and no more than 4 singly or in the aggregate may be possessed.

The season is closed on the Mexican duck.

The daily bag and possession limits on mergansers are 5 and 10, respectively, of which no more than 1 daily and 2 in possession may be hooded mergansers.

The daily bag and possession limits on coots and gallinules are 25 singly or in the aggregate.

For that portion of California lying south of the Tehachapi Mountains and west of the Colorado River Area (as described in Title 14 California Fish and Game Code, Section 502), the State may designate season dates differing from those in the remainder of the State.

Waterfowl season dates for Clark and Lincoln Counties, in Nevada and the Colorado River Area of California must coincide with season dates selected by Arizona for waterfowl. Waterfowl season dates for the Tule Lake Area of California must coincide with season dates selected by Oregon for waterfowl.

In the Columbia Basin Area of Washington, Oregon and Idaho, between October 1, 1977, and January 22, 1978, the season lengths for ducks, mergansers, coots and gallinules may be 100 days with all seasons to run concurrently. The daily bag limit is 7 ducks and the possession limit is 14 ducks, to include no more than 2 redheads or 2 canvasbacks or 1 of each daily, and no more than 4 singly or in the aggregate in possession. The bag limit on mergansers is 5 daily and 10 in possession, of which no more than 1 daily and 2 in possession may be hooded mergansers. The daily bag and possession limits on coots and gallinules are 25 singly or in the aggregate.

Between October 1, 1977, and January 22, 1978, 93-day seasons on geese may be selected in States or portions of States in this Flyway, except the Columbia Basin Area. The basic daily bag and possession limits are 6, provided, that the daily bag limit includes no more than 3 snow geese and 3 geese of the dark species (Canada and white-fronted); the daily bag and possession limits are proportionately reduced in those areas where special restrictions apply to Canada geese. In Washington and Idaho, the daily bag and possession limits are 3 and 6 geese, respectively.

The season is closed on the Aleutian Canada goose.

Three areas in California, described as follows, are restricted to the hunting of Canada geese in order to protect the Aleutian Canada goose for which no hunting is allowed:

(1) In the Counties of Del Norte and Humboldt there will be no open season on Canada geese during the 1977–78 waterfowl hunting season.

(2) In the Sacramento Valley in the area described as follows: beginning at Willows in Glenn County proceeding south on Interstate Highway 5 to the junction with Hahn Road north of Arbuckle in Colusa County; then easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes on the Sacramento River; then south on the Sacramento River to the Tisdale By-pass; then easterly on the Tisdale By-pass to where it meets O'Banion Road; then easterly on O'Banion Road to State Highway 99; then northerly on State Highway 99 to its junction with the Gridley-Colusa Highway in Gridley in Butte County; then westerly on the Gridley-Colusa Highway to its junction with the River Road; then northerly on the River Road to the Princeton Ferry; then westerly across the Sacramento River to State Highway 45; then northerly on State Highway 45 to its junction with State Highway 162; then continuing northerly on State Highway 45–162 to Glenn; then westerly on State Highway 162 to the point of beginning in Willows, the hunting season for taking Canada geese will not open until December 15, 1977, and will then continue to the end of the 1977–78 waterfowl hunting season.

(3) In the San Joaquin Valley in the area described as follows: beginning at Modesto in Stanislaus County proceeding west on State Highway 132 to the junction of Interstate 5; then southerly on Interstate 5 to the junction of State Highway 152 in Merced County; then easterly on State Highway 152 to the junction of State Highway 59; then northerly on State Highway 59 to the junction of State Highway 99 at Merced; then northerly and westerly to the point of beginning; the hunting season here for taking Canada geese will close on November 24, 1977, at sunset.

In the Washington Counties of Adams, Franklin, Grant, Walla Walla, Lincoln, Douglas, Yakima, Benton, Klickitat, and Kittitas, and in the Oregon Counties of Morrow, Wasco, Sherman, Gilliam, Umatilla, Union, and Wallowa, the goose season must run concurrently with the Columbia Basin duck season and the bag limits for geese are to be the same as in the general goose season in their respective States.

In that portion of Idaho lying west of U.S. Highway 93 (except Boundary, Bonner, Kootenai, Benewah, Shoshone, Latah, Nez Perce, Lewis, Clearwater, and Idaho Counties); in the Oregon Counties of Baker and Malheur; in that portion of Montana and Wyoming in the Pacific Flyway, the daily bag and possession limit is 2 Canada geese and the season on Canada geese may not extend beyond January 1, 1977.

In that portion of Idaho lying east of U.S. Highway 93; in that portion of Colorado in the Pacific Flyway; in Utah except Washington County, the season on Canada geese may be no more than 72 days and may not extend beyond December 18, 1977.

In Arizona; in that portion of New Mexico in the Pacfic Flway; in Clark and Lincoln Counties, Nevada; in Washington County, Utah; and in the Tehachapi waterfowl area of California, the season on Canada geese may be no more than 72 days. The daily bag and possession limit is 2 Canada geese and the season on Canada geese may not extend beyond January 1, 1978.

In that portion of California Fish and Game District 22 for which California selects the open season (that portion of District 22 lying outside the Colorado River area), the daily bag limit is 1 Canada goose with 2 in possession and the season on Canade geese may be no more than 72 days and may not extend beyond January 1, 1978.

In all States in the Flway, the daily bag and possession limits may include no more than 1 Ross' goose.

Between October 22, 1977, and February 22, 1978, States in this Flyway may select an open season on black brant of 93 days with daily bag and possession limits of 4 and 8 brant, respectively.

In Utah, Nevada and Montana, an open season for taking a limited number of whistling swans may be selected subject to the following conditions: (a) the season must run concurrently with the duck season; (b) in Utah, no more than 2,500 permits may be issued, authorizing each permittee to take 1 whistling swan; (c) in Nevada, no more than 500 permits may be issued, authorizing each permittee to take 1 whistling swan in Churchill County; (d) in Montana, no more than 500 permits may be issued authorizing each permittee to take 1 whistling swan in Teton County; (e) permits and correspondingly numbered metal locking seals must be issued by the appropriate State conservation agency on an equitable basis without charge.

Open seasons on common (Wilson's) snipe, coinciding with the duck season locally in effect, may be selected for States or portions of States in this Flyway. The daily bag and possession limits are 8 and 16, respectively.

SPECIAL FALCONRY SEASONS FRAMEWORKS

Any State that provides special falconry hunting seasons may select extended falconry seasons for taking certain migratory games birds in accordance with the following provisions:

1. Seasons must fall within the framework dates provided for selecting regular hunting seasons for the various groups of species (e.g. October 1–January 20 for waterfowl, etc.).

2. Season lengths for all permitted methods of hunting within a given area may not exceed 107 days for any species.

3. Hawking hours to be ½ hour before sunrise until sunset.

4. Daily bag and possession limits for waterfowl (ducks, geese, and mergansers) may not exceed 2 and 4 birds, respectively, singly or in the aggregate.

5. Daily bag and possession limits for certain other species (coots, gallinules, rails, snipe, woodcock, doves and pigeons only) may not exceed 4 and 8 birds, respectively, singly or in the aggregate.

6. States offering extended seasons shall evaluate and report to the Service the results of each falconry hunting season (regular and extended) each year.

Hunting by falconry during regular migratory game bird seasons is permitted in accordance with applicable regulations.

States selecting extended falconry seasons must inform the Service of seasons and other regulations and publish said regulations.

NOTE.—The Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 10, 1977.

KEITH M. SCHREINER,
Acting Director,
U.S. Fish and Wildlife Service.

[FR Doc.77-23472 Filed 8-12-77;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.

CIVIL AERONAUTICS BOARD

[Docket 31031; Order 77-8-31]

KLM ROYAL DUTCH AIRLINES

Reduced Specific Commodity Rates

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 9th day of August, 1977.

By tariffs filed June 17, 1977, and effective July 17, 1977, KLM Royal Dutch Airlines (KLM) reduced the minimum weight requirement for specific commodities shipped loose under 14 commodity descriptions from 10,000 kilograms to 1,000 kilograms.[1] At the 99 cents per kilogram level formerly applicable only to the 10,000 kilogram shipments, the 1,000 kilogram rates are available from New York to Amsterdam and are justified by KLM as necessary in order to serve a larger segment of the cargo market.

In a complaint requesting suspension and investigation of the specific commodity rates (SCR's), Seaboard World Airlines, Inc. (Seaboard) maintains that the rates contravene two Board policies which require justification of the minimum weight reduction on the basis of demonstrable cost savings and admonish the carriers to rely less upon SCR's to move their transatlantic cargo traffic.[2] Furthermore, Seaboard contends that the rates are clearly uneconomic, dilutionary, anticompetitive, and predatory. The carrier argues that the 99 cents per kilogram level, which was reluctantly approved by the Board in Order 76-12-98 as part of an IATA North Atlantic rates package,[3] was based on the demonstrated cost savings of moving large-sized 10,000 kilogram shipments and is patently uneconomic for 1,000 kilogram shipments; and that the rates produce a yield per revenue ton mile (RTM) of only 24.7 cents, almost 20 percent below the average U.S. carrier RTM cost as submitted in their justification in support of the recent IATA North Atlantic rates package. Seaboard asserts that, aside from a statement that the rates would attract small shippers, KLM has made no showing to what extent the rates would generate more traffic and revenue. Rather, Seaboard believes the rates will spread to other destinations in Europe, as other carriers match for competitive reasons, with resultant wholesale revenue dilution, and estimates that its own potential dilution will be over $3.9 million based upon the carrier's 1976 traffic and revenue experience. In addition, mindful of recent Presidential statements on suspension of international fare and rate reductions, Seaboard argues that there are compelling circumstances at hand which require suspension of the rates: the staggering operating losses, estimated at $15 million in 1976, sustained by the three U.S.-flag carriers in their transatlantic freighter operations which clearly demonstrate that continued U.S.-flag freighter operations in the area are in jeopardy. Finally, Seaboard suggests KLM's rates have anticompetitive and predatory effects on all-cargo operations inasmuch as KLM, in addition to enjoying the usual cargo pricing advantage of being able to carry freight in the bellies of passenger aircraft, can carry large volumes of cargo on the main decks of some of its passenger aircraft as well. Thus, in effect, KLM is able to cross-subsidize its limited and generally unprofitable freighter operations with high yield passenger traffic.

Upon full consideration of the tariff filing, the complaint, and all other relevant matters, the Board has concluded that facts sufficient to warrant investigation or suspension of the rates have not been presented and, accordingly, the complaint will be dismissed.

Examination of the most recent data indicates that during the first quarter of 1977, Seaboard's scheduled service freight traffic produced an average yield of 23.62 cents per RTM, 1.06 cents below the 24.7 cents per RTM produced by KLM's specific commodity rate. Data for the same quarter indicate that Seaboard incurred a cost per available ton mile (ATM) of 19.75 cents, 4.93 cents below the expected yield from the rate.[4] Thus, the KLM rate produces a yield that is above Seaboard's own first quarter 1977 average yield and unit ATM costs. Extension of the rate to a larger segment of the cargo market should result in generation of added traffic. Accordingly, the complaint will be dismissed.

Accordingly, *it is ordered*, That the complaint of Seaboard World Airlines, Inc. in Docket 31031 be dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[5]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-23490 Filed 8-12-77;8:45 am]

[1] Air Tariffs Corporation, Agent, C.A.B. No. 50, 3rd Revised Page 280. The specific commodity descriptions involved are those for Items 9701 through 9714 inclusive and are set forth elsewhere in the above tariff.

[2] Seaboard also suggests the rates be rejected for technical reasons inasmuch as each KLM specific commodity description includes a number of separate, but related, commodities, for which rates for 1,000 kilograms are published elsewhere in the tariff. Seaboard states that KLM's filing violates section 221.60 of the Board's Economic Regulations prohibiting publication of duplicate rates. However, we do not find that this is a basis for rejection of KLM's tariffs in this instance.

[3] C.A.B. 26095, R-1 through R-12, Docket 27573.

[4] Although the quarterly ATM cost figure includes costs attributable to Seaboard's transatlantic charter operations as well as its schedule transatlantic cargo services, we note Seaboard has argued that cargo charter flights are actually more costly to operate than are scheduled cargo flights.

[5] All Members concurred except Vice Chairman O'Melia who did not participate.

[Docket 31168]

McCULLOCH INTERNATIONAL AIRLINES, ET AL.

Assignment of Proceeding

In the matter of McCulloch International Airlines, Holiday Travel & Tours, Elliott Tours, Inc.; ENFORCEMENT PROCEEDING.

This proceeding is hereby assigned to Administrative Law Judge Janet D. Saxon. Future communications should be addressed to Judge Saxon.

Dated at Washington, D.C., August 8, 1977.

HENRY M. SWITKAY,
Acting Chief Administrative Law Judge.

[FR Doc.77-23488 Filed 8-12-77;8:45 am]

[Docket 30744]

J. M. RODGERS CO., INC.

Applications; Proposed Approval

Application of J. M. Rodgers Co., Inc., for international air freight forwarder authority; Application of J. M. Rodgers Co., Inc., for disclaimer of jurisdiction or approval of an acquisition of assets pursuant to section 408 of the Federal Aviation Act of 1958, as amended. Docket 30744.

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the attached order under delegated authority. Interested persons are hereby afforded a period of fifteen days from the date of this notice within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., August 10, 1977.

JAMES A. SALTSMAN,
Acting Director, Bureau of Operating Rights.

Issued under delegated authority.

ORDER GRANTING APPROVAL

J. M. Rodgers Co., Inc. (Rodgers) requests a disclaimer of jurisdiction or, alternatively, approval without a hearing pursuant to section 408 of the Federal Aviation Act of 1958, as amended (the Act), with respect to its acquisition of a portion of the assets of P.I.E. Air Freight Forwarding, Inc. (P.I.E.), a currently authorized domestic and international air freight forwarder.

Rodgers, an independent ocean freight forwarder and an applicant for international air freight forwarding authority, has purchased the offices, facilities, goodwill and the services of P.I.E. at J.F.K. International Airport in New York City.

In support of the application, the applicant contends that the acquisition took place when Rodgers was neither an air carrier, a person controlling an air carrier, a common carrier[1] nor a person engaged in any other phase of aeronautics; that the assets acquired are not a substantial part of the properties of P.I.E. since the operations at J.F.K. produced only 6.5 percent of its shipments, 7.5 percent of the weight of its shipments, and 5.3 percent of its consolidations even though they amount to 11.33 percent of P.I.E.'s total assets. The applicant further contends that the acquisition will not create a monopoly or monopolies and thereby restrain competition or jeopardize another air carrier not a party to the purchase agreement. The applicant also contends that if the Board finds that the acquisition is subject to section 408 of the Act, that it should, nevertheless, find that the acquisition does not affect the control of an air carrier directly engaged in the opertion of aircraft in air transportation, and that the public interest does not require a hearing.

No comments or requests for a hearing have been received.

Upon consideration of the foregoing, it is concluded that upon receipt of air freight forwarder authority, Rodgers will be a noncertificated air carrier; that P.I.E. is a noncertificated air carrier; and that Rodgers' acquisition of 11.33 percent of P.I.E.'s assets is subject to section 408(a)(2) of the Act. However, it is further concluded that the transaction will not affect the control of an air carrier directly engaged in the operation of aircraft directly engaged in air transportation, will not tend to restrain competition, and does not result in creating a monopoly. Furthermore, no person disclosing a substantial interest in the proceeding is currently requesting a hearing, and it is concluded that the public interest does not require a hearing.[2]

The transaction for which the approval is sought is similar to others which have been authorized by the Board and does not raise any new substantive issues.[3] Accordingly, it is concluded that the above-described sales transaction is not adverse to the public interest or otherwise in violation of the Act.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.3 and 385.13, it is found that the foregoing transaction should be approved under section 408(b) of the Act, without a hearing, pursuant to the third proviso thereof, and that to the extent not granted herein, the application should be dismissed.

Accordingly it is ordered that: 1. The subject acquisition of a substantial portion of the assets of P.I.E. Air Freight Forwarding, Inc. by J. M. Rodgers Co., Inc., be approved pursuant to the third proviso of section 408(b) of the Act; and

2. Except to the extent not specifically granted herein, the application (in Docket 30744) be dismissed.

Jurisdiction in this proceeding is retained for the purpose of amending or revoking the approval granted herein, with or without a hearing, as the public interest may require.

Persons entitled to petition the Board for review or this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days of the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon the expiration of the above period unless within such period a petition for review thereof is filed or the Board gives notice that it will revelew this order on its own motion.

JAMES A. SALTSMAN,
Acting Director, Bureau of Operating Rights.

[FR Doc.77-23489 Filed 8-12-77;8:45 am]

[Docket 31161; Order 77-8-32]

TRANS WORLD AIRLINES, INC.

Transatlantic Specific Commodity

Adopted by the Civil Aeronautics Board at its offices in Washington, D.C. on the 9th day of August, 1977.

By tariff revisions[1] scheduled to become effective August 12, 1977, Trans World Airlines, Inc. (TWA), proposes to establish specific commodity container rates consisting of flat charges on essential oils (Item 1716), aromatic substances (Item 6053), and disposable plastic lighters (Item 9617) from Paris to New York; on cotton fabrics (Item 2120) and books and/or magazines (Item 7109) from Milan and Rome to New York; and on cigarette paper (Item 7024) from Barcelona and Madrid to New York. On a per-container basis, the proposed charges are about 5 percent above currently applicable general commodity container minimum charges and are subject to an expiry date of April 15, 1978. The proposed rates are similar to those previously proposed by TWA from London to New York, which became effective on May 15, 1977.

A complaint requesting suspension and investigation of these rates has been filed by Seaboard World Airlines, Inc. (Seaboard). Seaboard asserts that these rates are well below either TWA's or Seaboard's revenue ton-mile (RTM) costs and are therefore predatory since Seaboard, unlike TWA, cannot shift the costs of its cargo operations to other segments of its business. In addition, Seaboard states that TWA's generation claims for the rates are wildly speculative; that in support of its generation estimates, TWA has not even provided the Board with comparative shipping rate data; that the burden of demonstrating any rate's economic character is on its proponent; and that TWA's failure to produce preliminary results of the similar London-New York rates in support of the instant proposal is practically an admission of the uneconomic nature of such rates. Finally, Seaboard questions TWA's "need" to fill unused westbound B-747 belly capacity, since TWA has increased such capacity over last summer's levels. According to Seaboard, the redundant capacity is the direct result of an increase in TWA B-747 service, particularly between Milan and New York, and, hence, the problem is of TWA's own making.

In support of its filing and in answer to the complaint, TWA states that the instant proposal is essentially the same as the London-New York proposal which the Board declined to suspend[2]; that the proposed commodity descriptions are designed to generate new traffic by air while minimizing diversion, and Seaboard has made no specific allegation of diversion; that TWA's generation estimates can not be viewed as extravagant since they represent less than one additional container per day; and that TWA cannot produce data on the London-New York rates because implementation of those rates awaits United Kingdom government approval. TWA also asserts that a proper test of the rates' economic character is not whether revenues meet fully allocated operating costs, but whether there is a meaningful contribution to capacity costs, particularly since the proposed rates are promotional and designed to fill otherwise unused capacity. In this regard, TWA maintains that the proposed rates would recover fully allocated ground handling costs while making a substantial contribution to capacity costs and that, since TWA's added B-747 transatlantic capacity is "at least partially" attributable to passenger scheduling, the carrier should not be prevented from implementing rates designed to make the additional belly capacity productive.

Upon full consideration of the tariff filing, the carrier's justification, the complaint, the answer, and all other relevant matters, the Board has decided to dismiss the complaint and permit the filing to become effective.

The proposal has, according to TWA, the potential of attracting new traffic to air while minimizing dilution of current revenues. In this respect, it is significant that Seaboard has not alleged that the

[1] In International Airfreight Forwarder Investigation (27 CAB 658,661 (1958)) it was held that maritime forwarders are not common carriers.

[2] Notice of intent to dispose of this application without a hearing has been published in the FEDERAL REGISTER, and a copy of such notice has been furnished by the Board to the Attorney General not later than the day following the date of such publication, both in accordance with the requirements of section 408(b) of the Act.

[3] See Interlude International Corporation, Order 69-11-106, November 24, 1969.

[1] Revisions to Tariff CAB No. 314 issued by Trans World Airlines, Inc.

[2] Order 77-4-154 (April 29, 1977), Dockets 30648 and 30653.

proposed rates will cause diversion from existing traffic, but instead has focused attention on TWA's estimates of generation. TWA has submitted data indicating that the proposed rates would be well above the noncapacity costs associated with handling such traffic and would make a contribution to the capacity costs which TWA will incur in any event. The extent to which these rates will contribute to capacity costs will, of course, be dependent on the rates' generative capability.

Information on file with the Board indicates that during the first quarter of 1977, TWA's westbound tonnage was only 76 percent of eastbound tonnage. Furthermore, the carrier's total transatlantic tonnage during this period represented a 19.7-percent decline from the first quarter of 1976, whereas TWA's transatlantic passenger traffic increased 8.7 percent over these periods. Hence, it appears reasonable to view TWA's capacity increases as being largely responsive to passenger demand. Inasmuch as the proposed rates will exceed noncapacity costs and thus have the potential of improving the financial position of the carrier by generating new revenues to air transport and of utilizing otherwise unused westbound capacity, we will permit them to become effective.

Accordingly, it is ordered that: The complaint of Seaboard World Airlines, Inc., in Docket 31161 is dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[1]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-23491 Filed 8-12-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

UNIVERSITY OF MIAMI, ET AL.

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the FEDERAL REGISTER.

Amended regulations issued under cited Act, (15 CFR 301) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00275. Applicant: University of Miami, School of Medicine, P.O. Box 520875, Miami, Fla. 33152. Article: Flow Cytophotometer, Model ICP 21. Manufacturer: PHYWE A.G., West Germany. Intended use of article: The article is intended to be used for the rapid measurement of cytophysical and biomedical parameters of single cells by flow cytophotometric techniques. A variety of cells will be analyzed by this methodology including mouse primary and metastatic tumor, mouse ascites tumor, and human neoplastic cells. Normal lymphoid cell populations will also be studied. The objectives of these studies are to measure statistically significant changes in tumor cell populations at various times after innoculation and analyze quantitative antigenic differences in cell membranes of various lymphoid cell populations. Application received by Commissioner of Customs: July 20, 1977.

Docket Number: 77-00292. Applicant: University of Wisconsin-Oshkosh, Department of Physics and Astronomy, Oshkosh, Wis. 54901. Article: Plug-in Unit for CPS-II Pulsed NMR Spectrometer. Manufacturer: Spin Lock Ltd., Canada. Intended use of article. The article will be used in a CPS-II pulsed nuclear magnetic resonance spectrometer for the study of slow (<100MHz) molecular motion in biopolymer-water systems, tissues, viscous liquids and liquid crystals, and hydrogen-bonded and other nonmetallic solids. The plug-in unit, for operation at 36 MHz, is required for solids and other samples where the signal-to-noise ratio is relatively poor and/or the nuclear resonance is broad, resulting in a short-lived (30μ sec or less) nuclear free induction decay. In all cases to be studied nuclear relaxation times will be measured to determine the nature of low frequency motion of molecular groups in the material. This article will also be used for educational purposes in the following physics courses:

82-319 Intermediate Laboratory II
82-519 Graduate Laboratory
82-401 and 405 Independent Study
82-792 Research Techniques in Physics
82-795 Thesis

Application received by Commissioner of Customs: July 6, 1977.

Docket Number: 77-00298. Applicant: Naval Medical Research Institute, Bethesda, Md. 20014. Article: Electron Microscope, Model JEM-100CV (Standard Side Entry Type) and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of bioligical specimens including bacteria, viruses, parasites, fungi, and other microorganisms. Some of the phenomena to be investigated will include:

a. Infectious disease—ultrastructural evaluation of the biological properties of the cell membrane of rickettsiae; ultrastructural evaluation of septic shock due to *Pseudomonas aeruginosa*.

b. Study of the effects of *in vivo* host immune response on migrating adult schistosomes, particularly alterations in surface membranes.

c. Study of the membrane turnover rates of schistosomes to gain information on shedding of surface antigens and membrane repair.

d. Ultrastructural localization of sporozoite antigens with immunocytochemical markers.

e. Localization and immunochemical study of exoerythrocytic stage antigens and their comparison to sporozoite antigens.

f. Immunological studies in trauma care research.

g. Ultrastructural evaluation of changes in hyperbaric medicine research.

Application received by Commissioner of Customs: July 11, 1977.

Docket Number: 77-00299. Applicant: Baylor College of Medicine, Dept. of Otorhinolaryngology & Communicative Science, Baylor College of Medicine, 6501 Fannin Street, Houston, Tex. 77030. Article: Electron Microscope, Model JEM-100CX and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to study the ultrafine structure of normal, pathological and experimentally treated cells and tissue of the inner ear and related (adjacent) structures. In addition to those, the study will include the otologically related neural tissues thus auditory and vestibular phenomena not only in normal status but in diseased and/or experimental conditions, can be analytically studied. The article will also be used for future biological, para-medical (neuroscience) graduate students teaching. In addition, any resident physician (or research trainee) who pursues oto-neurological researches will have access to utilizing the scope. Application received by Commissioner of Customs: July 12, 1977.

Docket Number: 77-00301. Applicant: Methodist Hospital, 1265 Union Avenue, Memphis, Tenn., 38104. Article: Electron Microscope, Model EM 201 and Accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for studies of human pathological tissues or specimens derived from human material, such as fluids, tissue cultures, and viral or bacterial cultures isolated from human sources with particular emphasis on tumors and immunological diseases.

Experiments will be conducted with the following objectives:

(1) To determine the exact classification or diagnosis in tumors where light microscopic study is inadequate and apply information to selection and evaluation of therapy,

(2) To determine causative agents in various infectious diseases for purposes of diagnosis and treatment,

(3) To establish diagnosis in metabolic disorders as basis for treatment as well as genetic counseling for parents and/or patients, and

[1] All Members concurred except Vice Chairman O'Melia who did not participate.

(4) Identification of immune complexes or other evidence of immunologically induced diseases for diagnostic and treatment purposes.

The article will also be used as an integral part of the residency program in Pathology to provide training essential to pathology residents for pathology board certification and use of technique that has become standard of practice in some areas.

Application received by commissioner of customs: July 14, 1977.

Docket Number: 77-00302. Applicant: Marquette University, Wehr Life Science Building, 530 N. 15th Street, Milwaukee, Wis. 53233. Article: M86 Combined Scanning Microinterferometer and Microdensitometer. Manufacturer: Vickers Instruments, Inc., United Kingdom. Intended use of article: The article is intended to be used for the measurement of amounts of DNA and proteins in individual cells in order to gain quantitative data on the behavior of genetic material during the growth and differentiation of fish oocytes, insect embryos, and two kinds of unicellular organisms, *Pediastrum* and *Oxytricha*. The instrument will also be used to measure DNA amounts in Feulgen-stained blood cell nuclei from unisexual and bisexual fishes of the genus *Poecilia* (molly fishes) in order to identify the diploid and triploid forms that comprise a breeding complex in nature with the bisexual Mexican molly fish. The role of polyploidy in speciation and evolution is a prime focus of studies on these fish. Additional studies will be made to develop cytochemical methods for sex identification of juvenile birds that lack obvious sexual dimorphism, for example, endangered species such as the Whooping crane or Puerto Rican parrot.

In addition, the article will be used in the course: Biology 295, Introduction to Cytophotometry and Biology 137 Experimental Cell Biology to provide a basic understanding of quantitative cytochemistry and its application to both basic and applied biomedical research. Application received by Commissioner of Customs: July 14, 1977.

Docket Number: 77-00303. Applicant: University of Chicago, 5801 South Ellis Avenue, Chicago, Ill. 60637. Article: Ultramicrotome, Model LKB 8800A and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of the ultrastructure of cellular and subcellular membranes in heart muscle cells under conditions of interest for the understanding and treatment of heart disease. Various forms of heart disease will be produced in rats and rabbits whose hearts will subsequently be examined by electron microscopy. The article will also be used in the course, "Pharmacological and Physiological Sciences 401," which trains graduate students working for their Ph.D. in the ultrastructural anlysis of heart muscle. Application received by Commissioner of Customs: July 14, 1977.

Docket Number: 77-00304. Applicant: National Institutes of Health, NINCDS, Medical Nuerology Branch, Bldg. 10, Room 10D20, Bethesda, Md. 20014. Article: Electron Microscope, Model EM 10A and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of human muscle biopsies the objective of which is to delineate the diagnosis and ultimate cause of human neuromuscular diseases. In addition, the article will be used in training approximately 6 physician-investigators each year in the newest ultrastructure research of human neuromuscular diseases. Application received by Commissioner of Customs: July 14, 1977.

Docket Number: 77-00305. Applicant: Peter Bent Brigham Hospital, Department of Pathology, 721 Huntington Avenue, Boston, Mass. 02115. Article: Electron Microscope, Model JEM-100S. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the study of ultrastructure of biological tissues, including kidney tumor and muscle biopsies for diagnostic purposes. The experiments to be conducted will involve pathogenesis of renal and vascular diseases with the objective of obtaining perfection of these techniques so new information related to renal and vascular diseases, tumors and muscle diseases can be investigated. The article will be used for instruction of residents and fellows in ultrastructure technique. Application received by Commissioner of Customs: July 18, 1977.

Docket Number: 77-00306. Applicant: New York State Department of Health, Division of Laboratories and Research, Empire State Plaza, Albany, N.Y. 12201. Article: Ultramicrotome, Model LKB 8800A and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for cutting alternate thin and thick sections of tumor tissues and other pathological tissues which will be investigated to aid diagnosis, typing and grading of disease states. The article will also be used as part of a training program for predoctoral and postdoctoral fellows (collaborative programs with Rennslaer Polytechnic Institute and Albany Medical College). The training program adds advanced ultrastructural analysis training to the training of medical students and research scientists. Application received by Commissioner of Customs: July 19, 1977.

Docket Number: 77-00307. Applicant: University of Wisconsin, 750 University Avenue, Madison, Wis. 53706. Article: Ultramicrotome, Model LKB 8800A and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for sectioning mammalian cells and microbial specimens of varying density and fragility. Investigations will include ultrastructural studies on normal and cancerous animal tissues, developmental studies on microbial systems, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions of various cell types, and subcellular changes in cells induced by changes in their biochemical and physical environments. The objective pursued in the course of these investigations is to understand the distributions of protein in cell surfaces and the mechanisms by which hormones function in their interaction with the cell surface. Graduate students and postdoctoral fellows will learn the techniques of ultrastructure and cytochemistry through their research use. Application received by Commissioner of Customs: July 19, 1977.

Docket Number: 77-00308. Applicant: University of Nebraska, Lincoln, Nebr. 68588. Article: THR-1500 1.5 Meter Double Pass Czerny-Turner Monochromator. Manufacturer: Jobin-Yvon, France. Intended use of article: The article is intended to be used in the development of a stress modulation spectroscopy specifically adapted for the study of molecular crystals. Several problems will be surveyed to demonstrate the capabilities of the method. These will involve experiments to determine the critical points in the joint densities of states for the first singlet systems of napthalene, anthracene and tetracene. Dye crystals having very strong coupling will be studied with the goal of locating the critical points in the metallically reflecting region. Piezomodulated luminescence studies will be made to determine the effect of strain upon the migration and lifetime of triplet excitons, in order to prove the nature of lattice relaxation processes. The effect of strain on the fluorescence polarization ratio will be determined for both piezoemission and piezoaction spectra. To ascertain the effect of stress upon S_o and S_n the piezoemission and Kramers-Kronig transformed piezoreflection spectra will be obtained and compared. Study on the interaction of strain with surface exciton states will be initiated. The emission studies also will be used to determine the effect of strain on defect emission and excimer emission. Known piezochromic and triboluminescent systems will be studied in an effort to locate the microscopic origin of these effects and to obtain more quantitative data. Application of uniaxial modulated stress to a cubic inorganic crystal in order to make assignment of electronic states by breaking degeneracies will also be undertaken. The dependence of the spectra of hydrogen-bonded crystals upon stress modulation will also be studied. Application received by Commissioner of Customs: July 20, 1977.

Docket Number: 77-00309. Applicant: Edgewater Hospital, 5700 North Ashland Avenue, Chicago, Ill. 60660. Article: Ultramicrotome, Model LKB 2128-010 and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to cut ultrathin sections from materials of biopsies collected by the surgeons in the institution. The biopsies are from

various organs such as lymph nodes, lung, eye, uterus, kidney, liver, bone marrow, and blood. Morphological examination of the various malignant and benign tumors and other pathologic lesions in humans will be conducted to help in the diagnosis of various diseases. The electron microscopic study of various human organs will contribute to the education of the medical staff, residents and medical students. Application received by Commissioner of Customs: July 20, 1977.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-23463 Filed 8-12-77;8:45 am]

NORTHWESTERN UNIVERSITY, ET AL.

Application for Duty-Free Entry of Scientific Articles; Correction

In The Notice of Application for Duty-Free Entry of Scientific Articles appearing at page 27273 in the FEDERAL REGISTER of Friday, May 27, 1977, the next to the last sentence under Docket Number: 77-00222 (Jacksonville Children's Museum) should read as follows:

In addition, the article will be used for teaching purposes in chemical engineering courses.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.77-23462 Filed 8-12-77;8:45 am]

National Bureau of Standards

ADVISORY COMMITTEE FOR INTERNATIONAL LEGAL METROLOGY

Open Meeting

The Advisory Committee for International Legal Metrology will meet from 9:00 a.m. to 5:00 p.m. on Tuesday, September 13, 1977, and from 9:00 a.m. to 5:00 p.m. on Wednesday, September 14, 1977. The meeting will be held in Lecture Room 1107, Radio Building, National Bureau of Standards, Boulder, Colo.

The Committee was established in March, 1974 (39 FR 6136, 2-19-74), and renewed in March, 1976 (41 FR 12915, 3-29-76), to advise the Department through the Director, National Bureau of Standards (NBS), on technical and policy matters relating to NBS's assigned general responsibilities for the development of U.S. positions on technical issues arising in the International Organization of Legal Metrology (OIML). The Committee consists of approximately 40 members selected to ensure balanced representation among government, professional metrologists, national standards bodies, and industry and trade associations.

The Committee meeting is a prelude to United States participation in the OIML Presidential Council Meeting scheduled for September 27-29, 1977, in Paris, France. The agenda for the Advisory Committee meeting in Boulder, Colo., will include the following discussion items:

(1) Planning for the Sixth International Conference of Legal Metrology, tentatively scheduled in Washington, D.C. in 1980;

(2) Problems of quorum and voting procedures at meetings of the OIML International Conference and International Committee;

(3) Improvement in the presentation of OIML's financial documents;

(4) U.S. policy for private industry participation in OIML technical and plenary meetings;

(5) U.S. proposals for technical revision of OIML International Recommendations No. 1-19;

(6) U.S. proposals for amendments to certain OIML working procedures for Pilot and Reportng Secretariats;

(7) USSR proposal for the development of a new program in OIML dealing with the teaching of legal metrology;

(8) OIML proposal for initiation of international intercomparisons of primary standards in selected fields (i.e., mass, temperature, pressure); and,

(9) Establishing U.S. Technical Advisory Groups for important OIML Secretariats not administered by the U.S.

The meeting will be open to public observation; and a period will be set aside for oral comments or questions by the public which do not exceed ten minutes each. More extensive questions or comments should be submitted in writing before September 1. Other public statements regarding committee affairs may be submitted at any time before or after the meeting. Approximately 20 seats will be available for the public on a first-come first-served basis.

Copies of the minutes will be available on request 30 days after the meeting.

Inquiries may be addressed to the Committee Control Officer, Mr. David Edgerly, Office of International Standards, National Bureau of Standards, Washington, D.C. 20234, telephone: 301-921-3662.

Dated: August 9, 1977.

ERNEST AMBLER,
Acting Director, National Bureau of Standards.

[FR Doc.77-23422 Filed 8-12-77;8:45 am]

National Oceanic and Atmospheric Administration

REGIONAL FISHERY MANAGEMENT COUNCIL CHAIRMEN

Meeting

The Director, National Marine Fisheries Service (NMFS) will meet with the Chairman of each of the eight Regional Fishery Management Councils created under the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265). This meeting will be held in the VIP Room of the Rodeway Inn, 7101 NE. 82d Avenue, Portland Oreg., on September 14-15, 1977. On September 14, the meeting is scheduled to begin at 10:00 a.m., and recess at 5:00 p.m. On September 15, the meeting is scheduled to commence at 8:00 a.m. and adjourn at 11:00 a.m. The participants at this meeting will discuss:

1. NMFS budgeting requirements and funding policies relating to Councils.
2. Definition of Council research requirements and potential sources or procedures for accomplishment.
3. Definition of fishery development opportunities and procedures for coordination of implementation between NMFS administrative policy and Council Fishery Management Plans (FMPs).
4. Design and review requirements for Fishery Management Plans (FMPs).
5. Fisheries management in territoial waters and its relation to Fishery Management Plans (FMPs).
6. Council role in regulation of foreign fishing, e.g., status of Preliminary Management Plans (PMPs), fee schedule, 1978 allocations, enforcement problems.
7. Inter-Council and Council-NMFS communication.
8. National workshops as a means of resolving issues.
   a. Definition of optimum yield
   b. Concept of limited entry
9. Other appropriate issues.

This meeting will be open to the public on a first come-first serve basis. Seating will be available for approximately 30 members of the public. Public participation will be permitted to the extent time permits.

Dated: August 10, 1977.

WINFRED H. MEIBOHM,
Acting Deputy Director, National Marine Fisheries Service.

[FR Doc.77-23445 Filed 8-12-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 729-5]

AIR QUALITY

Recommended Policy on Control of Volatile Organic Compounds

Correction

In FR Doc. 77-19385 appearing in the issue of Friday, July 8, 1977 on page 35314.

On page 35315 in the 1st column, under the heading "Discussion", the 2nd paragraph, the 9th and 10th line, the word, "substituton" should read, "substitution".

In the 2nd column, paragraph "1.", the 13th line, the word "new" should read "now".

In the 3rd column, paragraph "6.", the small type, the 1st line should read:

* * *

"* * * selective regulation of CFM uses * * *".

* * *

FEDERAL COMMUNICATIONS COMMISSION

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Public Law 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 70 "Minimum Performance Standards (MPS)—Marine Loran-C Receiving Equipment"
Notice of 7th Meeting

Thursday, September 1, 1977—10 a.m. (All-day meeting).

Conference Room (second floor), U.S. Coast Guard Marine Inspection Office, Battery Park Building, Battery Park at South Ferry, New York, New York.

Technical Specs Working Group—Full-day Meeting, Augst 31, 10:00 a.m., Same location as September 1 meeting.

AGENDA

1. Call to Order; Chairman's Report.
2. Confirmation of Secretary; Adoption of Agenda.
3. Acceptance of SC-70 Summary Records.
4. Reports on Work Assignments.
5. Approval of Receiver Specifications.
6. Other Business.
7. Establishment of possible meeting date.

Captain Alfred E. Fiore, Chairman, SC-70, U.S. Merchant Marine Academy, Kings Point, New York 11024, Phone: (516) 482-8200

To comply with the advance notice requirements of Public Law 92-463, a comparatively long interval of time occurs between publication of this notice and the actual meeting. Consequently, there is no absolute certainty that the listed meeting room will be available on the day of the meeting. Those planning to attend the meeting should report to the room listed in the notice. If a room substitution has been made, the new meeting room location will be posted at the room listed in this notice.

Agendas, working papers, and other appropriate documentation for the meeting is available at that meeting. Those desiring more specific information may contact either the designated Chairman or the RTCM Secretariat. (Phone (202) 632-6490)

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by Special Committees and the final report is approved by the RTCM Executive Committee. All RTCM meetings are open to the public. Written statements ars preferred but by previous arrangement, oral presentations will be permitted within time and space limitations.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-23460 Filed 8-12-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

Week of June 13 Through June 17, 1977

Notice is hereby given that during the week of June 13 through June 17, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

Central Hilight Unit; Campbell, Wyo.; FEA-1029;Crude Oil

The working interest owners of the Central Hilight Unit filed an Appeal of a Decision and Order issued to the firm by the FEA on October 8, 1976. *Central Hilight Unit*, 4 FEA Par. 83,138 (October 8, 1976). In the October 8 Decision, the FEA granted an exception which permitted the firm to charge upper tier ceiling prices for a portion of the crude oil which it would produce from the Central Hilight Unit. In its Appeal, Central Hilight contended that the level of relief calculated in the previous Decision was erroneous because $730,000 of the investment cost for new submersible pumps had been excluded, the level of crude oil production anticipated from a fuel conversion project had been overestimated, and the level of crude oil production from the Unit without any additional enhanced recovery activities had also been overestimated. Central Hilight contended that the level of exception relief should be increased to correct for the effect of these errors. Central Hilight also asserted that it was technically unable to comply with the requirement of the October 8 Order that it identify the incremental quantity of crude oil which would be produced as a result of a polymer waterflood project on the Unit. In considering the Central Hilight Appeal, the FEA concluded that adjustments to the previous level of exception relief should be made to correct for the factual errors which were found in the October 8 Decision. However, the FEA found that as a result of these adjustments and Central Hilight's delay in initiating the enhanced recovery investment program the firm's investment program would not be able to achieve the 15 percent internal rate of return contemplated in the October 8 Decision even if 100 percent of the incremental crude oil produced for the benefit of the working interest owners was permitted to be sold at exempt market price levels. However, in order to ensure that the FEA regulatory requirements would not operate as an impediment to Central Hilight's undertaking of the investment project, the FEA granted the firm exception relief to permit the sale of 100 percent of the incremental crude oil produced as a result of the investment program at market prices. However, since the exception relief approved for the firm was based on estimated production and cost data, the FEA stated that further reviews of the matter would be conducted and the level of exception relief would be adjusted based on actual data in order to permit the firm to obtain a 15 percent internal rate of return on its investment if a sufficient quantity of crude oil was produced. The FEA also simplified the reporting requirements specified in the October 8 Decision. The Central Hilight Appeal was therefore granted.

Gulf Oil Corp.; Tulsa, Okla.; FXA-1269; Crude Oil

Gulf Oil Corp. appealed from a Decision and Order in which the FEA denied the firm's request for exception relief from the provisions of 10 CFR, Part 212, Subpart D. *Gulf Oil Corp.*, 5 FEA Par. 83,083 (March 4, 1977). The Appeal, if granted, would have resulted in the rescission of the previous Order and the issuance of an order permitting Gulf to sell an additional amount of crude oil at upper tier ceiling prices. This amount of crude oil would be equal to the amount of the cumulative deficiency which accrued on five offshore leases in Gulf's South Timbalier Block Field in Louisiana as a result of a pipeline break in February 1976. In considering Gulf's Appeal, the FEA noted that Gulf was, in essence, requesting that the FEA modify the cumulative deficiency rule through the exceptions process so that it would not be applicable to any force majeure situation. The FEA observed that such a request involved a broad issue as to the most desirable means of attaining national energy policy objectives and would be more appropriately resolved in a rulemaking proceeding. Since Gulf failed to challenge the Decision's underlying factual determination that the firm had a sufficient economic incentive to repair the pipeline and to continue oil production from the South Timbalier Block Field even in the absence of exception relief, the FEA found that it had not shown that the March 4 denial of exception relief was erroneous Cf. *Union Oil Co. of California*, 4 FEA Par. 83,039 (August 6, 1976); aff'd 4 FEA Par. 80,592 (December 15, 1976). Accordingly, Gulf's Appeal was denied.

Petrolane, Inc.; Long Beach, Calif.; FXA-1173; Refined Petroleum Products

Petrolane, Inc., filed an Appeal from a Decision and Order which the FEA issued on September 24, 1976. *Class Exception—Retroactive Application of the Separate Inventories Amendment*, 4 FEA Par. 83,099 (September 24, 1976). In the September 24 Order, the FEA concluded that retroactive exception relief was not warranted on a class basis for all resellers of petroleum products which had calculated their cost of product in inventory by utilizing separate inventory computations prior to May 1, 1976. Petrolane's Appeal, if granted would have resulted in the issuance of an order declaring that the FEA Price Regulations permitted resellers to utilize separate inventory computations prior to May 1, 1976. In considering the Appeal, the FEA initially observed that the argument which Petrolane advanced in its Appeal—viz., that the regulations prior to May 1, 1976, were so ambiguous as to permit the use of separate inventory computations—had been discussed at length and rejected in the September 24 Decision. In this regard, the FEA reaffirmed its earlier finding that several elements of the FEA Price Regulations had indicated that firm-wide inventory computations were required. The FEA also found that contrary to Petrolane's contention, none of the Rulings or Decisions cited by the firm in its Appeal had permitted the use of separate inventory computations. The FEA pointed out that the firm-wide inventory rule was one of the principal means which has been used to assure that regional price anomalies are not experienced disproportionately by a small number of a firm's customers. The FEA further found that Petrolane had failed to substantiate its argument that the use of firm-wide inventory

cost calculations by large multi-region propane marketers would have resulted in price reductions which would have undermined the competitive structure of the propane marketing industry. It was also noted that even if firm-wide computations had resulted in some instances in significant price reductions, those instances would not in and of themselves demonstrate that the firm-wide inventory cost requirement was inconsistent with FEA's statutory objectives. Finally, the FEA determined that contrary to the firm's contentions, Petrolane had not received advice from FEA officials that the regulations permitted it to use separate inventory computations. Based on these considerations, the FEA denied the Petrolane Appeal.

Rock Island Refining Corp.; Indianapolis, Ind.; FEA–1153; Crude Oil

Rock Island Refining Corp. (Rock Island) filed an Appeal from a Decision and Order which the FEA issued to it on December 15, 1976. *Rock Island Ref. Corp.*, 4 FEA Par. 83,255 (December 15, 1976). The December 15 Decision denied an Application for Exception from the provisions of 10 CFR 211.67 in which Rock Island had requested that exception relief previously granted to the firm by the FEA be extended for an additional period of time. The Appeal, if granted, would result in the rescission of the December 15, 1976, Order and the issuance of a new Decision and Order granting exception relief to Rock Island. In considering Rock Island's Appeal, the FEA rejected the firm's contention that it be permitted to adjust the historical profitability which Rock Island had previously reported to the FEA to be utilized in evaluating the impact of the Entitlements Program on the firm. In considering the Rock Island Appeal the FEA also rejected the firm's contention that by including the operating results for the months of April and May 1976 in its analysis of Rock Island's request for exception relief the FEA was attempting to recapture benefits which it received as a result of Special Rule No. 6. The FEA also rejected Rock Island's contention that the firm should be permitted to recognize as an expense for its 1976 fiscal year the $2,642,065 of additional entitlements which the firm is required to purchase in order to refund excessive exception relief benefits that the FEA determined the firm received during 1975. The FEA pointed out that the $2,642,065 of additional entitlements which Rock Island is required to purchase is attributable solely to the firm's actual operating results from 1975 and should therefore not be considered as arising from its 1976 operations. The Rock Island Appeal was therefore denied.

Rock Island Refining Corp.; Indianapolis, Ind.; FXA–1072; Crude Oil

Rock Island Refining Corp. appealed from a Decision and Order which the Federal Energy Administration issued to it in November 5, 1976. *Beacon Oil Co., et al.*, 4 FEA Par. 87,024 (November 5, 1976). In the November 5 Decision and Order, the FEA determined on the basis of financial and operating data which Rock Island submitted that the firm had received an excessive measure of exception relief from its obligations under the Entitlements Program in 1975. Rock Island was accordingly required to purchase entitlements valued at $2,642,065 during the period November 1976 through October 1977 in order to return the excessive benefits which it received. The Appeal, if granted, would result in the rescission of that portion of the November 5 Order which imposes an entitlement obligation on Rock Island. In its Appeal, Rock Island contended that since section 403 of the Energy Policy and Conservation Act (EPCA) exempted small refiners from entitlement purchase obligations beginning with December 1975, the November 5 Order contravenes section 403 of the EPCA and is therefore invalid. In rejecting this claim, the FEA noted that the construction of section 403 of the EPCA which is reflected in the November 5 Decision comports with the terms of the statute, the legislative history underlying its adoption, and previous FEA interpretations. Rock Island also contended that the FEA did not have the authority to recapture exception relief which it previously granted unless a showing could be made that the decision to approve the exception relief was erroneous when it was made. In rejecting this contention, the FEA found that a similar argument had been fully considered and ultimately rejected in *Delta Refining Co.*, 5 FEA Par. 80,530 (January 26, 1977). Rock Island also argued that the manner in which the FEA established the standards which govern the evaluation of exception applications from the Entitlements Program submitted by small refiners violates the Administrative Procedure Act (APA). In this regard, the FEA noted that similar arguments with respect to the FEA's adoption of standards were fully considered and ultimately rejected in *EDG, Inc.*, 5 FEA Par. ------ (June 9, 1977). Since the determination reached in the *EDG* Decision with respect to the promulgation of the small refiner exception standards is equally applicable to Rock Island's case, its contentions were also rejected. Rock Island also requested that the FEA adjust the firm's historical operating results by deleting certain years from the seven year arithmetic average profit margin which the FEA generally utilizes in evaluating exception applications from the Entitlements Program submitted by small refiners. In considering the request, the FEA found that Rock Island had failed in at least one major respect to meet the criteria applied in previous cases where a firm's historical profitability in certain of its previous seven fiscal years had been excluded from the exceptions analysis. In addition, Rock Island objected to the FEA's use of the standards set forth in *Delta Ref. Co.*, 2 FEA Par. 83,275 (September 11, 1975) in determining that the firm was awarded an excessive measure of relief during 1975. In this regard the FEA determined that there was considerable merit to Rock Island's position. Therefore the FEA agreed to evaluate the exception relief granted to Rock Island in 1975 prior to the promulgation of the *Delta* standards. Finally, the FEA found that Rock Island's argument that the FEA had improperly recaptured a portion of the exception relief awarded to the firm in 1975 which actually represented a benefit conferred upon the firm pursuant to Special Rule No. 3 has considerable merit. The FEA therefore reduced the firm's entitlement purchase obligation specified in the November 5 Decision by $314,718. Rock Island's Appeal was denied in all other respects.

Tenneco Oil Co.; Houston, Tex.; FXA–1146; Crude Oil

Tenneco Oil Co. (Tenneco) filed an Appeal from a Decision and Order which the Federal Energy Administration issued to the firm on December 8, 1976. *Tenneco Oil Co.*, 4 FEA Par. 83,229 (December 8, 1976). In the December 8 Order the FEA determined that exception relief was necessary in order to provide Tenneco with an economic incentive to drill a replacement well on its Kopp Lease and thereby recover volumes of crude oil which would not otherwise be produced. The FEA therefore premitted Tenneco to sell a specified number of barrels of crude oil at upper tier prices in order to provide the firm with an economic incentive to make the investment in the replacement well. In its Appeal, Tenneco stated that it had inadvertently omitted state production and ad valorem taxes from the cost projections which it had submitted during the course of the exception proceeding and that the exception relief specified in the December 8 Order would accordingly not produce the 15 percent level rate of return on investment which the December 8 Order intended. Tenneco therefore requested that adidtional exception relief be granted to account for these costs. The FEA determined that the Tenneco submission did not satisfy the criteria for the granting of an appeal set forth in the FEA regulations and that the Tenneco Appeal should be denied. However, the FEA also determined that the data which Tenneco furnished in connection with its Appeal indicated that an additional amount of exception relief was necessary in order to achieve the objectives of the December 8 Decision. The FEA therefore recalculated the level of exception relief granted to Tenneco to permit the firm to sell a sufficient number of barrels of crude oil at upper tier ceiling prices to obtain a 15 percent internal rate of return on its investment in a replacement well on the Kopp Lease.

Tenneco Oil Co.; Washington, D.C.; FRA–1214; Motor Gasoline

Tenneco Oil Co. filed an Appeal from a Remedial Order which was issued to it by FEA Region VI on February 2, 1977. In that Remedial Order, the FEA found that during six months of the period between June 1974 and January 1976 Tenneco had sold motor gasoline at levels which exceeded the firm's maximum allowable prices calculated in accordance with 10 CFR 212.83. In order to remedy this violation, Tenneco was directed to refund $6,274,780 plus interest to identifiable customers and the refund $5,941,220 plus interest through a price reduction of $0.02 per gallon in its retail sales of gasoline. In its Appeal, Tenneco contended that the Remedial Order was erroneous because it does not take account of an oral interpretation which it allegedly received from Cost of Living Council officials. In considering this contention, the FEA observed that Tenneco previously raised this same argument in two prior submissions and that it had been fully considered and rejected by the FEA. Tenneco submitted no new evidence in support of this argument which warranted reconsideration of this issue. Tenneco also argued that the FEA erred in making its calculations of overcharges by assuming that Tenneco's use of the correct cost and quantity of purchased gasoline in computing its maximum permissible prices for motor gasoline would not change the other factors contained in the refiner's price formula. The FEA found that Tenneco provided no data to support this contention, and that the firm's mere suggestion that it might have been able to reallocate its increased product costs did not provide sufficient evidence to demonstrate that the Remedial Order was in error. Tenneco also contended that the Remedial Order is insufficiently precise to permit the firm to recalculate its base prices for gasoline for prior months, and that the firm should not be required to file revised cost allocation forms with the FEA until all other outstanding issues regarding the firm's pricing practices have been resolved. In rejecting these contentions, the FEA described the type of adjustments which Tenneco must make in recalculating its base prices and noted that Tenneco did not even contend that it would incur a burden in making the recalculations and refiling the required forms. The FEA also determined, however, that the Remedial Order contained certain computational er-

rors which should be corrected, and that the Remedial Order should be amended to expressly state that the 45 day period within which refunds must be made applies only to identifiable customers. Finally, the FEA determined that the Remedial Order should be amended to permit Tenneco to reflect certain product cost increases in its rollback price for gasoline during that period in which refunds were made. Based on these considerations, the FEA amended the Remedial Order accordingly and denied Tenneco's Appeal in all other respects.

Wagner Oils, Inc.; Fairborn, Ohio; FXA–1262; No. 2 Heating Oil

Wagner Oils, Inc. (Wagner Oils), appealed from a Decision and Order which the FEA issued to the firm on March 30, 1977. *Wagner Oils, Inc.*, 5 FEA Par. 83,127 (March 30, 1977). In the March 30 Decision the FEA had denied Wagner Oils' request for an exception from the requirement that it complete and file FEA Form P112–M–1, "No. 2 Heating Oil Supply/Price Monitoring Report" on a monthly basis. In considering the Wagner Oils Appeal, the FEA found that the firm had not submitted any factual data in support of its claim that the determination made in the prior Decision was erroneous. In particular, although Wagner Oils had twice been requested to supply data relating to the amounts of additional time and effort which its employees require to complete Form P112–M–1, the firm did not respond to either of those requests. It was therefore determined that since the Appeal filed by the firm was factually deficient it should be denied.

REQUESTS FOR EXCEPTION

Al Jones Oil Corp.; Jamaica, N.Y.; FEE–3886; Motor Gasoline

Al Jones Oil Corp. (Jones) filed an Application for Exception from the provisions of 10 CFR 211.9 which, if granted, would result in the issuance of an order establishing it as the base period supplier of motor gasoline at specified federal installations which it supplies pursuant to contracts awarded under the section 8(a) Program of the Small Business Administration. Jones would also be assigning a new supplier of motor gasoline to enable it to meet the supply requirements of those installations. Pursuant to section 8(a) of the Small Business Act of 1958, as amended, the SBA enters into contracts to supply petroleum products to various federal installations and assigns these contracts to eligible small businesses. In considering the Jone request, the FEA found that the firm had not shown that it was unable to obtain sufficient quantities of motor gasoline to meet its contractual obligations. Jones' allegation that it might encounter supply problems in the future was unsupported and purely speculative at this time, and could not alone form an appropriate basis for exception relief. Moreover as a new wholesale purchaser which lacks a base period supplier, Jones may apply to the FEA to be assigned a base period supplier. Since Jones had not utilized this administrative procedure which is available to it, the requested exception relief was found to be premature. In addition, financial and operating data and projections submitted by Jones indicated that the firm expects to earn appreciable profits in 1977 whether or not it received exception relief. In view of these circumstances, Jones had not demonstrated that it would experience any hardship in the absence of exception relief, and its request for exception was denied.

Beacon Oil Co.; Hanford Calif.; FXE–4087; Crude Oil

Beacon Oil Co. (Beacon) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlement Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of June 1977. In support of its exception request, Beacon submitted projected financial statements for its current fiscal year ending December 31, 1977, and projected monthly crude oil runs to stills and receipts of old, new, and imported crude oil for the fiscal year. In considering Beacon's exception request the FEA determined that as a result of Beacon's crude oil runs and receipts during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of June 1977. As a result of the projected entitlements cost which Beacon would incur during its current fiscal year, the firm's profit margin and return on invested capital would be below historical levels. Under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976) exception relief was therefore warranted. Accordingly, the FEA granted Beacon's Application for Exception relieving the firm of sufficient entitlement purchase obligations during the six month period June 1977 through November 1977 to account for its crude oil runs to stills and old oil receipts during the period April 1977 through September 1977 to permit Beacon to achieve its historical profit margin during the current fiscal year. However, the FEA noted that the relief approved to Beacon would be reevaluated if the firm requested an extension of exception relief beyond November 1977 and, as is the case with all Entitlements Program Exception decisions, at the conclusion of the firm's current fiscal year. The decision further noted that an adjustment will be made and Beacon will be required to purchase entitlements if it received excess benefits in the past because of a difference between the financial projections it submitted and the actual financial results which it achieves.

Brooks Exploration, Inc.; Denver Colo.; FEE–4114; Crude Oil

Brooks Exploration, Inc., filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D which if granted, would permit Brooks to sell all of the crude oil produced from the Kittelson No. 1 well (the Kittelson well) at upper tier ceiling prices. In considering the exception application, the FEA determined that the Kittelson well generated substantial levels of profits during 1976. The FEA therefore concluded that Brooks has an economic incentive to continue its crude oil production activities at the Kittelson well and therefore is not experiencing a gross inequity at the present time. The exception application was accordingly denied.

Edgington Oil Co., Inc.; Long Beach, Calif.; FXE–4084; Crude Oil

Edgington Oil Co., Inc. (Edgington), filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of June 1977. In support of its exception request, Edgington submitted projected financial statements for its current fiscal year ending December 31, 1977, and projected monthly crude oil runs to stills and receipts of old, new, and imported crude oil for the fiscal year. In considering Edgington's exception request the FEA determined that as a result of Edgington's crude oil runs and receipts during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of June 1977. As a result of the projected entitlements cost which Edgington would incur during its current fiscal year, the firm's profit margin and return on invested capital would be below historical levels. Under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976) exception relief was therefore warranted. Accordingly, the FEA granted Edgington's Application for Exception and relieved the firm of sufficient entitlements purchase obligations during the six month period June 1977 through November 1977 to permit Edgington to achieve its historical profit margin during the current fiscal year. However, the FEA noted that the relief approved to Edgington would be reevaluated if the firm requested an extension of exception relief beyond November 1977 and as is the case with all Entitlements Program Exception decisions at the conclusion of the firm's current fiscal year. The decision further noted that an adjustment will be made and Edgington will be required to purchase entitlements if it received excess benefits in the past because of a difference between the financial projections it submitted and the actual financial results which it achieves.

Hanover Management Co.; Dallas, Tex.; FXE–4184; Crude Oil

The Hanover Management Co. (Hanover) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in the extension of the exception relief previously granted to the firm and would thereby permit Hanover to continue to sell all of the crude oil produced from the Fruin "A" No. 1 Well (the Fruin well) for the benefit of the working interest owners at upper tier ceiling prices. *Hanover Management Co.*, 5 FEA Par. 83,068 (February 18, 1977). In considering the request, the FEA determined that the Fruin well was continuing to experience increasing operating costs and that in the absence of a continuation of exception relief the working interest owners would lack an economic incentive to maintain the production of crude oil from the well. In view of this determination and on the basis of the operating data which the firm submitted for the most recently completed fiscal period, Hanover was permitted to sell at upper tier ceiling prices 100 percent of the crude oil produced from the Fruin well for the benefit of the working interest owners.

B. J. Hickman; Kimball, Nebr.; Fee–4119; Crude Oil

B. J. Hickman filed an Application for Exception which, if granted, would permit him to determine the price of crude oil produced and sold in February 1974 and May 1975 from the J. R. Cross lease located in Banner County, Nebr. without regard to the current cumulative deficiencies which had accrued on that property. According to the Hickman submission those deficiences were the result of snowfalls during the preceding months which had temporarily interrupted the production of crude oil from the lease. In considering Hickman's exception request, the FETA found that the normal production

of crude oil from the J. R. Cross lease has continued despit the existence of cumulative deficiencies in February 1974 and May 1975. The FEA therefore concluded that Hickman had not shown that his extraction efforts at the Cross lease would be endangered in any manner in the absence of exception relief. The FEA also concluded that Hickman had failed to demonstrate in this proceeding that the FEA regulatory program imposed burdens upon him which were disproportionate to those generally incurred by other crude oil producers. Hickman's exception request was therefore denied.

Donald Huhn, Louis Gais; Minerva, Ohio; Youngstown, Ohio; FEE–4077; FEE–4078; Motor Gasoline

Louis Gais (Gais) and Donald Huhn (Huhn) filed two separate Applications for Exceptions from the provisions of 10 CFR 211.9. The exception requests, if granted, would result in the issuance of orders by the FEA assigning to both Gais and Huhn a new supplier of motor gasoline to replace their base period supplier, Texaco, Inc. (Texaco). Both Gais and Huhn also requested that the Cross Oil Company (Cross) be designated as the new supplier. Since the Gais and Huhn submissions involved similar factual matters, and requested an identical result; they were consolidated for resolution in a single proceeding. In considering the Gais and Huhn applications, the FEA observed that both Gais and Huhn are currently able to purchase sufficient surplus product from Cross at the present time to satisfy all of their requirements for motor gasoline. The FEA therefore concluded that Gais and Huhn are not presently experiencing a serious hardship or a gross inequity as a result of adherence to their supplier/purchaser realtionships with Texaco. Accordingly, the Applications for Exception were denied.

Husky Oil Co. of Delaware; Denver, Colo.; FXE–4085; Crude Oil

Husky Oil Co. of Delaware (Husky) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of June 1977. In support of its exception request, Husky submitted projected financial statements for its current fiscal year ending December 31, 1977 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering Husky's exception request the FEA determined that as a result of Husky's crude oil runs and receipts during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of June 1977. As a result of the projected entitlements cost which Husky would incur during its current fiscal year, the firm's profit margin and return on invested capital would be below historical levels. Under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976) exception relief was therefore warranted. Accordingly, the FEA granted Husky's Application for Exception relieving the firm of any entitlements purchase obligations during the six month period June 1977 through November 1977 to account for its crude oil runs to stills and old oil receipts during the period April 1977 through September 1977. However, the FEA noted that the relief approved to Husky would be reevaluated if the firm requested an extension of exception relief beyond November 1977 and, as is the case with all Entitlements Program Exception decisions, at the conclusion of the firm's current fiscal year. The decision further noted that an adjustment will be made and Husky will be required to purchase entitlements if it received excess benefits in the past because of a difference between the financial projections it submitted and the actual financial results which it achieves.

Louis Kahan; Tulsa, Okla.; FEE–4000; Crude Oil

Louis Kahan (Kahan) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit him to sell at upper tier prices the crude oil which he produces from the Mose Bean Lease in Seminole County, Okla. According to the Kahan submission, substantial repairs on pumping and tubing equipment must be made at the lease if crude oil production is to continue. In considering the Kahan Application, the FEA found that a substantial investment is necessary in order to repair the one well on the Mose Bean Lease, and that this investment would be uneconomic if the crude oil which would be produced from the property after the completion of the repairs were sold at lower tier ceiling prices. The material presented by Kahan also indicated that if the repairs were not undertaken substantial quantities of crude oil would not be recovered from the reservoir underlying the lease. On the basis of these findings, the FEA concluded that exception relief should be granted to the working interest owners which would provide a sufficient economic incentive to undertake that capital investment necessary to make the repairs. The FEA concluded that if Kahan were permitted to sell 13,332 barrels of crude oil which he produces for the benefit of the working interest at upper tier prices over the remaining two and one-half year life of the property, these objectives would be achieved.

Kalama Chemical, Inc.; Kalama, Wash.; EPI–0120; Unfinished Toluene

Kalama Chemical, Inc., filed an Application for Exception from the provisions of 10 CFR 213.35(c) which, if granted, would permit it to import 259,925 barrels of unfinished toluene into PAD District V on a license fee-exempt basis during the current allocation period. In considering Kalama's exception request, the FEA determined that the firm is unable to obtain adequate suppliers of domestic toluene at competitive prices because of high land transportation costs and the unavailability of coastal tanker space. Consequently, it was found that the firm will have to import the full amount of toluene for which it has requested fee-exempt authority. The FEA also observed that Kalama is the only U.S. manufacturer of phenol which uses toluene rather than benzene or cumene as a petrochemical feedstock. Since benzene and cumene may be imported on a fee-free basis while toluene may not, the FEA concluded that the requirement that Kalama pay import fees for the toluene which it requires places the firm at a competitive disadvantage and results in an unfair distribution of the regulatory burdens which are imposed on Kalama and similarly situated firms. Accordingly, Kalama's exception request was granted.

Kern County Refinery, Inc.; Bakersfield, Calif.; FXE–4096; Crude Oil

Kern County Refinery, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of June 1977. In support of its exception request, Kern submitted projected financial statements for its current fiscal year ending March 31, 1978 and projected monthly crude oil runs to stills and receipt of old, new and imported crude oil for the fiscal year. In considering Kern's exception request the FEA determined that as a result of Kern's crude oil runs and receipts during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of June 1977. As a result of the projected entitlements cost which Kern would incur during its current fiscal year, the firm's profit margin and return on invested capital would be below historical levels. Under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976) exception relief was therefore warranted. Accordingly, the FEA granted Kern's Application for Exception relieving the firm of any entitlements purchase obligations during the six month period June 1977 through November 1977 to account for its crude oil runs to stills and old oil receipts during the period April 1977 through September 1977 to permit Kern to achieve its historical profit margin during the current fiscal year. However, the FEA noted that the relief approved to Kern would be reevaluated if the firm requested an extension of exception relief beyond November 1977 and, as is the case with all Entitlements Program Exception decisions, at the conclusion of the firm's current fiscal year. The decision further noted that an adjustment will be made and Kern will be required to purchase entitlements if it received excess benefits in the past because of a difference between the financial projections it submitted and the actual financial results which it achieves.

Lunday-Thagard Oil Co.; South Gate, Calif.; FXE–4086; Crude Oil

Lunday-Thagard Oil Co. (Lunday-Thagard) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of June 1977. In support of its exception request, Lunday-Thagard submitted projected financial statements for its current fiscal year ending June 30, 1977 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering Lunday-Thagard's exception request the FEA determined that as a result of Lunday-Thagard's crude oil runs and receipts during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of June 1977. As a result of the projected entitlements cost which Lunday-Thagard would incur during its current fiscal year, the firm's profit margin and return on invested capital would be below historical levels. Under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976) exception relief was therefore warranted. Accordingly, the FEA granted Lunday-Thagard's Application for Exception relieving the firm of any entitlements purchase obligations during the six month period June 1977 through November 1977 to account for its crude oil runs to stills and old oil receipts during the period April 1977 through September 1977 to permit Lunday-Thagard to achieve its historical profit margin during the current fiscal year. However, the FEA noted that the relief approved to Lunday-Thagard would be reevaluated if the firm requested an ex-

tension of exception relief beyond November 1977 and, as is the case with all Entitlements Program Exception decisions, at the conclusion of the firm's current fiscal year. The decision further noted that an adjustment will be made and Lunday-Thagard will be required to purchase entitlements if it received excess benefits in the past because of a difference between the financial projections it submitted and the actual financial results which it achieves.

W. N. McMurry; Casper, Wyo.; FEE–4030; Crude Oil

W. N. McMurry filed an Application for Exception from the provisions of 10 CFR, Part 212, which, if granted, would permit the firm to sell the crude oil produced from the Brabec and the Wagner Fredrickes Wells (the Wells) located on the West Sage Creek property, Park County, Wyo., at upper tier ceiling prices. In considering McMurry's Application, the FEA determined that the cost per barrel of producing crude oil from the Wells has increased significantly and now exceeds the lower tier ceiling price which McMurry is permitted to charge. As a consequence McMurry no longer has an economic incentive to continue to operate the Wells and if the McMurry property is abandoned a considerable amount of otherwise recoverable crude oil will be lost. On the basis of previous precedents involving similar factual situations, the FEA concluded that the application to McMurry of the lower tier ceiling price rule resulted in a gross inequity and that exception relief should be granted. In previous Decisions, the FEA has granted exception relief which permits a firm to reflect in its selling prices the increased operating costs per barrel incurred between the quarter which includes May 15, 1973 and the firm's most recently completed fiscal quarter. In considering the McMurry application however, the FEA determined that while it appeared that McMurry had no economic incentive to continue to produce crude oil from the Wells, the application of the precedent established in prior Decisions and described above would not provide the firm with a sufficient economic incentive to continue its operations at the Wells. The MEA therefore concluded that an alternative type of exception relief was necessary. Accordingly the FEA granted McMurry exception relief to permit the firm to reflect in its selling prices the difference between the cost of producing a barrel of crude oil during the 1973 calendar year and the projected cost of producing a barrel of oil during the calendar year ending December 31, 1977.

Mohawk Petroleum Corp., Inc.; Los Angeles, Calif.; FXE–4083; Crude Oil

Mohawk Petroleum Corp. (Mohawk) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of June 1977. In support of its exception request, Mohawk submitted projected financial statements for its current fiscal year ending December 31, 1977 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering Mohawk's exception request the FEA determined that as a result of Mohawk's crude oil runs and receipts during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of June 1977. As a result of the projected entitlements cost which Husky would incur during its current fiscal year, the firm's profit margin and return on invested capital would be below historical levels. Under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976) exception relief was therefore warranted. Accordingly, the FEA granted Mohawk's Application for Exception relieving the firm of any entitlements purchase obligations during the six month period June 1977 through November 1977 to account for its crude oil runs to stills and old oil receipts during the period April 1977 through September 1977 to permit Mohawk to achieve its historical return on invested capital during the current fiscal year. However, the FEA noted that the relief approved to Mohawk would be reevaluated if the firm requested an extension of exception relief beyond November 1977 and, as is the case with all Entitlements Program Exception decisions, at the conclusion of the firm's current fiscal year. The decision further noted that an adjustment will be made and Mohawk will be required to purchase entitlements if it received excess benefits in the past because of a difference between the financial projections it submitted and the actual financial results which it achieves.

Mull Drilling Co., Inc.; Wichita, Kans.; FEE–4138; Crude Oil

Mul Drilling Co., Inc. (Mull) filed an Application for Exception which if granted, would permit the firm to sell the crude oil which it produces from the UPRR Roth Lease (Roth Lease) without regard to the ceiling prices specified in 10 CFR, Part 212, Subpart D. In considering the firm's submission, the FEA determined that except for those months in which Mull incurred substantial repair expenses for its Reda pumps, the firm had operated the Roth Lease on a profitable basis and would continue to do so until at least November 1977. Therefore, the FEA determined that Mull had not demonstrated that exception relief was necessary in order to provide the firm with an economic incentive to continue its crude oil production activities at the Roth Lease. The FEA also concluded that the Reda pump repair expenses which Mull periodically incurred are capital expenditures rather than operating costs and that Mull should file another Application for Exception prior to making those expenditures if it can demonstrate that it has no economic incentive to make the repairs.

Navajo Refining Co.; Artesia, No. Mex.; FXE–4098; Crude Oil

Navajo Refining Co. (Navajo) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of June 1977. In support of its exception request, Navajo submitted projected financial statements for its current fiscal year ending July 31, 1977 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering Navajo's exception request the FEA determined that as a result of Navajo's crude oil runs and receipts during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of June 1977. As a result of the projected entitlements cost which Navajo would incur during its current fiscal year, the firm's profit margin and return on invested capital would be below historical levels. Under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976) exception relief was therefore warranted. Accordingly, the FEA granted Navajo's Application for Exception relieving the firm of any obligation to purchase entitlements during the six month period June 1977 through November 1977 to account for its crude oil runs to stills and old oil receipts during the period April 1977 through September 1977. However, the FEA noted that the relief approved to Navajo would be reevaluated if the firm requested an extension of exception relief beyond November 1977 and, as is the case with all Entitlements Program Exception decisions, at the conclusion of the firm's current fiscal year. The decision further noted that an adjustment will be made and Navajo will be required to purchase entitlements if it received excess benefits in the past because of a difference between the financial projections it submitted and the actual financial results which it achieves.

San Joaquin Refining Co.; Newport Beach, Calif.; FXE–4102; Crude Oil

San Joaquin Refining Co. (San Joaquin) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of June 1977. In support of its exception request, San Joaquin submitted projected financial statements for its current fiscal year ending April 30, 1978 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering San Joaquin's exception request the FEA determined that as a result of San Joaquin's crude oil runs and receipts during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of June 1977. As a result of the projected entitlements cost which San Joaquin would incur during its current fiscal year, the firm's profit margin and return on invested capital would be below historical levels. Under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976) exception relief was therefore warranted. Accordingly, the FEA granted San Joaquin's Application for Exception relieving the firm of any entitlements purchase obligations during the six month period June 1977 through November 1977 to account for its crude oil runs to stills and old oil receipts during the period April 1977 through September 1977 to permit San Joaquin to achieve its historical profit margin during the current fiscal year. However, the FEA noted that the relief approved to San Joaquin would be reevaluated if the firm requested an extension of exception relief beyond November 1977 and, as is the case with all Entitlements Program Exception decisions, at the conclusion of the firm's current fiscal year. The decision further noted that an adjustment will be made and San Joaquin will be required to purchase entitlements if it received excess benefits in the past because of a difference between the financial projections it submitted and the actual financial results which it achieves.

Southland Oil Co.; Jackson, Miss.; FXE–4124; Crude Oil

Southland Oil Co. (Southland) filed an Application for Execption from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of June 1977. In support of its exception request, Southland submitted projected financial statements for its current fiscal year ending December 31, 1977 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil

for the fiscal year. In considering Southland's exception request the FEA determined that as a result of Southland's crude oil runs and receipts during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of June 1977. As a result of the projected entitlements cost which Southland would incur during its curent fiscal year, the firm's profit margin and return on invested capital would be below historical levels. Under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976) exception relief was therefore warranted. Accordingly, the FEA granted Southland's Application for Exception relieving the firm of any entitlements purchase obligations during the six month period June 1977 through November 1977 to account for its crude oil runs to stills and old oil receipts during the period April 1977 through September 1977 to permit Southland to achieve its historical profit margin during the current fiscal year. However, the FEA noted that the relief approved to Southland would be reevaluated if the firm requested an extension of exception relief beyond November 1977 and, as is the case with all Entitlements Program Exception decisions, at the conclusion of the firm's current fiscal year. The decision further noted that an adjustment will be made and Southland will be required to purchase entitlements if it received excess benefits in the past because of a difference between the financial projections it submitted and the actual financial results which it achieves.

Warrior Asphalt Co. of Alabama, Inc.; Tuscaloosa, Ala.; FXE–4139; Crude Oil

Warrior Asphalt Co. of Alabama, Inc. (Warrior) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of June 1977. In support of its exception request, Warrior submitted projected financial statements for its current fiscal year ending March 31, 1978 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering Warrior's exception request the FEA determined that as a result of Warrior's crude oil runs and receipts during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of June 1977. As a result of the projected entitlements cost which Warrior would incur during its current fiscal year, the firm's profit margin and return on invested capital would be below historical levels. Under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976) exception relief was therefore warranted. Accordingly, the FEA granted Warrior's Application for Exception relieving the firm of any entitlements purchase obligations during the six month period June 1977 through November 1977 to account for its crude oil runs to stills and old oil receipts during the period April 1977 through September 1977 to permit Warrior to achieve its historical profit margin during the current fiscal year. However, the FEA noted that the relief approved to Warrior would be reevaluated if the firm requested an extension of exception relief beyond November 1977 and, as is the case with all Entitlements Program Exception decisions, at the conclusion of the firm's current fiscal year. The decision further noted that an adjustment will be made and Warrior will be required to purchase entitlements if it received excess benefits in the past because of a difference between the financial projections it submitted and the actual financial results which it achieves.

Whaleco Fuel Corp. Inc.; Brooklyn, N.Y.; FPI–0112; Residual Fuel Oil; No. 2; Fuel Oil

Whaleco Fuel Corp., Inc., filed an Application for Exception from the provisions of 10 CFR 213.35(c) which, if granted, would permit it to import, on a license fee-exempt basis, 500,000 barrels of No. 2 fuel oil and 1,250,000 barrels of residual fuel oil into PAD District I during the current allocation period. In considering Whaleco's exception request, the FEA found that the firm would be unable to obtain sufficient quantities of these fuels from domestic sources at competitive price levels to meet its supply requirements. Based on projections provided by Whaleco, it was found that the firm would have to import approximately 932,540 barrels of residual fuel oil and 269,840 barrels of No. 2 fuel oil during the allocation period. Whaleco's financial and operating data indicated that if the firm were required to absorb the cost of the license fees on these quantities of fuel oil, its already marginal financial position would deteriorate substantially. The FEA also found that the comparative market data provided by Whaleco indicated that the firm would be unable to increase its prices for No. 2 fuel oil and residual fuel oil to reflect the payment of license fees. The FEA concluded that since many of Whaleco's competitors pay no import fees on substantial quantities of the residual fuel oil which they import, in the absence of exception relief, Whaleco could well be forced to reduce or terminate its activities as an independent marketer. In view of these factors, Whaleco was granted an exception which permits it to import on a fee-exempt basis the quantities of residual fuel oil and No. 2 fuel oil which it projected it would have to import during the current allocation period.

Young Refining Corp.; Douglasville, Ga.; FXE–4103; Crude Oil

Young Refining Corp. (Young) filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of any obligation to purchase entitlements beginning with the month of June 1977. In support of its exception request, Young submitted projected financial statements for its current fiscal year ending March 31, 1978 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering Young's exception request the FEA determined that as a result of Young's crude oil runs and receipts during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of June 1977. As a result of the projected entitlements cost which Young would incur during its current fiscal year, the firm's profit margin and return on invested capital would be below historical levels. Under the criteria set forth in *Delta Refining Co.*, 2 FEA Par. 83,275 (September 11, 1975) and *Beacon Oil Co.*, 3 FEA Par. 83,209 (June 8, 1976) exception relief was therefore warranted. Accordingly, the FEA granted Young's Application for Exception relieving the firm of any entitlements purchase obligations during the six month period June 1977 through November 1977 to account for its crude oil runs to stills and old oil receipts during the period April 1977 through September 1977. However, the FEA noted that the relief approved to Young would be reevaluated if the firm requested an extension of exception relief beyond November 1977 and, as is the case with all Entitlements Program Exception decisions, at the conclusion of the firm's current fiscal year. The decision further noted that an adjustment will be made and Young will be required to purchase entitlements if it received excess benefits in the past because of a difference between the financial projections it submitted and the actual financial results which it achieves.

PETITION FOR SPECIAL REDRESS

Union Camp Corp.; Atlanta, Ga.; FSG–0047; Coal Conversion

Union Camp Corp. (Union Camp) filed a Petition for Special Redress in which it requested that it be afforded an adjudicatory hearing with respect to a Notice of Intent (NOI) issued to the firm by the FEA pursuant to Section 2 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA). Union Camp also requested that it be granted an extension of time in which to submit written comments regarding the NOI. In considering Union Camp's first request the FEA found that neither the Administrative Procedure Act nor ESECA required that an adjudicatory hearing be held in connection with the findings required to be made by Section 2 of ESECA. The FEA noted that ESECA merely required the FEA to afford interested persons an opportunity for oral and written presentations of data, views and arguments which the FEA had done. In its analysis of the second issue, the FEA noted that it had recently considered and rejected a similar request in *New England Power Co.; Montaup Electric Co.*, 5 FEA Par. —— (May 26, 1977). The FEA determined that Union Camp had not submitted any legal arguments of factual information which distinguished its petition from the submissions filed by the firms in that case, and it noted that those applications had been denied. Accordingly, the Union Camp Petition for Special Redress was denied.

REQUESTS FOR MODIFICATION OR RESCISSION

Arizona Fuels Corp.; Salt Lake City, Utah; FMR–0105; Crude Oil

Arizona Fuels Corp. (Arizona Fuels) filed an Application for Modification of a Decision and Order which the FEA issued to it on January 28, 1977. *Arizona Fuels Corp.*, 5 FEA Par. 80,548 (January 28, 1977). In that determination, the FEA denied two Appeals which Arizona Fuels had filed from Decisions which had been previously issued to the firm on July 16, 1976 and on October 1, 1976. In the July 16 Order, the FEA approved prospective exception relief which relieved Arizona Fuels of a portion of its entitlement purchase obligations during the period May through October 1976. In the October 1 Order, the FEA denied an Application for Exception in which Arizona Fuels had requested that it be retroactively relieved of its obligation to purchase entitlements for the months of August and September 1975. In denying the two Appeals, the FEA observed that the firm could experience severe operating problems if it had to immediately consummate its outstanding entitlement obligations. Consequently, the FEA Office of Compliance was directed to establish a payment program pursuant to which Arizona Fuels will be required to purchase the full $329,491.50 of its August and September 1975 entitlement purchase obligation by July 28, 1977. In its Application for Modification, Arizona Fuels alleged that certain factual material relating to the financial condition of the firm, which was not in existence at the time of the prior Appeal proceeding, has recently become available and that this material constitutes "significantly

changed circumstances" as that term is defined in 10 CFR 205.135. On the basis of this financial material, Arizona Fuels requested that the January 28 Order be modified to extend from six months to 36 months the period of time within which the firm must complete its purchases of August and September 1975 entitlements. In considering this request, the FEA observed that the new financial data submitted by Arizona Fuels was not significantly different from the data submitted by the firm in the previous Appeal proceeding. Accordingly, the FEA concluded that Arizona Fuels had failed to demonstrate that the circumstances upon which the January 28 determination was based had changed significantly and the Application for Modification which it filed was therefore denied.

Stephens and Cass; Dallas, Tex.; FMR–0108; Crude oil

Stephens and Cass (S&C) filed a request for modification of a May 20, 1977 Decision and Order in which the FEA stayed the provisions of a Remedial Order requiring S&C to implement price reductions on certain crude oil which it produces and sells in order to refund revenues received as a result from prior violations of the FEA Price Regulations. S&C requested in its Application for Modification that the May 20, 1977 Decision and Order be modified to eliminate the requirement that the amount of the price reductions required by the Remedial Order be deposited in an escrow account pending the FEA's determination on an Application for Exception which S&C submitted on April 26, 1977. In considering S&C's petitions, the FEA noted that the May 20 Stay Order had determined that S&C's economic viability would not be threatened if the refunds required by the Remedial Order were placed in escrow during the period of time S&C's Application for Exception is pending. The FEA concluded that the additional financial data which S&C had presented in support of its modification request did not indicate that the circumstances underlying the May 20 determination had changed in any significant respect. S&C's request for modification was accordingly denied.

Supplemental Orders

Sabre Refining, Inc.; Bakersfield, Calif.; FEX–0164; Crude oil

On May 20, 1977 the FEA issued a Supplemental Order to Sabre Refining, Inc. (Sabre) which determined that Sabre had received an excess amount of exception relief from the provisions of 10 CFR 211.67 (the Entitlements Program) for the firm's fiscal period ended October 31, 1976. Sabre Refining, Inc., 5 FEA Par. ____ (May 20, 1977). Sabre was therefore required to purchase entitlements equal in value to the excess amount of exception relief. In arriving at the May 20 determination the FEA had intended to review the exception relief granted to Sabre in accordance with the criteria set forth in Beacon Oil Co., 3 FEA Par. 83,209 (June 8, 1976). However, in that May 20 Supplemental Order the FEA reviewed the firm's exception relief for the fiscal period beginning May 1, 1976. Since that period omitted the month of April 1976, and therefore did not include the full portion of the firm's 1976 fiscal year that followed the rescission of Special Rule No. 6, the determination reached in the May 20 Supplemental Order was not in accordance with the criteria set forth in the Beacon Decision and was therefore erroneous. Since Sabre's 1976 fiscal year ended October 31, 1976 the FEA conducted another review of the exception relief which Sabre had been granted for its October 31, 1976 fiscal year. Based on that review the FEA determined that Sabre had received an excess measure of exception relief during the April through October 1976 period. Sabre was therefore required to purchase additional entitlements having a total value of $217,547 during the period June through November 1977.

Suburban Propane Gas Corp.; Whippany, N.J., FRX–0165; Crude oil

On May 25, 1977 the FEA issued a Decision and Order to Suburban Propane Gas Corporation (Suburban) staying the refund provisions of an April 25 Remedial Order. Suburban Propane Gas Corp., 5 FEA Par. ____ (May 25, 1977). The Stay was granted on the express condition that Suburban place the disputed funds into an escrow account pending a final determination on its Appeal of the Remedial Order. On June 10, 1977 Suburban advised the FEA that it did not intend to establish the escrow account specified in the May 25 Order. Since the escrow account was an express condition of the May 25 Stay Order the FEA determined that the Stay should be vacated.

Requests for Exception Received From Natural Gas Processors

The Office of Exceptions and Appeals of the Federal Energy Administration has issued Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exceptions granted permit the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases:

Company	Case No.	Plant	Amount of price increase, dollar/gallon
Atlantic Richfield Co.	FEE–4274	Adair	$.0262
	FEE–4275	Camrick	.00626
	FEE–4276	Elmwood	.0051
	FEE–4277	Fairway	.0051
	FEE–4278	Gillette	.0179
	FEE–4279	Headlee	.02144
	FEE–4280	Knox Bromide	.0260
	FEE–4281	Seiling	.0009
	FEE–4282	Swanson River	.0523
	FEE–4283	West Seminole	.01974
	FEE–4332	Empire Abo	.0062
Breckinridge Gasoline Co.	FXE–4134	Elissville	.0863
	FXE–4135	Lodi	.13117
Continental Oil Co.	FEE–4205	Elk Basin	.0278
	FEE–4206	Kettlemen Hills	.0466
Gulf Oil Corp.	FXE–4131	Azalea	.0419
	FXE–4132	Milfay	.0758
	FXE–4133	Sand Hills	.0488
Marathon Oil Co.	FEE–3953	Camrick	.0272
	FEE–3954	Cotton Valley	.0274
	FEE–3955	Heyser	.1210
	FEE–3957	Knox	.0024
	FEE–3962	Stephens	.0465
Mobil Oil Corp.	FEE–4214	Bryans Mill	.0327
	FEE–4215	Hagist	.03468
	FEE–4216	Iowa	.0139
	FEE–4217	Levelland	.0098
	FEE–4218	Putnam Oswego	.0073
	FEE–4219	Wilcox	.0127
Phillips Petroleum Co.	FXE–4149	Cimarron	.0029
	FXE–4150	Puckett	.0335
	FXE–4151	Sooner No. 1	.0729
Shell Oil Co.	FEE–4228	Chalkley	.2856
	FEE–4230	Grand Chenier	(1)
	FEE–4231	Seeligson	.0063
	FEE–4232	Timbalier Bay	.0071
	FEE–4233	Tippett-Crossett	.00577
	FEE–4234	TOCA	.0141
Vallery Corp.	FEE–4273	Vallery	.0489
Vickers Energy Corp.	FEE–4115	Calumet	.00564
	FEE–4116	Mayfield	.0414
	FEE–4117	Patterson	.01140
	FEE–4118	Putnam Oswego	.0134

[1] Denied.

Summary Decision

The Office of Exceptions and Appeals of the FEA issued a Decision and Order to the following company dismissing its Appeal for failure to correct deficiencies in the firm's filing as required by the FEA Procedural Regulations:

Peters Fuel Corp.; Oakland, Md.; FXA–1285

Dismissals

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

San Joaquin Refining Co.; Newport Beach, Calif.; FEA–1284

Stovall Oil Co.; Casper, Wyo.; FEE–4112

The following submissions were dismissed for failure to correct deficiencies in the firm's filing as required by the FEA Procedural Regulations:

Friendly Neighbors Gas Corp; Henryetta, Okla.; FEE–4125

The following submission was dismissed on the grounds that alternative regulatory procedures existed under which relief might be obtained:

Seal's Service Station; Crozet, Va.; FEE—4289

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B–120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a

commercially published loose leaf reporter system.

Dated: August 10, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-23502 Filed 8-12-77;8:45 am]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

Week of June 20 Through June 24, 1977

Notice is hereby given that during the week of June 20 through June 24, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

PETITION FOR SPECIAL REDRESS

Crusade for Gubernatorial Responsibility; Francestown, N.H.; FSG-0036; State Energy Offices.

The Crusade for Gubernatorial Responsibility (the Crusade) filed a Petition for Special Redress Relief. The Crusade's submission related to the proper use of federal grant monies which the Governor's Council on Energy (the New Hampshire State Energy Office) received from the FEA pursuant to a Cooperative Agreement executed between the FEA and the State of New Hampshire on May 14, 1976. Under the grant agreement, the FEA agreed to reimburse the State for certain expenses incurred in the operation of a state energy management program. On or about December 15, 1976, the Governor's Council on Energy ordered the printing of petitions which supported the continued construction of the controversial Seabrook nuclear power station by the Public Service Company of New Hampshire, a private corporation. In early 1977, these pro-Seabrook petitions were sent by the Governor's Council on Energy to State liquor stores, city and town offices, and to other locations within New Hampshire for distribution to the public. In its submission, the Crusade alleged that the activities of the Governor's Council on Energy were funded in part by the FEA grant, and that the printing of the pro-Seabrook petition by the State constituted a misuse of federal funds. Based on this allegation, the Crusade requested that the Office of Private Grievances and Redress conduct an investigation pursuant to 10 CFR 205.236(a)(1) and take whatever type of remedial action which it determined to be appropriate. In considering the Crusade's Petition, the FEA analyzed the agreement covering the use of federal grant funds which the agency had executed with the State. The Cooperative Agreement by its terms apparently did not contemplate that the funds which were transferred to the State by the FEA would be used for the advocacy of nuclear power plants such as the proposed Seabrook facility. Furthermore, the record indicated that the Governor of New Hampshire had been advised by the Regional Administrator of FEA Region I that the Congress objected to the direct involvement of the FEA in advocating the development of nuclear power. However, in response to a request for additional information, the Executive Vice Chairman of the Governor's Council on Energy submitted a sworn affidavit in which he stated that no FEA funds had been used to fund the expenses of the pro-Seabrook petition drive, and that, in fact, the entire amount of the FEA grant had been already expended prior to the date when the State was billed for the expenses related to the Seabrook matter. In view of these statements, the FEA concluded that the present record in the proceeding did not establish that any impropriety had occurred in connection with the May 14, 1976 Cooperative Agreement between the FEA and the State. Accordingly, the Petition for Special Redress Relief submitted by the Crusade was dismissed.

REQUESTS FOR EXCEPTION

Minnesota Gas Co.; Minneapolis, Minn.; FEE-3541; FRA-1071; Propane.

The Minnesota Gas Company (Minnegasco) filed an Application for Exception which, if granted, would permit the firm to calculate its increased product costs for purposes of determining its maximum allowable prices in its retail sales of propane by calculating its product and non-product costs on May 15, 1973 and in subsequent periods on a separate inventory basis. Minnegasco also filed an Appeal from a Remedial Order which was issued to the firm on November 24, 1976, by the Regional Administrator of FEA Region V. In the Remedial Order, the FEA determined that, as a retailer of propane, Minnegasco had improperly computed its increased product costs for propane during the period November 1973 through October 1974, and that the firm had therefore overcharged its retail propane customers by $97,397.91. In order to remedy these violations, the Remedial Order directed Minnegasco to refund that amount plus interest to the customers whom it overcharged. Since Minnegasco's two submissions involved similar factual matters, they were consolidated for resolution in a single proceeding.

Minnegasco, a public utility that is primarily engaged in the sale of natural gas, also operates a small retail propane business. In addition to maintaining an inventory of propane for use in its retail propane operations, the firm maintains a large inventory of propane for peak shaving purposes as part of its public utility operations. In its Application for Exception, Minnegasco contended that it would experience a gross inequity if, for purposes of determining its maximum lawful selling price in retail sales of propane, it were required to compute its product costs on a firm-wide basis rather than only with respect to the propane which it purchased and held in inventory for retail sales purposes. In considering the Application for Exception, the FEA noted that since May 1, 1976, Section 212.92 of the FEA Price Regulations has permitted a firm to compute increased product costs on a separate inventory basis, provided the method used is consistent with the firm's historical practices. The FEA determined, however, that exception relief would be required in order for Minnegasco to make this election since it had not historically accounted for its inventories on a separate basis. The FEA further determined, however, that if exception relief were approved in this case, the objective of requiring a consistent and historical treatment of separate inventories would not be undermined since the potential for artificial manipulations of product costs to gain unwarranted benefits did not exist in this case. In this regard, the FEA found that the firm had consistently maintained inventories for two different business operations since the beginning of its retail propane operations and could recalculate its actual costs for propane on a separate inventory basis. The FEA also determined that if exception relief were approved, the firm's retail propane customers would not be adversely affected since the price which they pay for propane would more accurately reflect current purchase costs of that fuel and would, nevertheless, be six cents less than the average retail price of propane in the market area served by Minnegasco. Accordingly, the FEA concluded that exception relief should be approved which will require Minnegasco to calculate the increased product and nonproduct costs which it may reflect in its maximum lawful selling prices of propane by utilizing only the product and non-product cost increases which it experiences in connection with the propane held in inventory for sale in its retail propane operations.

The FEA also determined that compelling reasons existed to justify the approval of retroactive exception relief in this case. The FEA found that the inclusion of the costs associated with the propane held for peak shaving purposes in the cost base that the firm used to determine the prices of the propane which it sold to its retail propane customers would confer uopn that group a financial benefit that properly belongs to the firm's natural gas customers. The FEA also concluded that a failure to approve retroactive relief would produce a situation in which Minnegasco's retail propane customers would receive unwarranted benefits at the unfair expense of its natural gas customers. Accordingly, the FEA concluded that retroactive relief was justified.

In view of the determination reached on Minnegasco's Application for Exception, the FEA rescinded the November 24, 1976 Remedial Order and dismissed the firm's Appeal.

Whitco, Inc.; Dallas, Tex.; FXE-4265 Motor Gasoline.

Whitco, Inc. filed an application for an extension of the exception relief from the provisions of 10 CFR 211.25 which the FEA had previously granted to the firm, *Whitco, Inc.*, 5 FEA Par. 87,022 (March 10, 1977) (Supplemental Order). The March 10 Order directed the Regional Administrator of FEA Region VI to determine whether Whitco would experience a serious hardship or gross inequity in the absence of additional exception relief and to recommend whether the exception relief previously granted to Whitco should be extended. On the basis of the new material submitted by Whitco in this proceeding and the recommendations of the Regional Administrator, the FEA determined that Whitco would continue to experience a serious hardship and a gross inequity in the absence of exception relief. Accordingly, the exception relief previously granted to the firm was extended through September 30, 1977.

REQUESTS FOR MODIFICATION OR RESCISSION

State of Oregon; Salem, Oreg.; FMR-0100; Motor Gasoline.

The State of Oregon (the State) filed an Application for Modification of a Decision and Order issued to it by the FEA on October 3, 1975. *State of Oregon*, 2 FEA Par. 83,320 (October 3, 1975). In that Decision, the FEA granted exception relief which permitted refiners, resellers and retailers of motor gasoline doing business in the State to increase their selling prices above the maximum permissible price levels established pursuant to 10 CFR 212.82 and 212.93 in order to reflect an increase in the Oregon license tax enacted

by the State Legislature in its 1975 session which was to have become effective on October 1, 1975. However, that license tax increase did not become law, and the State therefore requested in the instant Application that the FEA's previous decision be modified to permit sellers of motor gasoline in the State to reflect the increase in the license tax which was being considered by the Oregon Legislature in its 1977 session. In considering the Application, the FEA observed that it had found in the October 3, 1975 Decision that although the motor gasoline license tax was not imposed directly on the purchaser, there was no practical difference between the license tax and a sales tax. Furthermore, it had been previously determined that the State intended the financial burden of the tax to be passed on to the ultimate consumer in order to apportion the financial burden on maintaining the state highway system fairly on the basis of relative use. On the basis of these considerations, the FEA had concluded that the application of the FEA Regulations resulted in a gross inequity. With respect to the State's Application for Modification, the FEA found that the same considerations were present in the case of the tax increase currently under consideration. The State's request for modification was therefore granted.

W. E. Shrider Co.; Newark, Ohio; FMR–0110 Crude Oil.

The W. E. Shrider Company (Shrider) filed an Application for Modification of a Decision and Order in which the FEA granted a Stay of the refund provisions of a Remedial Order which FEA Region VI issued to Shrider on May 9, 1977. *W. E. Shrider*, 5 FEA Par. 1 (June 2, 1977). If the Application for Modification were granted, Shrider would not be required to prospectively reduce its prices for crude oil produced from the Mary B. Griggs lease (the Griggs lease) by $12.00 per barrel or to place the amount of the price reductions in an escrow account, as directed by the June 2, 1977 Stay Order. In considering Shrider's Application, the FEA concluded that, although it has on occasion exercised its discretion to supplement a stay order where a strong showing is made that extraordinary circumstances exist which warrant modification of the original order, Shrider had not submitted any material which would justify the modification which it requested. In its Application, Shrider contended that since it has an obligation as the operator of the Griggs lease to obtain the highest possible price for the crude oil which it produces, the firm could be subject to suit by the royalty and working interest owners with an interest in the lease if it were to reduce its prices as directed by the Stay Order. The FEA rejected this contention, concluding that the Remedial Order specifically directed that the maximum price which Shrider may charge for crude oil produced from the Griggs lease is the price which was charged on April 29, 1977, less $12.00 per barrel and that therefore the highest possible price which Shrider may charge is the price specified in the Remedial Order as modified by the June 2 Stay Order. On the basis of these considerations, the FEA denied the Shrider Application for Modification.

REQUEST FOR STAY

Evangeline Refining Co., Inc.; Jennings, La.; FES–0101; Crude oil

Evangeline Refining Company, Inc. requested that its obligation to purchase 27,940 entitlements, valued at $243,357.40, as specified in the Entitlements Notice published on May 23, 1977, be stayed. 42 Fed. Reg. 26352 (May 23, 1977). In considering the Application for Stay, the FEA found that Evangeline had erroneously reported its crude oil receipts and runs to stills for the month of March 1977. As a consequence, Evangeline was required to purchase entitlements having a value of $243,357.40 during the month of May 1977. If Evangeline had not made this reporting error, it would have been entitled to sell entitlements having a value of approximately $400,000. In its Application for Stay, Evangeline asserted that it did not have the financial resources to purchase the May 1977 entitlements obligation. However, Evangeline did not submit any material in support of its claim. Furthermore, Evangeline failed to even allege the existence of any of the grounds on which the FEA may grant a stay, as provided in 10 CFR 205.125(b). Evangeline's Application for Stay was therefore denied.

SUPPLEMENTAL ORDER

Lunday-Thagard Oil Co.; South Gate, Calif.; FEX–0128; Crude oil

On June 18, 1976, the FEA issued a Decision and Order to the Lunday-Thagard Oil Company granting an exception from the provisions of 10 CFR 211.67. This exception relieved the firm of any obligation to purchase entitlements during the period June through November 1976. Lunday-Thagard Oil Company, 3 FEA Par. 83,228 (June 18, 1976). In the June 18 Order, the FEA stated that a review of Lunday-Thagard's actual financial operating results would be conducted following the completion of the firm's fiscal year which ended on June 30, 1976, in order to determine whether the firm had received excessive benefits as a result of the exception relief which had been approved. The Order further stated that if Lunday-Thagard did receive excessive entitlements exception relief during its 1976 fiscal year, an adjustment would be made and the firm would be required to purchase additional entitlements to account for the excessive benefits. In reviewing the entitlements exception relief provided to Lunday-Thagard during its 1976 fiscal year, the FEA determined that the firm did not attain either its historical profit margin or its historical return on invested capital during its 1976 fiscal year. However, since Lunday-Thagard had received 100 percent exception relief from the Entitlements Program and had not exceeded either its historical profit margin or historical return on invested capital, the FEA concluded that no adjustment to the firm's 1976 entitlements exception relief was necessary at this time.

REQUESTS FOR EXCEPTION FROM NATURAL GAS PROCESSORS

The Office of Exceptions and Appeals of the Federal Energy Administration has issued Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exceptions granted permit the firms involved to increase the prices of the production of the gas plants listed below to reflect certain nonproduct cost increases:

Company	Case No.	Plant	Amount of price increase, dollar/gallon
Atlantic Richfield Co.	FXE–4159	Chesterville	$0.0357
	FXE–4160	Cossett	.0231
	FXE–4161	Elk Basin	.0316
	FXE–4162	Halley	.0135
	FXE–4163	Hull	.0483
	FXE–4164	Kermit	.0101
	FXE–4165	Lapeyrouse	.0154
	FXE–4166	Ojai Timber	.1441
	FXE–4167	Pledger	.0216
	FXE–4168	Riverton Dome	.2098
	FXE–4169	Silsbee	.0048
	FXE–4170	South Coles Levee	.0197
	FXE–4171	Taft	.0999
	FXE–4172	West Lake	.0188
	FXE–4173	Worland	.0258
Continental Oil Co.	FXE–4207	Chittim	.0087
	FXE–4208	Medford	.0700
	FXE–4209	Ramsey	.1000
	FXE–4210	Thomas	.0200
	FXE–4211	O. W. Ward	.0043
Sanford P. Fagadau	FXE–4212	Bluegrove	.1783
	FXE–4213	Maryetta	.1060
Getty Oil Co.	FXE–4185	Buena Vista Hills	.0226
	FXE–4186	Cocodrie	(1)
	FXE–4187	Cymric	.0218
	FXE–4188	Dollarhide	.0125
	FXE–4189	Katy	(1)
	FXE–4190	Kermit	.0137
	FXE–4191	Kettleman Hills	.0117
	FXE–4192	New Hope	.0175
	FXE–4193	Normanna	.0405
	FXE–4194	Old Ocean	.0153
	FXE–4195	Palacios	.0295
	FXE–4196	South Pecan Lake	.0078
	FXE–4197	Stevens Caldon	.0069
	FXE–4198	Ventura	.0270
	FXE–4199	West Bernard	.0479
Kerr-McGee Corp.	FXE–4147	Milfay	.1083
McCulloch Gas Processing Corp.	FXE–4174	Fairview	.0372
	FXE–4175	Hilight	.0218
	FXE–4176	Jamison Prung	.1458
	FXE–4177	Tule Creek	.2807
	FXE–4178	Well Draw	.0477
The Permian Corp.	FXE–4156	Possum Kingdom	.03086
	FXE–4157	Todd Ranch	.0231
Shell Oil Co.	FXE–4220	Elmwood	.0452
	FXE–4221	Goodwater	.1094
	FXE–4222	Indian Basin	.0072
	FXE–4223	Molino	.1659
	FXE–4224	Norco	.0714
	FXE–4225	Person	.0062
	FXE–4226	West Lake Verret	.0205
	FXE–4227	Yates	.0289
	FXE–4229	Fashing	(1)

Company	Case No.	Plant	Amount of price increase, dollar/gallon
Standard Oil Co. (Indiana)	FXE-4201	Lake Boeuf	.0128
	FXE-4202	South Jennings	.0318
	FXE-4203	South Thornwell	.0199
	FXE-4204	TSMA	(1)
	FXE-4307	Prentice	.04332
Standard Oil Co. of California	FXE-4200	Greeley System	.0489
Union Oil Co. of California	FXE-4145	TSMA	.0581
	FXE-4179	Adena	.0964
	FXE-4180	Dominguez	.0863
	FXE-4181	Rio Bravo	.0904

[1] Denied.

DISMISSALS

The following submissions were dismissed for failure to correct deficiencies in the firm's filings as required by the FEA Procedural Regulations:

W. E. Riley Oil Co.; Richmond, Va.; FRA-1337; FRS-1337

The following submissions were dismissed on the grounds that the request is now moot:

Texaco, Inc.; New York, N.Y.; FEA-1345

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B-120, 2000 M Street, NW., Washington, D.C 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

ERIC J. FYGI,
Acting General Counsel.

AUGUST 10, 1977.

[FR Doc.77-23401 Filed 8-12-77;8:45 am]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

Week of June 27 Through July 1, 1977

Notice is hereby given that during the week of June 27 through July 1, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPEALS

Braden-Zenith, Inc.; Wichita, Kans.; FRA-1258; Crude Oil.

Braden-Zenith, Inc. (B-Z) filed an Appeal from a Remedial Order which the Director of the Compliance Division of FEA Region VII issued to the firm on March 30, 1977. In the March 30 Remedial Order, the Regional Administrator of FEA Region VII found that during the period November 1973 through December 1975, B-Z had sold the crude oil which it produced fom the Zenith Waterflood Unit (the Unit) at prices which were in excess of the maximum permissible price levels determined in accordance with the provisions of 6 CFR 150.354 and 10 CFR 212.73. The Remedial Order required the firm to refund the full amount of the overcharges within a period of six months. In its Appeal, B-Z contended that FEA Region VII improperly assessed full liability for refunding the overcharges made in sales of crude oil from the Unit only against B-Z instead of against each of the working interest owners of the Unit. In considering this contention, the FEA observed that the agency has the discretion to serve either the operator or the working interest owners of a crude oil producing property with a Remedial Order where a finding has been made that a violation of the crude oil price regulations has occurred. The FEA further observed, however, that this discretion should be exercised in a reasonable manner which will best serve to eliminate the adverse effect of the overcharges. The FEA stated that although it generally should be presumed that a Remedial Order should be issued to the operator of a particular property with respect to all overcharges made in sales of crude oil produced and sold from that property, this presumption may be rebutted by a showing that under the particular factors present in the case under consideration it would be unduly burdensome to require the operator to discharge the full refund obligation. In the present case, however, the FEA noted that it had previously directed FEA Region VII to explicitly consider the desirability of issuing a revised Remedial Order to B-Z which would assess liability for overcharges against all of the working interest owners of the Unit rather than against only B-Z. *Braden-Zenith, Inc.*, 5 FEA Par. 80,522 (January 14, 1977). The FEA found that FEA Region VII failed to make specific findings of fact in the March 30 Remedial Order concerning the proprietary of assessing the overcharges against all of the working interest owners of the Unit. Accordingly, the B-Z Appeal was granted and the March 30 Remedial Order was rescinded.

H&K Oil Co.; Yankton, S. Dak.; FRA-1184; No. 2, Heating Oil

H&K Oil Company (H&K) appealed from a Remedial Order which FEA Region VIII issued to the firm on January 21, 1977. In the Remedial Order, the Deputy Regional Administrator of FEA Region VIII found that during the period November 1, 1973 through December 31, 1974, H&K sold heating oil to the University of South Dakota (the University) at prices which exceeded maximum permissible levels. In considering the H&K Appeal, the FEA concluded that H&K had not furnished any material which would contradict the determination reached in the Remedial Order that price and volume distinctions existed on May 15, 1973 between the University and H&K's other end-user customers and that H&K was therefore required to place the University in a separate class of purchaser. In this respect, the FEA determined that on May 15, 1973, H&K charged significantly different prices to the University and to the other customers which the firm served and that the University purchased substantially greater volumes of product than H&K's other customers. Consequently, the H&K Appeal was denied. The FEA further concluded, however, that if H&K were required to complete the refunds involved within a 180-day time period, as specified in the Remedial Order, the firm's economic viability might well be jeopardized and the Remedial Order was therefore modified to permit H&K to refund the overcharges over a period of two years.

Cecil Leung d./b./a. Imperial Richfield, Service Station; Seattle, Wash.; FRA-1268; Motor Gasoline.

Cecil Leung d./b./a. Imperial Richfield Service Station (Imperial) appealed from a Remedial Order which the Director of the Regulations Division of FEA Region X issued to it on April 5, 1977. In the Remedial Order, the FEA found that Imperial had violated the provisions of 10 CFR 210.62 by charging a fee of $.25 to its retail customers who did not purchase a full tank of motor gasoline. The Remedial Order required Imperial to calculate the amount of the overcharges which it had received and to submit that calculation to the FEA for approval. If the FEA approved that calculation, Imperial would then be required to reduce its prices for motor gasoline until the full amount of the overcharges was returned to the marketplace. In considering the Imperial submission, the FEA noted that the firm's Appeal was based upon the assertion that Imperial had never charged the $.25 fee. The FEA determined that this claim was unsupported and that, in fact, the record in the compliance proceeding contained material which clearly contradicted Imperial's claim. The Imperial Appeal was accordingly denied.

Texaco, Inc.; New York, N.Y.; FFA-1352; FMR-0109; Freedom of Information.

Texaco, Inc. (Texaco) appealed from a partial denial by the FEA Information Access Officer of two Requests for Information which the firm had submitted under the Freedom of Information Act (the Act). In its Requests, Texaco sought the disclosure of documents relating to the FEA Price Regulations. In the Order which he issued to Texaco on May 13, 1977, the FEA Information Access Officer withheld in whole or in part 38 documents which he had located which were responsive to Texaco's Requests. In its Appeal, Texaco requested that the FEA reverse the determinations made in the May 13 Order and direct the release of most of the documents which had been withheld by the Information Access Officer in that proceeding.

Texaco also submitted an Application for Modification of a Decision and Order which the FEA issued to the firm on April 29, 1977. *Texaco, Inc.*, 5 FEA Par. 80,617 (April 29, 1977). In that Order, the FEA denied in part an Appeal which Texaco had submitted from an earlier Order which the FEA Information Access Officer had issued to the firm on March 2, 1977. In the March 2, 1977 Order, the Information Access Officer had denied in part specific portions of Texaco's two information requests. Since the Appeal and Application for Modification concerned identical Requests for Information and raised related issues, the two submissions were consolidated for consideration in a single proceeding.

In considering the Texaco Appeal, the FEA determined that four documents which contained materials relating to the audit and investigative practices and procedures of the FEA were correctly withheld by the Information Access Office in the May 13 Order pursuant to the provisions of Section 552(a)(2)(C) and Section 552(b)(2) of the Act. The FEA found that the release of those documents could permit a refiner such as Texaco to discover the most effective method of preventing or obstructing an FEA investigation, and that they would not assist a refiner in complying with the provisions of the FEA Regulations. The FEA also determined that

26 documents were exempt from mandatory public disclosure in whole or in part pursuant to Section 552(b)(5) of the Act because they were intra-agency memoranda which reflected the deliberative, policy-making process of the agency. Since those documents were pre-decisional in nature, reflecting the FEA's group thinking in formulating its effective law and policy, the FEA concluded that they were properly withheld from public disclosure pursuant to the provisions of Section 552(b)(5) of the Act. In its Appeal, Texaco also contended that the FEA Information Access Officer failed to adequately respond to several specific information requests presented in the firm's two Requests for Information. However, the FEA noted that in processing Texaco's two information requests, the FEA Information Access Officer had found more than 250 documents which were responsive to the firm's requests and had released more than half of those documents to the firm. The FEA found that Texaco's general assertion that additional documents responsive to its requests must exist in FEA's files was not supported by any information in its submission and must therefore be rejected. Texaco also contended that disclosure of this material was required pursuant to the "Letter to Heads of All Federal Departments and Agencies" from the Attorney General dated May 5, 1977. That letter directs that information should not be withheld from public disclosure unless it is important to the public interest to do so. The FEA determined that there was no merit to Texaco's contention since the Information Access Officer had made a determination that, in accordance with the provisions of Section 202.1 of the FEA Regulations, the release of the requested documents would not serve the public interest. The FEA also found that neither the Decision of the United States Court of Appeals for the District of Columbia in *Home Box Office, Inc.* v. *Federal Communications Commission*, No. 75-1280, et al. (March 25, 1977), nor the FEA's Decision in *Apco Oil Corp, et al.*, 5 FEA Par. 83,109 (March 23, 1977), warranted a modification of the April 29 Decision and Order which had been issued to Texaco. Based on these considerations, the FEA denied the Texaco Appeal and Application for Modification in their entirety.

Time Oil Co.; Los Angeles, Calif., FEA-1178; Motor Gasoline.

The Time Oil Company filed an Appeal relating to two Orders which the FEA Office of Regulatory Programs had issued to the Gulf Oil Corporation (Gulf) on November 5 and December 30, 1976. In the November 5 Order, the FEA had granted Gulf's request for authority to terminate its entire regulatory obligation to supply motor gasoline to its base period and assigned customers in northern California, northern Nevada, Oregon, and Washington. *See* 10 CFR 211.9 and 10 CFR 211.14(d). In the December 30, 1976 Supplemental Decision and Order, the FEA modified the provisions of the November 5 Order and reimposed approximately 15 percent of Gulf's regulatory supply obligation for motor gasoline with respect to three of its former customers in the western United States, including an obligation to supply Time with 13,235,309 gallons of motor gasoline per year. In its Appeal, Time requested that Gulf be required to supply it with an additional 3,844,764 gallons of motor gasoline per year.

In considering the Time Appeal, the FEA found that during the 1972 base period Gulf delivered 3.8 million gallons of motor gasoline to Time at a terminal in Paramount, California. This terminal, it found, is located outside the marketing area from which Gulf had been permitted to withdraw by the November 5 Order. Since Section 211.14(d) does not explicitly authorize the FEA to approve a request for termination of a firm's regulatory obligations to supply refined petroleum products outside the area of the applicant's reduced marketing or distributing activities, the FEA determined that supplier/purchaser relationships which were based upon deliveries made outside the affected marketing area should not be terminated in accordance with the provisions of Section 211.14(d) unless the applicant demonstrated that it would be unable to supply products to the customers involved. In the present case, the FEA found that Gulf had failed to show that it would be unable to supply Time with the additional 3.8 million gallons per year which it had furnished Time at the Paramount terminal during the 1972 base period. Consequently, the FEA granted the Time Appeal and directed that Gulf should continue to supply Time with the additional quantity of motor gasoline.

REQUESTS FOR EXCEPTION

Northwest Propane, Inc.; Farmington, Mich.; FXE-4300; Propane

On March 17, 1977, the FEA issued a Supplemental Order to Northwest Propane, Inc. (Northwest) which approved an extension of exception relief which had previously been granted to the firm on April 2, 1976. *Northwest Propane, Inc.*, 5 FEA Par. 87,024 (March 17, 1977). The March 17 Order directed the Regional Administrator of FEA Region V to assign to Northwest for the period April 1, 1977 through June 30, 1977, a supplier or suppliers whose wholesale price for propane was within the range of prices paid for that product by its major competitors. The Order also specified that, upon receiving a written request from Northwest, the Regional Administrator of FEA Region V shall make a determination for any month subsequent to June 1977 as to whether Northwest would continue to experience a serious hardship unless further exception relief were approved. In accordance with the terms of that Order, Northwest requested an extension of exception relief. In considering that request, FEA Region V determined that a significant disparity between the prices which Northwest must pay its base period supplier and the prices which Northwest's competitors pay for propane no longer existed. After considering this factor, the material assembled by the Regional Administrator and the prior record in this matter, the FEA concluded that Northwest was no longer experiencing serious financial difficulties as a result of the application to it of the FEA Regulations. The Northwest request for an extension of exception relief was therefore denied.

U.S. Department of the Interior for the Government of the Northern Mariana Islands; Washington, D.C.; Fee-3619; Residual Fuel Oil.

The United States Department of the Interior (the Department) filed, on behalf of the Government of the Northern Mariana Islands (the GNMI), an Application for Exception from the provisions of 10 CFR 211.67(d)(2). If the Department's request were granted, certain sales of residual fuel oil to the GNMI made by the Guam Oil & Refining Company, Inc. (Gorco) would be deemed to be sales made within the United States, thus eliminating the application of Section 211.67(d)(2) to those sales. Section 221.67(d)(2) reduces the financial benefits which a refiner receives under the FEA Entitlements Program in proportion to the volume of refined petroleum products sold by that refiner outside the United States. In considering the Department's request, the FEA determined that the strict application of Section 211.67(d)(2) in the case of residual fuel oil sales to the GNMI produced a result which was not intended by the regulation. The FEA observed that the primary purpose of Section 211.67(d)(2) is to assure that the benefits of the Entitlements Program are retained within the domestic economy. However, the funds which the GNMI uses to operate its electrical power generation facility are provided directly by the United States Government, rather than by a foreign purchaser. Furthermore, the FEA found that the additional costs which the GNMI would incur in the absence of exception relief, representing nearly four percent of its total annual budget, would have a serious adverse impact on the Northern Mariana Islands. The FEA therefore determined that the application of Section 211.67(d)(2) under these circumstances resulted in a gross inequity to the GNMI and granted the Department's Application. In addition, the FEA determined that compelling reasons had been presented for making the exception relief which was approved retroactive to March 31, 1977.

REQUESTS FOR STAY

R. D. Bowerman; d.b.a. Executive Center Gulf; San Antonio, Tex.; FRS-1354; Motor Gasoline.

R. D. Bowerman d.b.a. Executive Center Gulf (Bowerman) requested that a Remedial Order which had been issued to the firm on May 23, 1977 be stayed pending a final determination of the firm's Appeal of that Order. In the May 23 Remedial Order, the FEA found that Bowerman had been charging prices for motor gasoline which exceeded the maximum allowable prices specified in 10 CFR 212.93. The Remedial Order therefore directed Bowerman to refund the overcharges to its customers by implementing price reductions on its sales of motor gasoline until the full amount of the overcharges plus interest had been refunded. In considering Bowerman's contention that the provisions of the Remedial Order should be stayed, the FEA applied the principles previously established in *General Crude Oil Company*, 3 FEA Par. 85,040 (June 25, 1976). On the basis of those principles, the FEA concluded that a Stay was warranted with respect to the refund provisions of the Remedial Order in order to ensure that Bowerman would not incur an irreparable injury while its Appeal was pending. The FEA further determined that it would be inappropriate to require Bowerman to place the disputed funds into an escrow account since the continued operations of the firm could be seriously jeopardized by that requirement.

C&H Refinery, Inc.; Lusk, Wyo.; FES-4318; Crude Oil.

C&H Refinery, Inc. (C&H) filed an Application for Stay of the provisions of 10 CFR 211.67(e)(2) pending a final determination on an Application for Exception which the firm had submitted. If its request were approved, C&H would be issued additional entitlements for the crude oil which had been processed for its account pursuant to agreemetns with other refiners. Under the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program), firms which qualify as small refiners are issued additional entitlements (bias entitlements) during each month based on the level of their reported daily crude oil runs to stills. Until Section 211.67(e)(2) was amended in 42 Fed. Reg. 21269 (April 26, 1977), crude oil which was processed for a small refiner's account by another refiner had been included in the crude oil runs of the small refiner for purposes of the small refiner bias calculation.

Under the new provisions of Section 211.67(e)(2), effective June 1, 1977, bias entitlements are no longer issued for any portion of a small refiner's crude oil runs that is attributable to a processing agreement for its account. These regulations were amended on the basis of the FEA's determination that the prior system had been abused and that a number of processing agreements involving small refiners had no apparent business justification other than to earn bias entitlements. In its submission, C&H claimed that in order to obtain the financing necessary to expand the capacity of a refinery which it owns in Lusk, Wyoming, the firm was required to demonstrate to its potential lenders that it would have an assured source of crude oil for its expanded facilities. C&H claimed however that since it was unable to process in its refinery the crude oil which it presently purchased until the completion of the expansion, it must have its crude oil processed by other refiners. The firm asserted that under the terms of the processing agreements which it executed, it would incur a loss on every barrel of refined products which it sells unless it were permitted to receive the full measure of bias entitlements which it received prior to June 1, 1977. C&H also claimed that unless additional bias entitlements were issued to the firm, it would be forced to breach a crude oil supply contract by refusing to accept delivery for processing by another refinery two cargoes of crude oil which it was already committed to purchase. On the basis of these contentions, C&H asserted that denial of a stay would irreparably injure the firm's commercial reputation. C&H also maintained that it had demonstrated a substantial likelihood of success on the merits of its Application for Exception from the provisions of Section 211.67(e)(2). In considering the request for stay, the FEA noted that the amendment to Section 211.67(e)(2) was specifically intended to have the effect of removing economic incentives to continue processing agreements of the type present in this case in order to eliminate economic distortions which frustrated the statutory objectives of the FEA regulatory program. The FEA determined that any injury which C&H would incur as a result of its various contractual commitments resulted from independent business decisions which C&H had made in apparent disregard of the impending elimination of bias entitlements for processing agreements. The FEA further determined that since C&H had failed to make a *prima facie* showing that it would prevail on the merits of its exception application, it would not be appropriate to approve the affirmative interim exception relief which the firm requested. The Application for Stay was accordingly denied.

Industrial Fuel Oils, Inc., Washington, D.C.; FRS-1358; Nos. 2, 5 & 6; Fuel Oils

Industrial Fuel Oils, Inc. (IFO) filed an Application for Stay of a Remedial Order which was issued to the firm by FEA Region V on May 17, 1977. In the Remedial Order, the FEA directed IFO to refund the revenues which it had realized from charging prices for Nos. 2, 5 & 6 fuel oils in excess of the maximum permissible prices specified in 6 CFR 150.359 an d10 CFR 212.93. In its Application, IFO requested a stay of the refund requirements of the Remedial Order pending a final determination on an Appeal of the Remedial Order and an Application for Exception which the firm had submitted. In considering the stay request, the FEA determined that IFO had raised significant substantive issues in its submission, and had also demonstrated that it could experience an irreparable injury if it were forced to immediately comply with the refund provisions of the Remedial Order. The FEA therefore found that a stay of the refund provisions of the Remedial order was warranted under the precedent established in *General Crude Oil Co.*, 3 FEA Par. 85,040 (June 15, 1976). However, the FEA also determined that the firm should be required to place the alleged overcharges into an escrow account pending a final determination of its Appeal and Application for Exception.

Jay Oil Co.; Tulsa Okla.; FRS-0097; Refined Petroleum Products

The Jay Oil Co. (Jay) filed an Application for Stay of a Remedial Order which had been issued to the firm by FEA Region VI on May 6, 1977. In the Remedial Order, the Director of Compliance of FEA Region VI found that during the period November 1, 1973 through February 28, 1975, Jay had sold motor gasoline and diesel fuel to its customers at price levels which were in excess of the maximum permissible levels for the products specified in 10 CFR 212.93, and he directed Jay to refund to its customers the overcharges (plus interest) which it had improperly obtained during that period. In considering the stay request, the FEA determined that the firm had satisfied the criteria for a stay set forth in *General Crude Oil Co.*, 3 FEA Par. 85,040 (June 25, 1976), *modified* 3 FEA Par. 85,040 (July 8, 1976), by showing that it would raise substantial issues in its Appeal of the Remedial Order and that it would be unduly burdensome for the firm to recover the refunds which it was required to make to its customers if it were to succeed on the merits of its Appeal. Accordingly, its Application was granted. Moreover, in view of the showing which Jay made in its Application regarding its present financial situation, the FEA also waived the generally applicable requirement that an escrow account be established.

W. E. Riley Oil Co.; Petersburg, Va.; FRS-1364; Motor Gasoline Middle Distillates

The W. E. Riley Oil Co. (Riley) requested that the provisions of a Remedial Order which the FEA issued to the firm on May 9, 1977, be stayed pending a final determination of its Appeal from that Order. In the Remedial Order, the FEA found that Riley had sold motor gasoline and middle distillates at prices which exceeded the maximum price levels permissible under the FEA Regulations and directed the firm to make refunds to its identifiable customers. The Remedial Order also provided that, in order to make restitution to its unidentifiable customers for these overcharges, Riley must either reduce its maximum allowable selling prices or its current actual selling prices, whichever are lower, by two cents per gallon until those overcharges have been returned to the marketplace. In its Application for Stay, Riley stated that it had complied with that portion of the Remedial Order which directed the firm to implement price reductions, but requested that the refund provisions of the Remedial Order be stayed. In considering the request for stay, the FEA determined that Riley would experience an irreparable injury if it were required to make refunds to its customers since the firm could experience substantial difficulty in recovering the funds in the event that it prevails on the merits of its appeal. Furthermore, the FEA found that Riley had raised substantial issues which must be considered in making a determination on the merits of the firm's Appeal. Consequently, the FEA determined that a stay of the Remedial Order was warranted on the condition that Riley establish an escrow account into which it must deposit a portion of the amount of the refunds specified in the Remedial Order.

SUPPLEMENTAL ORDER

Little America Refining Co.; Evansville, Wyo.; FEX-0130; Crude Oil

On June 17, 1976, the FEA issued a Decision and Order to the Little America Refining Co. (LARCO) which granted the firm exception relief from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) during the months of June through November 1976. *Little America Refining Co.*, 3 FEA Par. 83,227 (June 17, 1976). Based on subsequent events which altered the factual basis of that Order, on August 11, 1976, the FEA issued a Supplemental Order to LARCO which rescinded the exception relief approved in the June 17 Order insofar as it applied to the months of September through November 1976. *Little America Refining Co.* (Supplemental Order), 4 FEA Par. 87,005 (August 11, 1976). Subsequently, on February 4, 1977, the FEA issued a further Supplemental Order to LARCO in which the FEA noted the necessity of conducting a subsequent review of the exception relief which had been granted to LARCO with respect to its crude oil receipts and runs to stills during the months of April through June 1976. *Little America Refining Co.* (Supplemental Order), 5 FEA Par. 87,013 (February 4, 1977). *See also, Beacon Oil Co.*, 3 FEA Part. 83,209 (June 8, 1976). According to the February 4 Order, if the review resulted in the determination that LARCO had received excessive exception relief during the June through August 1976 period, an adjustment would be made and the firm would be required to purchase entitlements to account for the excessive benefits. Based upon a subsequent review which it conducted, the FEA determined that LARCO had received an excessive measure of exception relief during the June through August 1976 period. LARCO was therefore required to purchase additional entitlements having a total value of $879,584 during the period July 1977 through June 1978.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Exceptions and Appeals of the Federal Energy Administration has issued Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exceptions granted permit the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases:

Company	Case No.	Plant	Amount of price increase, dollar/gallon
Belridge Oil Co.	FXE-4208	Kern County	$0.0990
Champlin Petroleum Co.	FXE-4267	East Texas	.0322
	FXE-4268	Gulf Plains	.0477
	FXE-4269	Mayfield	.0579
	FXE-4270	Peoria	.0148
	FXE-4271	South Fullerton	.0280
Cities Service Co.	FXE-4247	Bluitt	.0866
	FXE-4248	Citronelle	.0626
	FXE-4249	Garrett	.0420
	FXE-4250	Kimball	.0616
	FXE-4251	May	.0412
	FXE-4252	Midway	.0469
	FXE-4253	Myrtle Springs	.1023
	FXE-4254	Panola	.0133
	FXE-4255	Red Fish Bay	.0072
	FXE-4256	Rio Grande	.0237
	FXE-4257	Robstown	.0708
	FXE-4258	St. Amelia	.0277
	FXE-4259	Star Lacey	(1)
	FXE-4260	West World	.0184
Halliburton Co./Vessels Gas Processing Co.	FXE-4341	Irondale	.0883
Kansas-Nebraska Natural Gas Co., Inc.	FXE-4301	Yenter	.0195
Mobil Oil Corp.	FXE-4235	Union-Adena	.0041
	FXE-4236	Cotton Valley	.0182
	FXE-4237	Cow Island-Riverside	.0117
	FXE-4238	Delhi	.0053
	FXE-4239	Elwood	.0161
	FXE-4240	Greeley	.0442
	FXE-4241	Heyser	.1927
	FXE-4242	Gulf-Knox	.0164
	FXE-4243	Postle Hough	.0102
	FXE-4245	R. M. Stephens	.0244
	FXE-4246	Vanderbilt	.0785
Sun Co., Inc.	FXE-4299	Mayfield	.0498
	FXE-4331	Maurice	.0523
	FXE-4376	Carney	.1116
	FXE-4377	Concho	.0428
	FXE-4378	Tonkawa	.1203
Tenneco oil Co.	FXE-4287	Pearce	.0226
	FXE-4288	Prentice	.0418
Texaco, Inc.	FXE-4308	Apache	.0229
	FXE-4309	Blessing	.0455
	FXE-4310	Lamesa	.0244
	FXE-4311	Lockridge	.0393
	FXE-4312	Mermentau	.0316
	FXE-4313	North Cowden	.0959
	FXE-4314	Old Ocean	.0109
	FXE-4315	Ozona	.0053
	FXE-4316	Pampa	.0147
	FXE-4317	Wilcox	.0071
	FXE-4347	Pegasus	(1)
Upham Oil and Gas Co.	FXE-4286	Chico	.0305

[1] Denied.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Mary E. Griggs; Logan, Ohio; FEE-4335; FRA-1349
House Oil Co.; Clare, Mich.; FEE-4046

The following submissions were dismissed following a determination by the FEA that the relief requested was unnecessary:

Chevron U.S.A.; San Francisco, Calif.; FEA-1332; FEA-1338

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in "Energy Management: Federal Energy Guidelines," a commercially published loose leaf reporter system.

Dated: August 10, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-23500 Filed 8-12-77;8:45 am]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

Week of July 5 Through July 8, 1977

Notice is hereby given that during the week of July 5 through July 8, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPENDIX

APPEALS

Ashland Oil Co.; Oakland, Calif.; FXA-1193; Motor Gasoline

Ashland Oil Co. filed an Appeal from a Decision and Order which the FEA issued to the firm on January 14, 1977. *Ashland Oil Co. of California*, 5 FEA Par. 83,038 (January 14, 1977). In the previous determination, the Regional Administrator of FEA Region IX was directed to assign a supplier or suppliers to Ashland whose prices for motor gasoline were within the range of prices charged for that product by major suppliers. During the period from January through July 1977 the assigned suppliers were required to make available to Ashland a portion of the total motor gasoline which Ashland would otherwise be entitled to receive from its principal base period supplier, Coastal States Gas Producing Co. (Coastal States). Ashland's Appeal if granted, would result in the assignment of a lower-cost supplier for its entire base period use of motor gasoline from Coastal States. In considering the Appeal, the FEA found no basis for Ashland's contention that the FEA had erred in concluding that the firm could realize a gross margin of one cent per gallon in resales of motor gasoline purchased from Coastal States. The FEA also found that, contrary to the claim advanced by Ashland, Coastal States was willing to supply it and Ashland had, in fact, purchased significant volumes of motor gasoline from Coastal States during the first four months of 1977. The FEA further determined that Ashland had failed to submit any factual material which substantiated its contention that the approval of additional exception relief would not create any destabilizing effects in the California market area. Finally, the FEA held that the January 14 Decision had set forth a sufficient factual basis for its conclusion that the firm's financial difficulties were attributable in part to its own business decisions. Accordingly, the FEA denied the Appeal.

Johns-Manville Corp.; Denver, Colo.; FXA-1350; Freedom of Information

Johns-Manville Corp. (J-M) appealed from a partial denial by the FEA Information Access Officer of a Request for Information which the firm had submitted under the Freedom of Information Act (the Act). In its initial Request, J-M sought access to a document entitled "Summary Evaluation of the Feasibility of Total Conversion of Coal Firing for the Waukegan BM Plant of Johns-Manville Corporation" which was prepared under an FEA contract by PEDCo Environmental, Inc. The report was prepared in order to assist the FEA in determining whether a Notice of Intent (NOI) should be issued to J-M under the Energy Supply and Environmental Coordination Act of 1974 (ESECA) which would require the firm's No. 6 boiler to cease burning natural gas or petroleum products as its primary energy sources. The Information Access Officer denied access to the entire report, with the exception of the title page, on the grounds that the report was exempt from disclosure under the provisions of both the intra-agency memorandum exemption of 5 U.S.C. 552(b)(5) and the exemption for investigatory records of 5 U.S.C. 552(b)(7)(A). In considering J-M's Appeal, the FEA determined that the report did not relate to an existing enforcement proceeding and concluded that the Information Access Officer erred in withholding the document pursuant to the investigatory records exemption. However, the FEA also found that, with the exception of three paragraphs, the report consisted of recommendations and analyses regarding the implementation of the coal conversion program. On the basis of that determination, the FEA held that the intra-agency memoranda exemption of Section 552(b)(5) provided a proper foundation to withhold all but those three paragraphs of the report. Since the three paragraphs contained purely factual information and were easily segregable from the remainder of the report, the FEA held that they should be released to J-M. Finally, the FEA determined that in order to properly serve the public interest, the balance of the report should be released after the FEA either issues an NOI to J-M or makes a determination that an NOI will not be issued.

REQUESTS FOR EXCEPTION

Colonial Oil Co.; Alexandria, Va.; FXE–4333; Motor Gasoline

On June 15, 1977, the Colonial Oil Co. filed an Application for Exception in which it requested an extension of the exception relief which had been approved on a number of previously occasions. See Colonial Oil Co., 5 FEA Par. 83,128 (April 7, 1977); *Colonial Oil Co.*, 2 FEA Par. 83,201 (July 3, 1975). In the prior Decisions, the FEA found that the maintenance of the firm's base period supplier/purchaser relationships resulted in a serious hardship to the firm. The FEA therefore granted exception relief which directed the Regional Administrator of FEA Region IV to assign a lower-cost supplier to replace Colonial's principal base period supplier, American Petrofina, Inc. (Fina). However, in the April 7, 1977, Decision, the FEA indicated that if Colonial should request a further extension of exception relief, the FEA would consider the extent to which Colonial had pursued other available administrative remedies, including the submission of an Application for Excepton requesting that Fina place Colonial in a different class of purchaser. In its present Application, Colonial stated that it had not filed that type of exception request. The FEA found that Colonial had failed to adequately explain why it had not pursued that form of relief. Accordingly, the FEA denied the firm's request for an extension of exception relief. In addition, the FEA found that although the firm's prior exception application had been submitted to the FEA nearly two months after the date on which Colonial entered into a settlement agreement with Fina, the previous application contained no indication that the agreement exsted or that the firm had received a substantial cash payment from Fina. The FEA concluded that the existence of the settlement agreement and the financial impact of the cash payment from Fina would certainly have been relevant to the consideration of Colonial's prior exception application. The FEA therefore directed that the prior exception proceeding be reopened.

Gulf Oil Corp.; Tulsa, Okla.; FEE–4066; Crude Oil

Gulf Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell the crude oil which it produces from the Northwest Graylin "D" Sand Unit (the Graylin Unit) at upper tier ceiling prices. In considering Gulf's Application, the FEA determined that the costs of producing crude oil from the Graylin Unit had increased significantly since 1973 and that those costs now exceed the prices which Gulf is permitted to charge for the crude oil. Consequently, the FEA determined that Gulf does not have an economic incentive to continue production from the Graylin Unit. The FEA also found that if the Graylin Unit were abandoned, a significant quantity of otherwise recoverable domestic crude oil would not be produced. On the basis of previous Decisions involving similar factual situations, the FEA concluded that the application of the lower tier ceiling price rule resulted in a gross inequity to Gulf. In determining the appropriate measure of exception relief, the FEA observed that, because of the particular manner in which Gulf allocates its administrative overhead expenses, the per barrel costs allocated to the Graylin Unit had increased significantly between the historical base period quarter and the firm's two most recently completed fiscal quarters. However, the FEA found that this increase was a direct result of a decline in the production of crude oil from the property, rather than an actual increased expense to Gulf and the other working interests. The FEA concluded that an adjustment should be made with respect to the current administrative overhead cost per barrel which Gulf had allocated to the Graylin Unit. After making this adjustment, the FEA determined that Gulf should be permitted to charge upper tier ceiling prices for 42.66 percent of the crude oil produced from the Graylin Unit for the benefit of the working interest owners.

Linden's Propane Service, Inc.; Cleveland, Ohio; FEE–3744; Propane

Linden's Propane Service, Inc. (Linden) filed an Application for Exception from the provisions of 10 CFR 211.9. The exception request, if granted, would result in the issuance of an order which would assign the firm a new supplier of propane to replace its base period supplier, the Union Oil Company of California, and direct the new supplier to furnish Linden with 82.55 percent of its base period use of propane. In considering the Application, the FEA found that Linden had actually obtained more propane and achieved a higher level of profitability during this past winter than the firm experienced during the preceding two winters. The FEA thus concluded that Linden had not experienced any serious adverse consequences as a result of maintaining its supplier/purchaser relationship with Union. The Linden Application was therefore denied.

M. J. Mitchell; Dallas, Tex.; FXE–4266; Crude Oil.

M. J. Mitchell (Mitchell) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit Mitchell to sell the crude oil which it produces from the Mitchell State Minnelusa Sand Unit at upper tier ceiling prices. In considering the Application, the FEA found that although the cost of producing crude oil from the Unit had increased since 1973, Mitchell's current production costs per barrel did not exceed the lower tier ceiling price for the crude oil. Moreover, the expenses which Mitchell had incurred for cable replacement and submersible pump repairs were not the type of operating expenses which the FEA considers in the computation of a firm's per barrel production costs. The FEA held that these expenses should be treated as capital expenditures which at the present time have no bearing upon Mitchell's economic incentive to continue production from the Unit. Since Mitchell had failed to demonstrate the absence of an economic incentive to continue production operations, the Application was denied.

Mid-Michigan Truck Service, Inc.; Grand Rapids, Mich.; FXE–4334; Motor Gasoline.

On January 6, 1977, the Federal Energy Administration issued a Supplemental Order to Mid-Michigan Truck Service, Inc. in which it approved an extension of the exception relief which had been originally granted to the firm on May 20, 1976. *Mid-Michigan Truck Service, Inc.*, 5 FEA Par. 87,003 (January 6, 1977). In the previous determination, the FEA ordered Gulf Oil Corporation to supply Mid-Michigan directly with its base period use of petroleum products during the January 1 through June 30, 1977 period, rather than through the use of a substitute supplier. In addition, the Regional Administrator of FEA Region V was directed to determine whether Mid-Michigan would continue to experience a serious hardship unless it receive additional relief after June 1977, and recommend to the FEA Office of Exceptions and Appeals whether exception relief should be extended. Based on the data submitted to Region V by Mid-Michigan and the recommendation of the Regional Administrator, the FEA determined that Mid-Michigan would continue to incur operating losses in the absence of continued exception relief. An extension of exception relief was therefore approved for the period July 1 through December 31, 1977.

Sabre Refining, Inc.; Bakersfield, Calif.; FXE–4337; Crude Oil.

Sabre Refining, Inc. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would result in an extension of the exception relief which the FEA granted to Sabre in a Decision and Order issued on December 23, 1976. *Sabre Refining Co.*, 5 FEA Par. 83,014 (December 23, 1976). The prior determination relieved the firm of its obligation to purchase entitlements during the period November 1976 through April 1977. In support of its request, Sabre submitted projected financial statements for its fiscal year ending October 31, 1977 as well as projections as to its monthly crude oil runs to stills and receipts of old, new and imported crude oil. In considering Sabre's Application, the FEA found that in the absence of exception relief, the firm would be required to purchase entitlements at a substantial cost commencing with the month of July 1977. The FEA also found that as a result of the projected entitlements expense which Sabre would incur during its current fiscal year, the firm's profit margin and return on invested capital would fall to achieve historical levels. The FEA concluded that under the criteria set forth in prior cases, an extension of exception relief was warranted. Accordingly, the FEA granted Sabre an exception relieving the firm of its obligation to purchase entitlements valued at $499,869 per month during the six month period July through December 1977. However, the FEA noted that the exception relief would be re-evaluated at the conclusion of the firm's current fiscal year, as well as in the event of a request for a further extension of relief beyond December 1977.

B. W. Whittington; Corpus Christi, Tex.; FEE–3907; Crude Oil.

B. W. Whittington (Whittington) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would relieve Whittington of any obligation to refund revenues which he realized as a result of charging excessive prices for the crude oil produced from the State Tract 180 Lease located in Kleberg County, Texas. Whittington also requested prospective exception relief which would permit him to sell the crude oil produced from the Lease at a price which exceeds the lower tier ceiling price set forth in 10 CFR 212.73. In considering the exception request, the FEA found that Whittington had not made the requisite showing to qualify for retroactive relief since he did not even contend that the possible refund obligation would result in an irreparable injury. With respect to the request for prospective relief, the FEA found that, since the Lease was generating substantial profits, exception relief was unnecessary to provide Whittington with an economic incentive to continue production operations. On the basis of prior Decisions involving similar factual situations, the FEA concluded that the application of the lower tier ceiling price rule to the State Tract 180 Lease did not result in a gross inequity to Whittington. Accordingly, exception relief was denied.

REQUEST FOR STAY

J. C. and J. H. McClure, d.b.a. McClure Oil Co., et al.; Konawa, Okla.; FRS-1359; Refined Petroleum Products

J. C. and J. H. McClure, d.b.a. McClure Oil Company, et al. (McClure) filed an Application for Stay of a Remedial Order which FEA Region VI issued to the firm on June 2, 1977. In the Remedial Order the FEA found that McClure had sold motor gasoline, No. 2 diesel fuel and propane at prices in excess of those permitted under FEA Regulations. The request for stay, if granted, would relieve McClure of its obligation to comply with the refund provisions of the Remedial Order pending the FEA's determination on an Appeal of that Order. The FEA found that McClure had raised substantial issues in its Appeal. The FEA also found that if the firm were required to make refunds prior to a determination on its Appeal, it might encounter an inordinate degree of difficulty in recovering those funds if its Appeal were granted. Therefore, the FEA concluded that a stay was warranted on the basis of the principles established in General Crude Oil Co., 3 FEA Par. 85,040 (June 25, 1976). However, the FEA concluded that the stay should be conditioned upon the establishment of an escrow account with respect to those refunds which the Remedial Order directed McClure to make to identifiable customers.

SUPPLEMENTAL ORDER

Powerine Oil Co.; Santa Fe Springs, Calif.; FEX-0168; Crude Oil

On April 11, 1977, the FEA granted an Appeal which the Powerine Oil Company had filed from a Decision and Order issued to the firm on November 5, 1976. Powerine Oil Co., 5 FEA Par. 80,603 (April 11, 1977). The April 11 determination had the effect of granting Powerine additional entitlement exception relief amounting to $243,687, in order to provide the firm with appropriate exception relief during its fiscal year ending January 31, 1976. Subsequent to the issuance of the April 11 Decision, Powerine notified the FEA that it believed the determination was based on an erroneous calculation of its return on invested capital (ROIC). The firm contended that the additional exception relief should have been $291,429, rather than $243,687 as specified in the April 14 Order. Based on a review of the financial data submitted by Powerine, the FEA determined that Powerine was correct in its contention that the additional exception relief should have been granted. A Supplemental Order was therefore issued which permitted Powerine to sell additional entitlements equivalent to $47,742 ($291,429 less $243,687) during the month of July 1977.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Exceptions and Appeals of the Federal Energy Administration has issued Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exceptions granted permit the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases:

Company	Case No.	Plant	Amount of price increase, dollar/gallon
Florida Gas Co.	FEE-4063	Brooker	$0.226
Gary Operating Co.	FEE-4064	Altonah	0.0755
Superior Oil Co.	FEE-4020	Lowry	(1)
	FEE-4093	Levelland	.0149
	FEE-4094	West Seminole	.0219

[1] Denied.

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Diamond Shamrock Corp.; Amarillo, Tex.; FEE-4100
Mobil Oil Corp.; New York, N.Y.; FXE-4244
Superior Oil Co.; Houston, Tex.; FEE-4049

The following submissions were dismissed after the applicant repeatedly failed to respond to requests for additional information:

Automotive Sales, Inc.; Gorham, N.H.; FRS-1234
Univar Corp.; Seattle, Wash.; FMR-0101

The following submission was dismissed on the grounds that alternative regulatory procedures existed under which relief might be obtained:

City of Richmond; Richmond, Va.; FEE-4362

The following submissions were dismissed following a determination by the FEA that no regulatory provisions existed under which these Requests for Modification or Rescission could be reviewed:

Amams Oil Co., Inc.; Charlottesville, Va.; FMR-0111
Husky Oil Co. of Delaware; Washington, D.C.; FMR-0113
Petroleum Management, Inc.; Wichita, Kans.; FMR-0112

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: August 10, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-23505 Filed 8-12-77;8:45 am]

ISSUANCE OF DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

Week of July 11 Through July 15, 1977

Notice is hereby given that during the week of July 11 through July 15, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPENDIX

APPEALS

Domind Petroleum Corp., Inc.; Hopewell Junction, N.Y.; FRA-1148; No. 2, Heating Oil

Domind Petroleum Corporation, Inc. appealed from a Remedial Order which was issued to it by FEA Region II on November 29, 1976. In the Remedial Order, the FEA found that Domind sold No. 2 heating oil at prices which exceeded the maximum permissible prices specified in 10 CFR 212.93. The Remedial Order therefore directed Domind to institute a refund program within 60 days of the issuance of the Order. On January 31, 1977, the FEA stayed the refund obligations specified in the Remedial Order pending a determination on the merits of Domind's Appeal of the Order. Domind Petroleum Corp., Inc., 5 FEA Par. 85,025 (January 31, 1977). In considering the Appeal, the FEA first rejected the firm's contention concerning its inclusion of certain storage facility construction costs in its computation of increased product costs. The FEA observed that the costs attributable to those facilities were not expenses incurred in the transport of No. 2 heating oil into Domind's inventory, and were consequently not increased product costs. However, the FEA also determined that the Remedial Order had incorrectly computed the weighted average unit cost of product in Domind's inventory and had therefore overstated the amount of the firm's overcharges. In addition, the FEA further found that since the Remedial Order did not contain the type of factual findings necessary to support the conclusions reached Domind was unable to submit a meaningful response to those determinations on Appeal. Accordingly, the Remedial Order was remanded to the Regional Administrator of FEA Region II for further consideration.

Standard Oil Co. of Calif.; San Francisco, Calif.; FRA-1169, Aviation Jet Fuel

Standard Oil Company of California (SOCAL) filed an Appeal from a Remedial Order which was issued to the firm by the Regional Administrator of FEA Region IX on January 20, 1977. The Remedial Order directed SOCAL to consider the difference in the increased products allocated to the naphtha-base and kerosene base aviation jet fuel during the period May 1, 1974 through February 10, 1975 as recovered under the equal application rule. In its Appeal, SOCAL argued that since the equal application rule was not adopted until September 1, 1974, the subsequent application of that rule to the period May through August 1974 was improper and unlawful. In considering this contention, the FEA observed that the same argument had been thoroughly considered and rejected in a prior Decision and Order which was issued to the Phillips Petroleum Company. Phillips Petroleum Co., 2 FEA Par. 80,599 (May 30, 1975). The FEA also rejected SOCAL's contention that Ruling 1974-12 permitted the unequal application of increased product costs in selling prices for that period of time. The FEA noted that the Ruling only addressed the factual situation in which the unequal application of product costs resulted from contractual price restrictions. The FEA further concluded that the FEA had sufficiently substantiated the necessity for waiving the normal ten day period for comment in promulgating the

equal application rule in accordance with Section 7(1)(1)(B) of the Federal Energy Administration Act of 1974. Accordingly, the SOCAL Appeal was denied.

Tipperary Corp., Corpus Christi, Tex.; FRA-1143; Crude oil

Tipperary Corporation appealed from a Crude Oil Allocation Order issued by the Deputy Assistant Administrator for Operations of the Office of Regulatory Programs of the FEA on December 7, 1976. In that Order, the FEA determined that when a refinery which Tipperary proposes to build at Corpus Christi, Texas becomes operational, the firm will be eligible to purchase 112,317 barrels of crude oil during each allocation quarter pursuant to the Refiner's Buy-Sell Program. In making this determination, the Office of Regulatory Programs evaluated the firm's petition for an allocation of crude oil for future refining capacity in accordance with the standards set forth in Section 211.65(b) and the Appendix to Section 211.65(b) entitled "Evaluation of Applications for Future Refining Capacity Allocations under 10 CFR 211.65(b)," (the Appendix). In its Appeal, Tipperary challenged the validity of the standards that the FEA used to determine the volume of crude oil assigned to the firm. Tipperary asserted that the standards contravened the intent of Congress in its enactment of the Emergency Petroleum Allocation Act of 1973, as amended (the EPAA). In reviewing this assertion, the FEA found that both the statutory provisions of the EPAA and the underlying legislative history supported the application of criteria such as those outlined in Section 211.65(b) for the award of crude oil allocations to future refining capacity. Consequently, the FEA determined that the criteria set forth in Section 211.65(b) not only promoted economic efficiency in the petroleum industry but also fostered the development of a economically sound and competitive refining sector of the industry. In considering the firm's assertions that each of the four standards set forth in Section 211.65(b) were improperly applied to Tipperary's future refining capacity, the FEA determined that the Office of Regulatory Programs had correctly applied the standards concerning the source and volume of crude oil available to future refining capacity and the applicant's efforts to obtain or locate that crude oil to the facts presented by Tipperary. However, the FEA also found that the Office of Regulatory Programs had improperly evaluated Tipperary's application with respect to the standards concerning the economic feasibility of the future refining capacity and the proposed refinery's design. In view of these findings, the FEA remanded these portions of the Order to the Office of Regulatory Programs for additional analysis.

Washington News Services, Inc.; Kensington, Md.; FFA-1361; Freedom of Information

Washington News Services, Inc. (Washington) appealed from a partial denial by the FEA Information Access Officer of a Request for Information which it had submitted under the Freedom of Information Act (the Act). In its initial request, Washington sought the release of mailing lists containing the names and addresses of recipients of various FEA publications. In considering the initial request, the Information Access Officer determined that the FEA did not maintain mailing lists for these publications. According to the Information Access Officer, six of these mailing lists were in the possession of the National Technical Information Service (NTIS) of the Department of Commerce. The Information Access Officer further determined that no mailing lists at all existed with respect to the five remaining publications. In its Appeal, Washington contended that mailing lists must exist and it was the FEA's responsibility to produce them. In considering Washington's Appeal, the FEA found that mailing lists did not in fact exist for five of the publications. Moreover, the FEA observed that mailing lists for the other six publications were maintained by the NTIS, and that the FEA did not have copies of these lists. Finally, the FEA found that nothing in the Act required the FEA to obtain copies of those lists maintained by NTIS as an intermediary for Washington nor to create documents merely to satisfy a request under the Act. The Appeal was accordingly denied.

REQUESTS FOR EXCEPTION

Arizona Fuels Corp.; Salt Lake City, Utah; FXE-4263; Crude Oil

Arizona Fuels Corporation filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which, if granted, would relieve the firm of its obligation to purchase entitlements beginning with the month of July 1977. In support of its exception request, Arizona submitted projected financial statements for its current fiscal year ending October 31, 1977 and projected monthly crude oil runs to stills and receipts of old, new and imported crude oil for the fiscal year. In considering Arizona's exception request, the FEA determined that as a result of Arizona's crude oil runs and receipts during the current fiscal year, the firm would be required to purchase entitlements at a substantial cost commencing with the month of July 1977. As a result of the projected entitlements cost which Arizona would incur during its current fiscal year, the firm's profit margin and return on invested capital would be below historical levels. Under the criteria set forth in previous decisions, the FEA granted Arizona's Application for Exception relieving the firm of sufficient entitlement purchase obligations during the six month period July through December 1977 to permit Arizona to achieve its historical return on invested capital during the current fiscal year. However, the FEA noted in the Decision which it issued that the relief approved to Arizona would be reevaluated if the firm requested an extension of exception relief beyond December 1977 and, as a matter of course at the conclusion of the firm's current fiscal year.

Doss, Inc.; Eupora, Miss.; FEE-3562; Propane

Doss, Inc. filed an Application for Exception from the provisions of 10 CFR 212.92 and 10 CFR 212.93 in which it sought an exception to permit it to retroactively compute its increased product costs for propane on the basis of separate inventory calculations. In considering the Doss request, the FEA found that Doss had stored over 3.1 million gallons of propane in a salt dome facility during the period August 1973 through February 1974. The FEA determined that despite Doss' claim that the firm would suffer a serious hardship and irreparable injury in the absence of retroactive exception relief, no financial data had been furnished in support of this allegation. The FEA concluded that the approval of the Doss request for retroactive relief would have the effect of ratifying non-compliance with FEA regulations and would permit Doss to retain revenues which it had improperly obtained in apparent violation of the applicable provisions of 10 CFR 212.93. Doss's Application for Exception was accordingly denied.

F. J. and F. Oil; Bartlesville, Okla.; FEE-3632; Crude Oil

F. J. and F. Oil (F. J. and F.) filed an Application for Exception from the provisions of 10 CFR 212.131 which, if granted, would permit F. J. and F. to receive exempt prices for the crude oil which it produced and sold from the Okesa Pool in September 1976. In its exception request, F. J. and F. stated that it failed to certify that property to the purchaser, the Atlantic Richfield Company, by November 30, 1976 as required by Section 212.131. As a result, the firm was not able to receive exempt prices for the crude oil which it produced from the property during September 1976. After considering F. J. and F.'s exception request, the FEA determined that although stripper well crude oil is exempt by statute from the FEA Price Regulations, the requirement that F. J. and F. comply with the certification provisions set forth in Section 212.131 does not constitute a gross inequity. The FEA noted in this respect that Section 212.131 is an indispensable part of the monitoring program designed by the FEA to implement the crude oil pricing policy set forth in the Emergency Petroleum Allocation Act of 1973. The FEA also noted that the certification requirement is necessary in order to enable refiners to comply with their reporting obligations under the Entitlements Program and to permit the FEA to administer that Program. On the basis of these considerations, the FEA concluded that the existence of the statutory exemption for stripper well crude oil did not furnish a basis for the exception relief sought by F. J. and F.

J. H. Buhrmaster Co., Inc.; Scotia, N.Y.; FEE-4367; No. 2 Heating oil

J. H. Buhrmaster Company, Inc. filed an Application for Exception from the requirement that it complete and submit Form P131-S-1 to the FEA. In considering the Buhrmaster Application the FEA reviewed Form P131-S-1 and concluded that the firm should not encounter any particular difficulty in completing the Form. The FEA therefore determined that the firm had failed to support its claim that it cannot complete and submit the Form. Buhrmaster's request for exception relief was therefore denied.

Jamar Oil Co.; Broken Arrow Okla.; FXE-4391; Motor gasoline

Jamar Oil Company requested an extension of exception relief previously granted to the firm from the provisions of 10 CFR 211.9. Jamar Oil Co., 5 FEA Par. 83,149 (May 6, 1977); Jamar Oil Co., 5 FEA Par. ____ (May 20, 1977). The exception request, if granted, would result in the issuance of an order assigning Jamar a supplier of motor gasoline whose wholesale price is less than the price currently charged by Foremost Petroleum Corporation, Jamar's base period supplier. In considering the request, the FEA determined that the price which Foremost was currently charging for motor gasoline was within the range of prices paid for motor gasoline by other purchasers in Jamar's market area. Therefore, the FEA concluded that any financial difficulties which Jamar might experience were not directly caused by the application of the FEA regulatory provisions to the firm and accordingly denied Jamar's exception request.

OKC Corp.; Washington, D.C.; FEE-4330; Crude oil

On June 14, 1976, the Federal Energy Administration issued a Decision and Order to the OKC Corporation denying an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program) which the firm had filed. The June 14 determination was based in part on projections submitted by OKC which indicated that the firm would be a net seller of entitlements during the last six months of its fiscal year. Since it appeared that OKC would realize a

net benefit from the operation of the Entitlements Program during its 1976 fiscal year the FEA determined that no proper basis had been established under which exception relief should be granted. The OKC Application was accordingly denied. OKC Corp., 3 FEA Par. 83,231 (June 14, 1976). In its preent Application for Exception, OKC stated that contrary to the projections which it had previously submitted to the FEA, during the portion of OKC's 1976 fiscal year which followed the rescission of Special Rule No. 6 the firm's entitlements purchase obligations exceeded the value of entitlements which the firm was required to sell by $49,174. OKC contended that this net entitlement purchase obligation had an adverse impact on the financial position of the firm which prevented it from achieving its historical levels of profitability during its 1976 fiscal year. OKC therefore requested exception relief which would relieve it of the net entitlement purchase obligation. In performing a review of the firm's 1976 fiscal year, the FEA determined that OKC had failed to achieve either its historical profit margin or historical rate of return on invested capital. In accordance with the criteria established in prior decisions, OKC was permitted to sell additional entitlements which are equal in value to the dollar value which the firm previously purchased.

Pennsylvania Petroleum Corp.; Norwalk, Conn.; FEE–3709; Motor gasoline

Pennsylvania Petroleum Corporation (PPC) filed an Application for Exception from the provisions of 10 CFR 212.93. PPC's exception request, if granted, would permit the firm to increase the prices which it may currently charge for motor gasoline above the maximum levels permitted by the provisions of 10 CFR 212.93. PPC also requested that it be granted retroactive exception relief which would permit the firm to retain the revenues which it realized from charging unlawful prices for motor gasoline during the months of November and December 1973. In its exception application, PPC contended that the markup which it applied on May 15, 1973 was unrepresentative of its normal operating position due to unusual supply difficulties which it was experiencing on that date. In considering PPC's exception request, the FEA found that PPC had previously filed two applications for exception during 1974 with FEA Region I. However, Region I did not respond to these requests for exception in a timely manner. The FEA further determined that PPC's initial exception application clearly indicated that the firm's May 15, 1973 financial position was unrepresentative of the firm's historic operating posture and the firm's application should accordingly have been acted upon favorably by the FEA. The FEA therefore granted PPC exception relief retroactively to the date of filing of the firm's initial exception application.

Tenneco Oil Co.; Houston, Tex.; FEE–4059; Crude oil

The Tenneco Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would have permitted the firm to sell the crude oil produced from the Myrtle E. Cross Lease (the Cross Lease) located in Ellis County, Kansas, at upper tier ceiling prices. In considering the exception request, the FEA found that Tenneco's operating costs had increased to the point where the firm no longer had an economic incentive to continue the production of crude oil from the Cross Lease. The FEA also determined that if Tenneco abandoned its operations at the Cross Lease, a substantial quantity of domestic crude oil would not be recovered. On the basis of criteria applied in previous decisions, the FEA determined that Tenneco should be permitted to sell 84.82 percent of the crude oil produced from the Cross Lease for the benefit of the working interest owners at upper tier ceiling prices.

REQUESTS FOR STAY

Blouin Brothers, Inc.; Enosburg Falls, Vt.; FRS–1384; No. 2 Fuel oil; Kerosene; Diesel fuel; and Gasoline

Blouin Brothers, Inc. filed an Application for Stay of a Remedial Order which was issued to the firm by the FEA Region I Office on June 16, 1977. In the Remedial Order, the FEA directed Blouin to refund through specified price reductions the revenues which the firm realized from charging prices for No. 2 fuel oil, kerosene, diesel fuel and gasoline in excess of the maximum permissible prices for the products. Blouin requested a stay of the refund provisions of the Remedial Order pending a final determination of the firm's Appeal of the Remedial Order. In considering the Application, the FEA determined that a stay was warranted since Blouin had raised significant substantive issues concerning the propriety of the findings contained in the Remedial Order and had also shown that it would experience inordinate difficulty in recovering the refunds which it was directed to make if it were successful on Appeal. Consequently, the FEA determined that a stay of the Remedial Order was warranted, on the condition that Blouin place a portion of the disputed funds in an escrow account.

DeMartin Truck Lines, Inc.; San Francisco, Calif.; FRS–1373; Propane

DeMartin Truck Lines, Inc. requested that a Remedial Order which was issued to the firm by FEA Region IX on June 10, 1977 be stayed pending a final determination on an Appeal of the Remedial Order which the firm had filed. In the Remedial Order, Region IX determined that DeMartin had sold propane to 12 of its customers at prices in excess of the maximum permissible selling prices permitted by the provisions of 6 CFR 150.359 and 10 CFR 212.93. The Remedial Order therefore directed DeMartin to refund these overcharges. In considering the request for stay, the FEA concluded that the financial data submitted by the firm showed that there was a significant possibility that it would incur an irreparable injury if it were required to make the refunds immediately. The FEA further concluded that DeMartin had raised substantial issues concerning the propriety of the Remedial Order. The FEA therefore held that DeMartin satisfied the criteria set forth in General Crude Oil So., 3 FEA Par 85,040 (June 25, 1976), and stayed the refund requirements specified in the Remedial Order. In addition, the FEA determined that the firm should not be required to deposit the disputed funds in an escrow account as a condition of the stay relief, since the establishment of an escrow account for any portion of the disputed funds would cause a severe and adverse impact on DeMartin's operations.

Tesoro Petroleum Corp.; San Antonio, Tex.; FES–1382; Crude oil

Tesoro Petroleum Corporation filed an Application for Stay of the provisions of 10 CFR 211.63 as they were explained in an Interpretation which the FEA Office of General Counsel issued to Husky Oil Company on May 28, 1977. Interpretation 1977–15, 42 Fed. Reg. 31150 (June 20, 1977). The Tesoro request, if granted, would permit the firm to continue to purchase the crude oil which the Interpretation determined must be sold to Husky pending a final determination of its Appeal of the Interpretation. In considering Tesoro's stay request, the FEA found that Tesoro had failed to provide any data which substantiated the nature and extent of the alleged adverse affect which the firm might experience if Husky purchased the disputed crude oil pursuant to the Interpretation. The FEA also determined that Tesoro had not demonstrated that it would experience a more immediate or severe hardship than Husky if stay relief were denied. The FEA further concluded that the firm had not demonstrated a substantial likelihood of success on the merits of its Appeal since it had failed to make a prima facie showing that the reasoning or the result reached in the Interpretation was erroneous. The Tesoro stay request was therefore denied.

SUPPLEMENTAL ORDERS

EDG, Inc.; Los Angeles, Calif.; FEX–0166; Crude Oil

On September 26, 1976, the Edgington Oil Company, a small refiner which had received exception relief from its obligations under the Entitlements Program during 1975, sold its refining and marketing assets to another firm and changed its name to EDG, Inc. On November 5, 1976, the FEA issued a Decision and Order which reviewed the exception relief granted to small refiners from the Entitlements Program during 1975 on the basis of the actual financial results achieved by each firm for the 1975 fiscal year. Beacon Oil Co., et al., 4 FEA Par. 87,024 (November 5, 1976). Based on the analysis in the Beacon Decision, EDG was required to purchase additional entitlements valued at $1,029,340 during the 12 month period November 1976 through October 1977. On June 23, 1977, EDG notified the FEA Office of Exceptions and Appeals that it intended to formally dissolve the corporation and distribute its assets among the firm's shareholders during the month of August 1977. EDG requested that it be permitted to purchase its remaining obligation by establishment of an interest-bearing escrow account into which it placed sufficient funds. In view of the fact that EDG planned to complete its liquidation during the month of August 1977, the FEA determined that the firm should be permitted to establish an escrow account to satisfy its remaining 1975 entitlement purchase obligations. The EDG request was accordingly approved.

Kern County Refinery, Inc.; Bakersfield, Calif.; FEX–0169; Crude Oil

On December 15, 1976 the Federal Energy Administration issued a Decision and Order to Kern County Refinery, Inc. in which Kern was granted exception relief that relieved it of any obligation to purchase entitlements during the period December through May 1977. Kern County Refinery, Inc., 4 FEA Par. 83,246 (December 15, 1976). However, as a result of an administrative error, the FEA Office of Regulatory Programs did not take into account the exception relief which had previously been granted to Kern, and therefore Kern was listed as a purchaser of entitlements in the May 1977 Entitlement Notice. On May 25, 1977 the FEA stayed Kern's entitlement purchase obligation specified in the May 1977 Notice pending further order of the FEA. Kern County Refinery, Inc., 5 FEA Par. 85,078 (May 25, 1977). On July 5, 1977, representatives of Kern informed the Office of Exceptions and Appeals that the firm had completed the sale of entitlements issued to it on the June Entitlements List, and that the previous administrative error

had therefore been rectified. Accordingly, the stay issued to the firm on May 25, 1977 was vacated.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Exceptions and Appeals of the Federal Energy Administration has issued Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The exceptions granted permit the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases:

Company	Case No.	Plant	Amount of price increase, dollar/gallon
Eason Oil Co.	FXE-4356	Crescent	$0.0215
Mustang Fuel Corp.	FEE-3071	Calumet	.97250

SUMMARY DECISIONS

The FEA Office of Exceptions and Appeals has issued a Decision and Order vacating the Stay which had been granted to the following firm after a finding was made that the firm had failed to comply with the express conditions of the Stay Order:

Stephens and Cass.; Dallas, Tex.; FRX-0174

The following submission was dismissed in a Summary Decision for failure to correct deficiencies in the applicant's filing as required by the FEA Procedural Regulations:

Automotive Sales, Inc., New York, N.Y.; FRA-1344

TEMPORARY STAY

The following Application for Temporary Stay was granted on the grounds that the applicant had made a compelling showing that temporary stay relief was necessary to prevent an irreparable injury:

Maguire Oil Co.; Dallas, Tex.; FRT-0044

DISMISSALS

The following submissions were dismissed following a statement by the applicant indicating that the relief requested was no longer needed:

Kern County Refinery, Inc.; Bakersfield, Calif.; FEA-1331
West End Service Station; Bloomsburg, Pa.; FEE-4016

The following submission was dismissed after the applicant repeatedly failed to respond to requests for additional information:

Marine Petroleum Co.; Washington, D.C.; FPI-0118

The following submissions were dismissed on the grounds that alternative regulatory procedures existed under which relief might be obtained:

Crawford's Service Center; Bloomsburg, Pa.; FEE-4019
E & B Sales and Service; Berwick, Pa.; FEE-4018
Walt's Exxon; Bloomsburg, Pa.; FEE-4017
Yogie's Exxon; Bloomsburg, Pa.; FEE-4015

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: August 10, 1977.

ERIC J. FYGI,
Acting General Counsel.

[FR Doc.77-23506 Filed 8-12-77;8:45 am]

FEDERAL HOME LOAN BANK BOARD

CARDINAL FEDERAL SAVINGS AND LOAN ASSOCIATION AND FIRST OHIO SERVICE CORP.

[H. C. No. 231]

Receipt of Application for Permission To Acquire Control of Ashtabula County Savings and Loan Co., Ashtabula, Ohio

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from Cardinal Federal Savings and Loan Association, Cleveland, Ohio ("Cardinal"), and its wholly owned service corporation, First Ohio Service Corporation ("First Ohio"), for approval of the acquisition of control of Ashtabula County Savings and Loan Company, Astabula, Ohio ("Ashtabula"), an insured institution, under the provisions of Section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and Section 584.4 of the Regulations for Savings and Loan Holding Companies. The proposal is to be effected through a merger of C.F.A.C. Corp., a wholly owned subsidiary of First Ohio, into Ashtabula. In exchange for their shares, stockholders of Ashtabula would receive certificate or passbook savings accounts of Cardinal which would then transfer all of the stock of Ashtabula to First Ohio. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, on or before September 14, 1977.

RONALD A. SNIDER,
Assistant Secretary,
Federal Home Loan Bank Board.

[FR Doc.77-23471 Filed 8-12-77;8:45 am]

FEDERAL TRADE COMMISSION

Cigarette Testing Results

TAR AND NICOTINE CONTENT

The Federal Trade Commission's laboratory has determined the "tar" (dry particulate matter) and total alkaloid (reported as nicotine) content of 166 varieties of domestic cigarettes. The laboratory utilized the Cambridge filter method with the specifications set forth in the Commission's announcement dated July 31, 1967 (32 FR 11178). The varieties are arranged in alphabetical order with tar values rounded to the nearest whole milligram and nicotine values rounded to the nearest tenth of a milligram.

TAR [1] AND NICOTINE [2] CONTENT OF 166 VARIETIES OF DOMESTIC CIGARETTES

FEDERAL TRADE COMMISSION, JUNE 1977

Brand	Type	Milligram per cigarette of—	
		TPM dry (tar) [1]	Nicotine [2]
Alpine	King size, filter, menthol	14	.8
American Light	120 mm, filter	8	.7
Do	120 mm, filter, menthol	10	.8
American Longs	120 mm, filter	16	1.3
Do	120 mm, filter, menthol	16	1.3
Belair	King size, filter, menthol	15	1.0
Do	100 mm, filter, menthol	18	1.3
Benson & Hedges	Regular size, filter, (hard pack)	10	.6
Do	King size, filter, (hard pack)	16	1.0
Benson & Hedges 100's	100 mm, filter, (hard pack)	17	1.0
Do	100 mm, filter, menthol, (hard pack)	17	1.1
Do	100 mm, filter	17	1.0
Do	100 mm, filter, menthol	17	1.0
Bull Durham	King size, filter	29	1.9
Camel	Regular size, filter	25	1.6
Do	King size, filter, (hard pack)	19	1.2
Do	King-size, filter	18	1.2
Carlton 70's	Regular size, filter	<.5	<.05
Carlton	King size, filter	1	.1
Do	King size, filter, menthol	1	.1
Chesterfield	Regular size, non-filter	24	1.4
Do	King size, non-filter	29	1.7
Do	King size, filter	19	1.1
Do	101 mm, filter	18	1.1
Domino	King size, non-filter	33	1.4
Do	King size, filter	21	1.1
Doral	do	12	0.8
Do	King size, filter, menthol	11	0.8
DuMaurier	King size, filter (hard pack)	16	1.1
Eagle 20's	King size, filter	18	1.1
Do	King size, filter, menthol	18	1.1
English Ovals	Regular size, non-filter, (hard pack)	24	1.6
Do	King size, non-filter, (hard pack)	30	2.1
Eve	100 mm, filter	16	1.0
Do	100 mm, filter, menthol	16	1.0
Eve 120's	120 mm, filter, (hard pack)	15	1.0
Do	120 mm, filter, menthol, (hard pack)	14	1.0
Faet	King size, filter	13	0.9
Do	King size, filter, menthol	13	0.9
Fatima	King size, non-filter	29	1.7
Galaxy	King size, filter	15	0.9
Half & Half	do	26	1.8
Hallmark	100 mm, filter, (hard pack)	23	1.9
Do	100 mm, filter, menthol, (hard pack)	23	1.8
Herbert Tareyton	King size, non-filter	28	1.8
Hi-Lite	100 mm, filter, (hard pack)	11	0.7
Home Run	Regular size, non-filter	22	1.5
Iceberg 100's	100 mm, filter, menthol	3	0.3
Kent	King size, filter, (hard pack)	15	1.0
Do	King size, filter	16	1.0
Kent Golden Lights	do	8	0.6
Do	King size, filter, menthol	8	0.7
Kent	100 mm, filter	18	1.2
Do	100 mm, filter, menthol	17	1.2
King Sano	King size, filter	6	0.3
Do	King size, filter, menthol	6	0.3
Kool	Regular size, non-filter, menthol	21	1.3
Do	King size, filter, menthol, (hard pack)	17	1.3
Kool Naturals	King size, filter	14	1.0
Kool	King size, filter, menthol	17	1.3
Kool Milds	do	14	.9
Kool	100 mm, filter, menthol	18	1.3
L & M	King size, filter, (hard pack)	16	.9
L & M	King size, filter	18	1.1
L & M Lights	do	8	.6
L & M	100 mm, filter	17	1.1
L & M	100 mm, filter, menthol	18	1.1
L. T. Brown	120 mm, filter	19	1.5
Do	120 mm, filter, menthol	19	1.4
Lark	King size, filter	18	1.1
Do	100 mm, filter	18	1.1
Long Johns	120 mm, filter	18	1.4
Do	120 mm, filter, menthol	16	1.3
Lucky Strike	Regular size, non-filter	24	1.4
Lucky Ten	King size, filter	9	.6
Lucky 100's	100 mm, filter	3	.2

[1] TPM (tar), milligrams total particulate matter less nicotine and water.
[2] Milligrams total alkaloids reported as nicotine.

TAR [1] AND NICOTINE [2] CONTENT OF 166 VARIETIES OF DOMESTIC CIGARETTES

FEDERAL TRADE COMMISSION, JUNE 1977

Brand	Type	Milligram per cigarette of—	
		TPM dry (tar) [1]	Nicotine [2]
Mapleton	Regular size, non-filter	28	1.3
Do	King size, filter	23	1.2
Marlboro	King size, filter, (hard pack)	17	1.0
Do	King size, filter, menthol, (hard pack)	14	.8
Do	King size, filter	17	1.0
Marlboro Lights	do	12	.7
Marlboro	King size, filter, menthol	14	.8
Do	100 mm, filter, (hard pack)	17	1.0
Do	100 mm, filter	17	1.0
Max	120 mm, filter	17	1.3
Do	120 mm, filter, menthol	17	1.3
Merit	King size, filter	8	.6
Do	King size, filter, menthol	8	.5
Montclair	do	18	1.3
More	120 mm, filter	21	1.5
Do	120 mm, filter, menthol	21	1.6
Multifilter	King size, filter	12	.8
Do	King size, filter, menthol	11	.7
Newport	King size, filter, menthol, (hard pack)	17	1.2
Do	King size, filter, menthol	17	1.2
Do	100 mm, filter, menthol	20	1.4
Now	King size, filter, (hard pack)	1	.1
Do	King size, filter, menthol, (hard pack)	1	.1
Oasis	King size, filter, menthol	19	1.1
Old Gold Straights	Regular size, non-filter	20	1.2
Do	King size, non-filter	25	1.5
Old Gold Filters	King size, filter, (hard pack)	17	1.2
Do	King size, filter	18	1.2
Old Gold 100's	100 mm, filter	21	1.4
Pall Mall	King size, non-filter	25	1.6
Do	King size, filter	18	1.2
Pall Mall Extra Mild	King size, filter, (hard pack)	6	.5
Do	King size, filter	6	.5
Pall Mall	100 mm, filter	19	1.4
Do	100 mm, filter, menthol	16	1.2
Parliament	King size, filter, (hard pack)	10	.6
Do	King size, filter	10	.6
Parliament 100's	100 mm, filter	12	.7
Philip Morris	Regular size, non-filter	20	1.1
Philip Morris Commander	King size, non-filter	24	1.4
Philip Morris International	100 mm, filter, (hard pack)	16	1.0
Do	100 mm, filter, menthol, (hard pack)	16	.9
Picayune	Regular size, non-filter	21	1.4
Piedmont	do	24	1.3
Players	Regular size, non-filter, (hard pack)	34	2.5
Raleigh	King size, non-filter	24	1.4
Do	King size, filter	16	1.1
Raleigh Lights	do	14	1.0
Raleigh	100 mm, filter	17	1.2
St. Moritz	do	17	1.0
Do	100 mm, filter, menthol	17	1.1
Salem	King size, filter, menthol, (hard pack)	19	1.2
Do	King size, filter, menthol	18	1.2
Salem Lights	do	11	.8
Salem	100 mm, filter, menthol	18	1.3
Salem Long Lights	do	9	.7
Sano	Regular size, non-filter	18	.6
Saratoga	120 mm filter, (hard pack)	16	1.0
Do	120 mm, filter, menthol, (hard pack)	15	1.0
Silva Thins	100 mm, filter	17	1.3
Do	100 mm, filter, menthol	16	1.1
Spring 100's	do	19	1.1
Stratford	King size, non-filter	29	1.1
Do	King size, filter	23	1.1
Tall	120 mm, filter	18	1.4
Do	120 mm, filter, menthol	16	1.3
Tareyton	King size, filter	17	1.2
Do	100 mm, filter	16	1.2
Tempo	King size, filter	7	.5
True	do	5	.4
Do	King size, filter, menthol	5	.4
True 100's	100 mm, filter	13	.8
Do	100 mm, filter, menthol	13	.8
Twist	100 mm, filter, lemon/menthol	17	1.3
Vanguard	King size, filter	16	1.0
Do	King size, filter, menthol	13	.9
Vantage	King size, filter	11	.7
Do	King size, filter, menthol	11	.8
Vello	King size, filter	10	.7
Do	King size, filter, menthol	10	.7
Viceroy	King size, filter	16	1.0
Viceroy Extra Mild	do	14	1.0
Viceroy	100 mm, filter	18	1.3
Virginia Slims	do	16	.9
Do	100 mm, filter, menthol	16	.9
Winston	King size, filter (hard pack)	19	1.2
Do	King size, filter	19	1.2
Winston Lights	do	12	.9
Winston	100 mm, filter	19	1.3
Do	100 mm, filter, menthol	18	1.2

By direction of the Commission dated July 26, 1977.

CAROL M. THOMAS,
Secretary.

[FR Doc.77-23362 Filed 8-12-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

GRANTS FOR NONCOMMERCIAL EDUCATIONAL BROADCASTING FACILITIES

Acceptance of Applications for Filing

Notice is hereby given that the following described applications for Federal financial assistance in the construction of noncommercial educational broadcasting facilities are accepted for filing under provisions of Title III, Part IV of the Communications Act of 1934, as amended (47 U.S.C. 390–399) and in accordance with 45 CFR 153.8.

Any interested person may, pursuant to 45 CFR 153.9, file comments regarding these applications within 30 calendar days from publication of this notice with the Chief, Educational Broadcasting Facilities Branch, Division of Educational Technology, Bureau of Elementary and Secondary Education, Office of Education, Washington, D.C. 20202.

EDUCATIONAL TELEVISION

Chicago Metropolitan Higher Education Council, P.O. Box 26, Park Forest, Ill. 60466, File No. 575–T/413AH70055 for the establishment of a noncommercial educational television station Channel 20, Chicago, Ill. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $1,269,000. Grant requested: $490,726. Application signed by: Oscar E. Shabat.

Chicago Education Television Association, 5400 North St. Louis Avenue, Chicago, Ill. 60625, File No. 576–T/413AH70098 for the improvement of a noncommercial educational television station Channel 11, Chicago, Ill. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $428,985. Grant requested: $321,738. Application signed by: William J. McCarter.

West Central Illinois Educational Telecommunications Corporation, c/o Broadcast Services 2–13, Sangamon State University, Springfield, Ill. 62708, File No. 577–T/413AH70027 for the establishment of a noncommercial educational television station on Channel 24, Moline, Ill. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $1,500,000. Grant request: $1,125,000. Application signed by: Leslie F. Malpass.

Ball State University, 2000 University Avenue, Muncie, Ind. 47306, File No. 578–T/413AH70085 for the improvement of a noncommercial educational television station on Channel 49, Muncie, Ind. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $78,795. Grant requested: $59,096. Application signed by: John J. Pruis.

Michiana Public Broadcasting Corporation, P.O. Box 34, South Bend, Ind. 46624, File No. 579–T/413AH70034 for the improvement of a noncommercial educational television station on Channel 34, South Bend/Elkhart, Ind. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $78,718. Grant requested: $54,875. Application signed by: Thomas E. Brubaker.

Lake Central School Corporation, P.O. Box 336, St. John, Ind. 46373, File No. 580–T/413AH70091 for the improvement of a noncommercial educational television station on Channel 50, St. John, Ind. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $293,901. Grant requested: $220,425. Application signed by: George Bibich.

Board of Trustees for the Vincennes University, 1002 North First Street, Vincennes, Ind. 47591, File No. 581–T/413AH70052 for the improvement of a noncommercial educational television station on Channel 22, Vincennes, Ind. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $286,082. Grant requested: $214,561. Application signed by: Isaac K. Beckes.

Kentucky Authority for ETV, 600 Cooper Drive, Lexington Ky. 40502, File No. 582–T/413AH70048 for the establishment of a noncommercial educational television station on Channel 29, Puducah, Ky. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $833,076. Grant requested: $624,807. Application signed by: O. L. Press.

Central Michigan University, Mt. Pleasant, Mich. 48859, File No. 583–T/413AH70069 for the improvement of a noncommercial educational television station on Channel 14–6, Mt. Pleasant and Alpena, Mich. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $753,953. Grant requested: $565,465. Application signed by: E. L. Minelli.

Duluth-Superior Area ETV Corporation, 210 Bradley Bldg., Duluth, Minn. 55802, File No. 584–T/413AH70111 for the improvement of a noncommercial educational television station on Channel 8, Duluth, Minn. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $195,635. Grant requested: $146,726. Application signed by: George A. Beck.

St. Louis ETV Commission, 6996 Millbrook Boulevard, St. Louis, Mo. 63130, File No. 585–T/413AH70053 for the improvement of a noncommercial educational television station on Channel 9, St. Louis, Mo. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $305,502. Grant requested: $229,126. Application signed by: A. S. Tiano.

Central Missouri State University, Warrensburg, Mo. 64093, File No. 586–T/413AH70094 for the establishment of a noncommercial educational television station on Channel 6, Sedalia, Mo. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $592,000. Grant requested: $444,000. Application signed by: W. C. Lovinger.

Public TV 19 Inc., 2100 Stark, Kansas City, Mo. 64126, File No. 587–T/413AH70071 for the improvement of a noncommercial educational television station on Channel 19, Kansas City, Mo. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $547,763. Grant requested: $410,822. Application signed by: John H. Kreamer.

Nebraska ETV Commission, P.O. Box 83111, Lincoln, Nebr. 68501, File No. 588–T/413AH–70067 for the improvement of noncommercial educational television stations on Channels 29 and 12, Hastings and Merriman, Nebr. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $367,044. Grant requested: $270,044. Application signed by: Jack McBride.

Northeastern ETV of Ohio, Inc., 1640 Franklin Avenue, Kent, Ohio 44240, File No. 589–T/413AH70078 for the establishment of a noncommercial television station on Channel 58, Youngstown and the improvement of the noncommercial television station on Channel 49, Akron, Ohio. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $1,598,146. Grant requested $1,198,609. Application signed by: P. C. English.

Bowling Green State University, Bowling Green, Ohio 43403, File No. 590–T/413AH-70064 for the improvement of a noncommercial educational television station on Channel 57, Lima, Ohio. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $194,000. Grant requested: $145,-500. Application signed by: Kenneth Rothe.

Greater Toledo ETV Foundation, 415 North St. Clair Street, Toledo, Ohio 43604, File No. 591–T/413AH70057 for the improvement of a noncommercial educational television station Channel 30, Toledo, Ohio. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $207,111. Grant requested: $155,883. Application signed by: Robert D. Smith.

Independent School District I–89, 1801 North Ellison, Oklahoma City, Okla. 73106, File No. 592–T/413AH70070, for the improvement of a noncommercial educational television station on Channel 25, Oklahoma City, Okla. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $690,763. Grant requested: $518,072. Application signed by: Thomas J. Smith.

Oklahoma ETV Authority, 7403 N. Kelley Avenue, P.O. Box 14190 Oklahoma City, Okla. 73114, File No. 593–T/413AH70043 for the establishment of a noncommercial educational television station Channel 12, Cheyenne, Okla. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $1,675,308. Grant requested: $720,933. Application signed by: Robert L. Allen.

Hampton Roads Educational Telecommunications Associate, Inc., 5200 Hampton Boulevard, Norfolk, Va. 23508, File No. 594–T/413AH 70103 for the improvement of a noncommercial educational television station on Channel 15, Norfolk, Va. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $232,400. Grant requested: $174,-900. Application signed by: Robert L. Allen.

University of Washington, Drama TV Building, BH–10, Seattle, Wash. 98195, File No. 595–T/413AH70015 for the improvement of a noncommercial educational television station on Channel 9, Seattle, Wash. Proposal determined acceptable: April 7, 1977. Estimated total project costs: $343,341. Grant requested: $257,505. Application signed by: Donald Baldwin, Director, Grant and Contract Services.

State of Oregon Acting By and Through the State Board of Higher Education, P.O. Box 3175, Eugene, Oreg. 97403, File No. 596–T/413AH70073 for the improvement of a noncommercial educational television station KOAC–TV, on Channel 7, Corvallis, Oreg. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $100,000. Grant requested: $75,000. Application signed by: Donald R. Larson, Secretary.

Southern Oregon Education Company, 34 South Fir Street, Medford, Oreg. 97501, File No. 597–T/413AH70101 for the improvement of a noncommercial educational television station KSYS–TV on Channel 8, Medford, Oreg. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $217,-781. Grant requested: $163,335. Application signed by: Mr. W. Boyce Standard, President.

Charlotte-Mecklenburg Board of Education, 42 Coliseum Drive, Charlotte, N.C., File No. 598–T/413AH70024 for the improvement of a noncommercial educational television station WTVI Channel 42, Charlotte, N.C. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $893,250. Grant requested: $668,250. Application signed by: John W. Phillips, Acting Superintendent.

Mississippi Authority for ETV, P.O. Drawer 1101, Jackson, Miss. 39205, File No. 599–T/413AH70063 for the improvement of a noncommercial educational television station on Channel 19, Biloxi, Miss. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $104,670. Grant requested: $78,502. Application signed by: Forrest L. Morris.

State Board of Education and Board of Regents of the University of Idaho, 650 West State Street, Room 307, Boise, Idaho 83720, File No. 600–T/413AH70046 for the establishment of a noncommercial educational television network operations facility in Idaho consisting of a microwave interconnection for KAID–TV, Channel 4, Boise, operated by Boise State University; KBGL–TV, Channel 10, Pocatello, operated by Idaho State University; and KUID–TV, Channel 12, Moscow, operated by University of Idaho; with program distribution capability from Boise. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $644,860. Grant requested: $483,645. Application signed by: A. L. Alford Jr., President.

Alabama ETV Commission, 2101 Magnolia Avenue, Birmingham, Ala. 35205, File No. 601–T/413AH70031 for the improvement of a regional production center of the Alabama Television Network, Huntsville, Ala. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $562,689. Grant requested: $417,555. Application signed by: Dennis N. Stork, General Manager.

Alabama ETV Commission, 2101 Magnolia Avenue, Birmingham, Ala. 35205, File No. 602–T/413AH70032 for the improvement of the state Network ETV Production Center at University of Alabama, Tuscaloosa, Ala. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $596,192. Grant requested: $298,000. Application signed by: Dennis N. Stork, General Manager.

Arkansas ETV Commission, 350 South Donaghey, Conway, Ark. 72032, File No. 603–T/413AH70016 for the establishment of a noncommercial educational television station on Channel 6, Mountain View, Ark. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $742,047. Grant requested: $371,023. Application signed by: Lee Reaves, Director.

Connecticut Educational Telecommunications Corporation, 24 Summit Street, Hartford, Conn. 06106, File No. 604–T/413AH70059 for the improvement of a noncommercial educational television station on Channel 49, Bridgeport, Conn. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $611,125. Grant requested: $458,344. Application signed by: Paul K. Taff, President.

Connecticut Educational Telecommunications Corporation, 24, Summit Street, Hartford, Conn. 06106, File No. 605–T/413AH70058 for the improvement of the Connecticut ETV Network, Hartford, Conn. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $297,079. Grant requested: $212,079. Application signed by: Paul K. Taff, President.

Community Television, Inc., 2037 Main Street, Jacksonville, Fla. 32206, File No. 606–T/413AH70081 for the improvement of a noncommercial educational television station on Channel 7, Jacksonville, Fla. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $1,378,139. Grant requested: $1,033,604. Application signed by: Fred Rebman, President.

Florida Central East Coast ETV, Inc., 2908 West Oak Ridge Road, Orlando, Fla. 32809, File No. 607–T/413AH70065 for the improvement of a noncommercial educational television station on Channel 24, Orlando, Fla. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $449,425. Grant requested: $337,068. Application signed by: Stephen M. Steck, Executive Vice President and General Manager.

University of South Florida, Division of Educational Resources, WUSF, Tampa, Fla. 33620, File No. 608-T/413AH70003 for the improvement of a noncommercial educational television station on Channel 16, Tampa, Fla. Proposal determined acceptable: September 24, 1976. Estimated total project costs: $276,-170. Grant requested: $207,127. Application signed by: William H. Taft, Director, Sponsored Research.

Hawaii Public Broadcasting Authority, 2350 Dole Street, Honolulu, Hawaii 96822, File No. 609-T/413AH70082 for the improvement of a noncommercial educational television station on Channel 11, Honolulu, Hawaii. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $497,415. Grant requested: $373,061. Application signed by: Teruo Ihara, Board Chairman.

Colby-Bates-Bowdoin Educational Telecasting Corporation, 1450 Lisbon Street, Lewiston, Me. 04240, File No. 610-413AH70006 for the improvement of a noncommercial educational television station on Channel 10, Augusta, Me. Proposal determined acceptable: Dec. 21, 1976. Estimated total project costs: $543,113. Grant requested: $407,334. Application signed by: Howard O. Skinner, General Manager and Clerk.

University of Maine, Maine Public Broadcasting Network, Alumni Hall, Orono, Me. 04473, File No. 611-T/413AH70045 for the improvement of a noncommercial educational television station on Channels 10, 12, 13 and 26, Presque Isle, Orono, Calais, and Biddeford, Me. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $679,376. Grant Requested: $509,532. Application signed by: Robert B. Binswanger, Vice Chancellor for Academic Affairs.

WGBH Educational Foundation, 125 Western Avenue, Boston, Mass. 02134, File No. 612-T/413AH70114 for the improvement of a noncommercial educational television station on Channel 44, Boston, Mass. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $786,525. Grant requested: $589,893. Application signed by: David O. Ives, President.

WGBY-TV (Division of WGBH Educational Foundation), One Armory Square, Springfield, Mass. 01105, File No. 613-T/413AH70113 for the improvement of noncommercial educational television station on Channel 57, Springfield, Mass. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $79,050. Grant requested: $59,-287. Application signed by: John T. Caldwell Jr., General Manager.

Southern Tier ETV Associates, Inc., P.O. Box 97, 3311 East Main Street, Endwell, N.Y. 13760, File No. 614-T/413AH70017 for the improvement of a noncommercial educational television station on Channel 46, Binghamton, N.Y. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $436,460. Grant requested: $327,345. Application signed by: Arthur F. Dees, President and General Manager.

Long Island ETV Council, Inc., Ellington Avenue West, Garden City, N.Y. 11530, File No. 615-T/413AH70074 for the improvement of a noncommercial educational television station on Channel 21, Garden City, N.Y. Proposal determined acceptable: April 25, 1977. Grant requested: $296,725. Application signed by: Charles R. Bell, General Manager.

Rochester Area ETV Association, Inc., P.O. Box 21, Rochester, N.Y. 14601, File No. 616-T/413AH70005 for the improvement of a noncommercial educational television station on Channel 21, Rochester, New York. Proposal determined acceptable: Dec. 21, 1976. Estimated total project costs: $568,000. Grant requested: $439,500. Application signed by: William J. Pearce, President and General Manager.

Public Broadcasting Council of Central New York, 506 Old Liverpool Road, Liverpool, N.Y. 13088, File No. 617-T/413AH70021 for the improvement of a noncommercial educational television station on Channel 24, Syracuse, N.Y. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $1,036,850. Grant requested: $77,638. Application signed by: Richard W. Russell, President and General Manager.

St. Lawrence Valley ETV Council, Inc., P.O. Box 114, Watertown, N.Y. 13601, File No. 618-T/413AH70025 for the improvement of a noncommercial educational television station on Channel, 16 Watertown, N.Y. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $101,960. Grant requested: $76,470. Application signed by: Richard A. Jones, President.

Alaska Public TV, Inc., 3211 Providence Drive, Anchorage, Alaska 99504. File No. 619-T/413AH70100 for the improvement of a noncommercial educational television station on Channel 7, Anchorage, Alaska. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $334,800. Grant requested: $251,100. Application signed by: Melvin Sather.

University of New Mexico Board of Regents, 1130 University Boulevard, Albuquerque, N. Mex. 87101, File No. 620-T/413AH70112 for the improvement of a noncommercial educational television station on Channel 5, Albuquerque, N. Mex. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $318,600. Grant requested: $239,700. Application signed by: Robert Gordon.

Santa Clara County Board of Education, San Jose, Calif. 95110, File No. 621-T/413AH70121 for the improvement of a noncommercial educational television station on Channel 54, San Jose, Calif. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $323,758. Grant requested: $242,819. Application signed by: Glenn Hoffman.

Central California ETV, P.O. Box 6, Sacramento, Calif. 95801, File No. 622-T/413AH70086 for the improvement of a noncommercial educational television station on Channel 6, Sacramento, Calif. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $129,046. Grant requested: $96,784. Application signed by: Stan Atchley.

Capitol Community Broadcasting, Inc., 240 Main Street, Juneau, Alaska 99801, File No. 623-T/413AH70095 for the establishment of a noncommercial educational television station on Channel 3, Juneau, Alaska. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $1,098,727. Grant requested: $823,812. Application signed by: Charles Northrip.

San Diego State University (KPBS-TV), 5300 Campanile Drive, San Diego, Calif. 92182, File No. 624-T/413AH70061 for the improvement of a noncommercial educational television station on Channel 15, San Diego, Calif. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $363,032. Grant requested: $272,274. Application signed by: Dennis Selder.

Redwood Empire TV, Inc., P.O. Box 13, Eureka, Calif. 95501, File No. 625-T/413AH70092 for the improvement of a noncommercial educational television station on Channel 13, Eureka, Calif. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $26,000. Grant requested: $19,500. Application signed by: John Hennessy.

San Mateo Community College Districts, San Mateo, Calif. 94403, File No. 626-T/413AH70029 for the improvement of a noncommercial educational television station on Channel 60, San Mateo, Calif. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $876,379. Grant requested: $451,112. Application signed by: Glenn P. Smith.

Texas Consumer Education and Communications Development Committee, Inc. P.O. Box 547, 741 East Bowie Street, Alamo, Tex. 78516, File No. 627-T/413AH70066 for the establishment of a noncommercial educational television station on Channel 44, Harlingen, Tex. Proposal determined acceptable: Apr. 22, 1977. Estimated total project costs: $1,025,605. Grant requested: $769,204. Application signed by: Mr. Francisco Briones, Chairman of the Board.

Community TV of South California (KCET-TV), 4400 Sunset Drive, Los Angeles, Calif. 90027, File No. 628-T/413AH70010 for the improvement of a noncommercial educational television station on Channel 28, Los Angeles, Calif. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $421,474. Grant requested: $316,105. Application signed by: William J. Lamb.

New Mexico State University (KRWG-TV), Las Cruces, N. Mex. 88003, File No. 629-T/413AH70122 for the improvement of a noncommercial educational television station on Channel 12, Las Cruces, N. Mex. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $20,000. Grant requested: $15,000. Application signed by: Harold A. Daw.

Kuskokwim Community College, Box 368, Bethel, Alaska 99559, File No. 630-T/413AH-70084 for the improvement of a noncommercial educational television station on Channel 4, Bethel, Alaska. Proposal determined acceptable: Apr. 25 ,1977. Estimated total project costs: $138,342. Grant requested: $103,756. Application signed by: Patrick J. O'Rourke.

University of Utah, Salt Lake City, Utah 84112, File No. 631-T/413AH70036 for the improvement of a noncommercial educational television station in Channel 7, Salt Lake City, Utah. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $975,954. Grant requested: $511,-325. Application signed by: William S. Partridge.

University of South Colorado, Pueblo, Colo. 81001, File No. 632-T/413AH70008 for the improvement of a noncommercial educational television station on Channel 8, Pueblo, Colo. Proposal determined acceptable; Apr. 25, 1977. Estimated total project costs: $267,855. Grand requested: $200,891. Application signed by: Harry P. Bowes.

Monterey County Board of Education, 901 Blanco Circle, Salinas, Calif. 93901, File No. 633-T/413AH70014 for the establishment of a noncommercial educational television station on Channel 67, Salinas, California. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $367,854. Grant requested: $275,891. Application signed by: Richard Bragg.

Eastern New Mexico University (KENW-TV), Portales, N. Mex. 88130, File No. 634-T/413AH70107 for the improvement of a noncommercial educational television station on Channel 3, Portales, N. Mex. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $450,000. Grant requested: $337,500. Application signed by: Duane Ryan.

WHYY, 4548 Market Street, Philadelphia, Pa. 19139, File No. 635-T/413AH70041 for the improvement of a noncommercial educational television station on Channel 12, Wilmington, Del. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $559,073. Grant requested: $499,304. Application signed by: Robert H. Hall, Vice President for Engineering and Technical Services.

State Board of Education of the State of Georgia, 1540 Stewart Avenue, S.W., Atlanta, Ga. 30310, File No. 636–T/413AH70054 for the improvement of a noncommercial educational television station on Channel 8, Waycross, Georgia, and Channel 25, Dawson, Georgia. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $448,560. Grant requested: $275,885. Application signed by: Jack P. Nix, State Superintendent of Schools.

Greater New Orleans Educational Television Foundation, 916 Navarre Avenue, P.O. Box 24026, New Orleans, La. 70184, File No. 637–T/413AH70083 for the improment of a noncommercial educational television station (WYES) on Channel 12, New Orleans, La. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $454,210. Grant requested: $340,657. Application signed by: William S. Hart, President.

Louisiana Educational TV Authority, 626 North Fourth Street, P.O. Box 44064, Baton Rouge, La. 70804, File No. 638–T/413AH70110 for the improvement of a noncommercial educational television station on Louisiana Public Broadcasting Network, Baton Rouge, La. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $355,994. Grant requested: No. 219,544. Application signed by: A. Frey, Executive Director.

Louisiana Educational Television Authority, 626 North Fourth Street, Baton Rouge, La. 70804, File No. 639–T/413AH70018 for the establishment of a noncommercial educational television station on Channel 18, Lake Charles, La. Proposal determined acceptable: April 15, 1977. Estimated total project costs: $2,313,851. Grant requested: $1,735,388. Application signed by: A. Fred Frey, Executive Director.

Broadside Television, Inc., Elm and Millard Streets, Johnson City, Tenn. 37601, File No. 640–T/413AH70079 for the establishment of a noncommercial educational television station on Channel 41, Johnson City, Tenn. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $929,627. Grant requested: $500,207. Application signed by: Lynn Bennett, Executive Director.

Memphis Community TV Foundation, P.O. Box 80000, Memphis, Tenn. 38152, File No. 641–T/413AH70096 for the improvement of a noncommercial educational television station WKNO on Channel 10, Memphis, Tenn. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $200,000. Grant requested: $150,000. Application signed by: Howard D. Holst, Treasurer.

Puerto Rico Department of Education, Avenue Cesar Gonzalez, Hato Rey, P.R. 00919, File 642–T/413AH70109 for the improvement of a noncommercial education television station WIPM on Channel 3, Mayaguez, P.R. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $400,000. Grant requested: $200,000. Application signed by: Carlos Chardon, Secretary of Education.

Public Broadcasting of Northwest Pennsylvania, Inc., 8425 Peach Street, Erie, Pa. 16509, File No. 643–T/413AH70080 for the improvement of a noncommercial educational television station on Channel 54, Erie, Pa. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $1,078,866. Grant requested: $795,866. Application signed by: Robert Chitester, President.

Pennsylvania State University, 201 Wagner Building, University Park, Pa. 16802, File No. 644–T/413AH70050 for the improvement of a noncommercial educational television station WPSX on Channel 3, Clearfield, Pa. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $215,049. Grant requested: $161,286. Application signed by: Floyd B. Fischer, Vice President for Continuing Education.

Metropolitan Pittsburgh Public Broadcasting, Inc., 4802 Fifth Avenue, Pittsburgh, Pa. 15213, File No. 645–T/413AH70060 for the improvement of noncommercial educational television stations WQED and WQEX on Channels 13 and 16, Pittsburgh, Pa. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $579,500. Grant requested: $412,125. Application signed by: Lloyd Kaiser, President.

Public Communication Foundation for North Texas, 3000 Harry Hines Boulevard, Dallas, Tex. 75201, File No. 646–T/413AH-70033 for the establishment of a noncommercial educational television station on Channel 2, Denton, Tex. Proposal determined acceptable: April 19, 1977. Estimated total project costs: $1,688,477. Grant requested: $844,-238. Application signed by: E. J. Pfister, President.

South Texas Educational Broadcasting Council (KEDT–TV), P.O. Box 416, Corpus Christi, Tex. 78403, File No. 647–T/413AH-70097 for the improvement of a noncommercial educational television station KEDT on Channel 16, Corpus Christi, Tex. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $515,815. Grant requested: $386,861. Application signed by: Don Weber, Chairman of the Board.

Texas Tech University, Box 4359, Lubbock, Tex. 79409, File No. 648–T/413AH70037 for the improvement of a noncommercial educational television station KTXT on Channel 5, Lubbock, Tex. Proposal determined acceptable: April 21, 1977. Estimated total project costs: $202,951. Grant requested: $152,213. Application signed by: J. Knox Jones, Jr.

Texas A&M University, College Station, Tex. 77843, File No. 649–T/413AH70099 for the improvement of a noncommercial educational television station KAMU on Channel 15, College Station, Tex. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $455,639. Grant requested: $341,729. Application signed by: Jack K. Williams, President.

Central Texas College, U.S. Highway 190 West, Killen, Tex. 76541, File No. 650–T/413-AH70104 for the improvement of a noncommercial educational television station KNCT on Channel 46, Belton, Tex. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $29,294. Grant requested: $21,970. Application signed by: Phillip R. Swartz, Vice President.

Central Texas College, Highway 190 West, Killen, Tex. 76541, File No. 651–T/413AH70106 for the improvement of a noncommercial educational television station KNCT on Channel 34, Waco, Tex. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $29,040. Grant requested: $21,780. Application signed by: Phillip R. Swartz, Vice President.

Public Communications Foundation for North Texas, 3000 Harry Hines Boulevard, Dallas, Tex. 75201, File No. 652–T/413AH-70028 for the improvement of a noncommercial educational television station KERA on Channel 13, Dallas, Tex. Proposal determined acceptable: April 19, 1977. Estimated total project costs: $808,025. Grant requested: $606,018. Application signed by: Edward J. Pfister, President.

Alabama Educational Television Commission, 2101 Magnolia Avenue, Birmingham, Ala. 35205, File No. 529–T/413AH70030 (former applicant was Alabama A&M University) for the improvement of a TV network production center, Normal, Ala. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $516,775. Grant requested: $386,775. Application signed by: Dennis N. Stork, General Manager.

EDUCATIONAL RADIO

Sangaman State University, Springfield, Ill. 62708, File No. 289–R/413BH70153, for the improvement of a noncommercial educational radio station on 91.9 MH/z, Springfield, Ill. Proposal determined acceptable: April 25, 1977. Estimated project costs: $28,524. Grant requested: $21,393. Application signed by: Robert C. Spencer.

Augustana College, 8½ Avenue and 35th Street, Rock Island, Ill. 61201, File No. 290–R/413BH70034 for the improvement of a noncommercial educational radio station on 88.5 MH/z, Rock Island, Ill. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $30,763. Grant requested: $24,568. Application signed by: Roy E. France.

Board of Regents, North Illinois University, DeKalb, Ill. 60115, File No. 291–R/413 BH70050 for the improvement of a noncommercial educational radio station on 89.5 MH/z, Dekalb, Ill. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $30,763. Grant requested: $24,568. Application signed by: Roy E. France.

The University of Notre Dame du Lac, P.O. Box 532, Notre Dame, Ind. 46556, File No. 292–R/413BH70002 for the improvement of a noncommercial educational radio station on 88.9 MH/z, Notre Dame, Ind. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $9,384. Grant requested: $7,038. Application signed by: Thomas J. Mason.

Butler University, 46th and Sunset Avenue, Indianapolis, Ind. 46208, File No. 293–R/413BH70025 for the improvement of a noncommercial educational radio station on 104.5 MH/z, Indianapolis, Ind. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $159,641. Grant requested: $119,729. Application signed by: Louis F. Chenette.

Indiana State University Board of Trustees, Terre Haute, Ind. 47809, File No. 294–R/413BH70064 for the improvement of a noncommercial educational radio station on 89.7 MH/z, Terre Haute, Ind. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $81,793. Grant requested: $61,345. Application signed by: Paul Siebenmorgen.

Eastern Kentucky University, Richmond, Ky. 40475, File No. 295–R/413BH70106 for the improvement of a noncommercial educational radio station on 88.9 MH/z. Richmond, Ky. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $29,-555. Grant requested: $22,166. Application signed by: J. C. Powell.

National Music Camp, Interlochen, Mich. 49643, File No. 296–R413BH70011 for the improvement of a noncommercial educational radio station on 88.3 MH/z, Interlochen, Mich. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $110,-218. Grant requested: $82,663. Application signed by: Roger E. Jacob.

Flint Board of Education, 601 Crapo Street, Flint, Mich. 48503 File No. 297–R/413BH70113 for the improvement of a noncommercial educational radio station on 95.1 MH/z, Flint, Mich. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $81,897. Grant requested: $61,423. Application signed by: E. Grice.

The Regents of the University of Michigan, 4080 Administration Building, Ann Arbor, Mich. 48109, File No. 298–R/413BH70062 for the improvement of a noncommercial educational radio station on 91.7 MH/z, Ann Arbor, Mich. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $48,191. Grant requested: $36,143. Application signed by: Charles H. Overberger.

Plymouth-Canton Community Schools, 454 South Harvey Street, Plymouth, Mich. 48170, File No. 299–R/413BH70051 for the improvement of a noncommercial educational radio station on 89.3 MH/z, Plymouth, Mich. Proposal determined acceptable: April 25, 1977.

Estimated total project costs: $88,324. Grant requested: $66,243. Application signed by: John M. Hoben.

Minnesota Public Radio, Inc., 400 Sibley Street, St. Paul, Minn. 55101, File No. 300–R/413BH70144 for the improvement of a noncommercial educational radio station 92.9 MH/z, Duluth, Minn. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $35,454. Grant requested: $26,590. Application signed by: Wm. H. Kling.

Minnesota Public Radio, Inc., 400 Sibley Street, St. Paul, Minn. 55101, File No. 301–R/413BH70145 for the improvement of a noncommercial educational radio station on 91.1 MH/z Minneapolis/St. Paul, Minn. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $257,510. Grant requested: $193,132. Application signed by: Wm. H .Kling.

St. Olaf College, Northfield, Minn. 55057, File No. 302–R/413BH70116 for the improvement of a noncommercial educational radio station on 89.3 MH/z, Northfield, Minn. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $163,060. Grant requested: $122,245. Application signed by: D. E. Johnson.

Southern Minnesota Corp. for Public Broadcasting, 423 North Front Street, Box 3208, Mankato, Minn. 56001, File No. 303–R/413BH70055 for the establishment of a noncommercial educational radio station on 89.7 MH/z, Mankato, Minn. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $206,359. Grant requested: $154,796. Application signed by: Brad Theissen.

School District No. 1, Dallas Co. Ramsey at Commercial, Buffalo, Mo. 65622, File No. 304–R/413BH70026 for the improvement of a noncommercial educational radio station on 90.3 MH/z, Buffalo, Mo. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $5,474. Grant requested: $4,105. Application signed by: Jack L. Howard.

University of Missouri, Columbia, Mo. 65201, File No. 305–R/413BH70152 for the improvement of a noncommercial educational radio station on 91.3 MH/z, Columbia, Mo. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $108,776. Grant requested: $81,632. Application signed by: R. H. Bezoni.

Curators of the University of Missouri, 8001 Natural Bridge Road, St. Louis, Mo. 63121, File No. 306–R/413BH70101 for the improvement of a noncommercial educational radio station on 90.7 MH/z, St. Louis, Mo. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $100,010. Grant requested: $75,000. Application signed by: R. H. Bezoni.

Curators of the University of Missouri, Rolla, Mo. 65401, File No. 307–R/413BH70067 for the improvement of a noncommercial educational radio station on 88.5 MH/z, Rolla, Mo. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $9,023. Grant requested $7,323. Application signed by: R. H. Bezoni.

University of Cincinnati, 110 Emery Hall, Cincinnati, Ohio 45211, File No. 308–R/413BH70030 for the improvement of a noncommercial educational radio station on 90.9 MH/z, Cincinnati, Ohio. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $135,167. Grant requested: $101,375. Application signed by: Albert C. Yates.

Miami University, Oxford, Ohio 45056, File No. 309–R/413BH70052 for the improvement of a noncommercial educational radio station on 88.5 MH/z, Oxford, Ohio. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $145,543. Grant requested: $109,110. Application signed by: Lloyd Goggin.

Antioch College, Yellow Spings, Ohio 45387, File No. 310–R/413BH70140 for the improvement of a noncommercial educational radio station on 91.3 MH/z, Yellow Springs, Ohio. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $81,722. Grant requested: $61,291. Application signed by: Janet Hartle.

Hamilton City School District, 332 Dayton Street, Hamilton, Ohio 45012, File No. 311–R/413BH70143 for the improvement of a noncommercial educational radio station on 89.5 MH/z, Hamilton, Ohio. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $56,335. Grant requested: $42,252. Application signed by: Albert Bruno.

West Virginia Educational Broadcasting Authority, State Building No. 6, Suite B–424, Charleston, W. Va. 25305, File No. 312–R/413BH70083 for the establishment of a noncommercial educational radio station on 90.9 MH/z, Morgantown, W. Va. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $135,000. Grant requested: $101,250. Application signed by: Francis L. Blake.

West Virginia Educational Broadcasting Authority, State Building No. Suite B–424, Charleston, W. Va. 25305, File No. 313–R/413BH 70084 for the establishment of a noncommercial educational radio station on 89.9 MH/z, Wheeling, W. Va. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $120,000. Grant requested: $90,000. Application signed by: Francis L. Blake.

Gateway Vocational, Technical and Adult Education District, 3520 30th Avenue, Kenosha, Wis. 53140, File No. 314–R/413BH70070 for the improvement of a noncommercial educational radio station on 91.1 MH/z, Kenosha, Wis. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $30,132. Grant requested: $22,599. Application signed by: K. W. Stoehr.

Menominee Indian Tribe, P.O. Box 397, Keshena, Wis. 54135, File No. 315–R/413BH-70009 for the establishment of a noncommercial educational radio station on 88.5 MH/z, Keshena, Wis. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $81,481. Grant requested: $60,000. Application signed by: Mark A. Husby.

University of Wisconsin, LaCrosse, 1725 State Street, LaCrosse, Wis. 54601, File No. 316–R/413BH70115 for the improvement of a noncommercial educational radio station on 88.9 MH/z, LaCrosse, Wis. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $76,550. Grant requested: $57,413. Application signed by: K. E. Lindner.

Spokane Public Broadcasting Association, Rt. 3, Box 525C, Spokane, Wash. 99203, File No. 317–R/413BH70007, for the improvement/expansion of a noncommercial educational radio station on 91.1 MH/z, Spokane, Wash. Proposal determined acceptable: December 10, 1976. Estimated total project costs: $257,022. Grant requested: $192,766. Application signed by: Susan Wallace, President.

North Carolina Central University, 1801 Fayetteville Street, Durham, N.C. 27707, File No. 318–R/413BH70032, for the establishment of a noncommercial educational radio station on 90.3 MH/z, Durham, N.C. Proposal determined acceptable: April 20, 1977. Estimated total project costs: $83,621. Grant requested: $50,000. Application signed by: Albert N. Whiting, Chancellor.

The KBOO Foundation, 3129 SE. Belmont Street, Portland, Oreg 97214, File No. 319–R/413BH70109 for the improvement of a noncommercial educational radio station on 90.7 MH/z, Portland, Oreg., Proposal determined acceptable: April 25, 1977. Estimated total project costs: $34,585. Grant requested: $25,938. Application signed by: John Eccles, President.

State of Oregon, Acting By and Through the State Board of Higher Education, P.O. Box 3175, Eugene, Oreg. 97403, File No. 320–R/413BH70085 for the improvement of a noncommercial educational radio station on 90.1 MH/z, Ashland, Oreg. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $91,513. Grant requested: $68,561. Application signed by: D. R. Larson, President.

Washington State University, Pullman, Wash. 99164, File No. 321–R/413BH70121, for the improvement of a noncommercial educational radio station on 1250 KH/z, Pullman, Wash. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $24,430. Grant requested: $17,447. Application signed by: C. J. Nyman, Dean of the Graduate School.

Seattle School District No. 1, 815 Fourth Avenue, North, Seattle, Wash. 98109, File No. 322–R/413BH70127, for the improvement of a noncommercial educational radio station on 89.5 MH/z, Seattle, Wash. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $120,183. Grant requested: $90,137. Application signed by: Mr. Hal Reasby, Associate Superintendent.

Jack Straw Memorial Foundation, 1406 Harvard Avenue, Seattle, Wash. 98122, File No. 323–R/413BH70066, for the improvement of a noncommercial educational radio station on 107.7 MH/z, Seattle, Wash. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $161,893. Grant requested: $121,419. Application signed by: Douglas H. Ekblade, Station Manager.

The University of North Carolina at Chapel Hill, Swain Hall, Chapel Hill, N.C. 27514, File No. 324–R/413BH70138 for the improvement of a noncommercial educational radio station on 91.5 MH/z, Chapel Hill, N.C. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $69,880. Grant requested: $53,535. Application signed by: George R. Holcomb, Dean for Research Administration.

Pacific Lutheran University, Tacoma, Wash. 98447, File No. 325–R/413BH70100, for the expansion of a noncommercial educational radio station on 88.5 MH/z, Tacoma, Wash. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $196,251. Grant requested: $146,151. Application signed by: William O. Rieke, President.

The University of Kansas, Lawrence, Kans. 66045, File No. 326–R/413BH70147, for the improvement of a noncommercial educational radio station on 91.5 MH/z, Lawrence, Kans. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $33,110. Grant requested: $24,832. Application signed by: Henry L. Snyder, Dean, Research Administration.

The Trustees of Davidson College, Davidson, N.C. 28036, File No. 327–R/413BH70043, for the expansion of a noncommercial educational radio station on 89.9 MH/z, Davidson, N.C. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $187,522. Grant requested: $140,641. Application signed by: Samuel R. Spencer, Jr., President.

The Library Board (WLRH Public Radio), 222 Holmes Avenue, Huntsville, Ala. 35801, File No. 328–R/413BH70125 for the improvement of a noncommercial educational radio station on 89.3 MH/z, Huntsville, Ala. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $37,187. Grant requested: $29,877. Application signed by: Virginia Tomme, Station Manager.

University of Alabama in Huntsville, P.O. Box 1247, Huntsville, Ala. 35807, c/o Dr. Joseph C. Dowdle, File No. 329–R/413BH70136 for the establishment of a noncommercial educational radio station on 90.9 MH/z,

Huntsville, Ala. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $110,548. Grant requested: $82,911. Application signed by: Joseph C. Dowdle, V.P. for Administration.

Spring Hill College, 4300 Old Shell Road, Mobile, Ala. 36608, File No. 330-R/413BH70006 for the establishment of a noncommercial educaional radio station on 91.3 MH/z, Mobile, Ala. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $263,521. Grant requested: $197,641. Application signed by: Paul S. Tipton, President.

University of Central Arkansas, Conway, Ark. 70232, File No. 331-R/413BH70021 for the improvement of a noncommercial educational radio station on 91.5 MH/z, Conway, Ark. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $21,-194. Grant requested: $15,895. Application signed by: Dr. Jefferson Farris, President.

Public Radio of Southern Connecticut, Inc., Box 323, Saugatuck Station, Westpoint, Conn. 06880, File No. 332-R/413BH70075 for the improvement of a radio station on 89.5 MH/z, Bridgeport, Conn. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $284,382. Grant requested: $213,285. Application signed by: Charles E. Robbins, President.

Western Mass Broadcasting Council, Inc., Hampshire House, University of Massachusetts, Amherst, Mass. 01002, File No. 333-R/413BH70054 for the improvement of a noncommercial educational radio station on 88.5 MH/z, Amherst, Mass. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $30,706. Grant requested: $45,531. Application signed by: Godwin G. Oyewole, General Manager .

WGBH Educational Foundation (WGBH-FM), 125 Western Avenue, Boston, Mass. 02134, File No. 334-R/413BH70088 for the improvement of a noncommercial educational radio station on 89.7 MH/z, Boston, Mass. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $122,132. Grant requested: $91,599. Application signed by: David O. Ives, President.

WCUW, Inc., 950 Main Street, Worcester, Mass. 01610 File No. 335-R/413BH70118 for the improvement of a noncommercial educational radio station on 91.3 MH/z, Worcester, Mass. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $36,457. Grant requested: $27,343. Application signed by: John Levin, President, Board of Directors.

Albany Medical College of Union University, 47 New Scotland Avenue, Albany, N.W. 12208, File No. 336-R/413BH70053 for the improvement of a noncommercial educational radio stalton on 90.3 MH/z, Albany, N.Y. Proopsal determined acceptable: April 25, 1977. Estimated total project costs: $199,954. Grant requested: $149,965. Application signed by: Dr. K. T. Lee, Dean, Graduate Studies and Research.

Western New York ETV Association, Inc., P.O. Box 1263, Buffalo, N.Y. 14240, File No. 337-R/413BH70103 for the improvement of WEBR-AM and WNED-FM stations on 970 KH/z and 94.5 MH/z respectively, Buffalo, N.Y. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $329,658. Grant requested: $247,243. Application signed by: J. Michael Collins, President.

Board of Education of the City of New York, 131 Livingston Street, Brooklyn, N.Y. 11201, File No. 338-R/413BH70023 for the improvement of a noncommercial educational radio station on 91.5 MH/z, New York City, N.Y. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $68,-949. Grant requested: $51,712. Application signed by: Irving Anker, Chancellor.

State University of New York at Buffalo, 3435 Main Street, Buffalo, N.Y. 14214, File No. 339-R/413BH70111 for the improvement of a noncommercial educational radio station on 88.7 MH/z, Buffalo, N.Y. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $122,568. Grant requested: $93,525. Application signed by: Marvin P. Granger, General Manager.

Colgate University, Hamilton, N.Y. 13346, File No. 340-R/413BH70123 for the improvement of a noncommercial educational radio station on 90.1 MH/z, Hamilton, N.Y. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $14,835. Grant requested: $11,125. Application signed by: Bertram S. Ryder, Director of Administrative Operations.

Eastern New Mexico University (KENW-FM), Portales, N. Mex. 88130, File No. 341-R/413BH70087 for the establishment of a noncommercial educational radio station on 89.5 MH/z, Portales, N. Mex. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $133,612. Grant requested: $100,209. Application signed by: Dr. Warren Armstrong.

San Diego State University, San Diego, Calif. 92182, File No. 342-R/413BH70057 for the improvement of a noncommercial educational radio station on 89.5 MH/z, San Diego, Calif. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $93,668. Grant requested: $70,251. Application signed by: Paul Steen.

Santa Monica College, 1900 Pico Boulevard, Santa Monica, Calif. 90405, File No. 343-R/413BH70130 for the improvement of a noncommercial educational radio station on 89.9 MH/z, Santa Monica, Calif. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $164,140. Grant requested: $123,105. Application signed by: Dr. Richard Moore.

New Mexico State University, Box 3-J University Park, Las Cruces, N.M. 88003, File No. 344-R/413BH70061 for the improvement of a noncommercial educational radio station on 90.7 MH/z, Las Cruces, N.M. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $40,000. Grant requested: $30,000. Application signed by: Frank F. Hash.

Capitol Community Broadcasting, Inc., 240 Main Street, Juneau, Alaska 99801, File No. 345-R/413BH70137 for the improvement of a noncommercial educational radio station on 104.3 MH/z, Juneau, Alaska. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $161,499. Grant requested: $115,988. Application signed by: Charles Northrip.

Nevada Public Radio Corporation, P.O. Box 43177, Las Vegas, Nev. 89104, File No. 346-R/431BH70098 for the establishment of a noncommercial educational radio station on 89.5 MH/z, Las Vegas, Nev. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $159,228. Grant requested: $125,819. Application signed by: Lamar Marchese.

Ramah Navajo School Board (KTDB-FM), Ramah, N. Mex. 87321, File No. 347-R/413BH 70037 for the improvement of a noncommercial educational radio station on 89.7 MH/z, N. Mex. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $180,200. Grant requested: $133,000. Application signed by: Laurence Manuelito.

Foundation of California State University, Sacramento, Calif. 95819, File No. 348-R/413 BH70082 for the improvement of a noncommercial educational radio station on 88.9 MH/z, Sacramento, Calif. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $134,300. Grant requested: $100,725. Application signed by: James Archer.

University of New Mexico, Albuquerque, N. Mex. 87131, File No. 349-R/413BH70096 for the improvement of a noncommercial educational radio station on 90.1 MH/z, Albuquerque, M. Mex. Proposal determined acceptable: April 25, 1977. Estimated total costs: $62,228. Grant requested: $46,671. Application signed by: Edmund B. Kasner.

Saddleback Community College, 28000 Marguerite Parkway, Mission Viejo, Calif. 92657, File No. 350-R/413BH70068 for the improvement of a noncommercial educational radio station on 88.5 MH/z, Mission Viejo, Calif. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $147,596. Grant requested: $110,697. Application signed by: Robert Lombardi.

Conejo Public Broadcasting Inc., Thousand Oaks, Calif. 91360, File No. 351-R/413BH 70029 for the establishment of a noncommercial educational radio station on 91.1 MH/z, Conejo, Calif. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $262,558. Grant requested: $198,688. Application signed by: Alfred James Miller.

Board of Education (KLON-FM), Long Beach School District, Long Beach, Calif. 90813, File No. 352-R/413BH70020 for the improvement of a noncommercial educational radio station on 88.1 MH/z, Long Beach, Calif. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $15,700. Grant requested: $11,775. Application signed by: Dr. Francis Laufenberg.

Pacifica Foundation (KPFA-FM), 2207 Shattuck Avenue, Berkeley, Calif. 94704, File No. 353-R/413BH70038 for the improvement of a noncommercial educational radio station on 94.1 MH/z, Berkeley, Calif. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $138,400. Grant requested: $103,800. Application signed by: Peter Franck.

University of Arizona, Arizona Board of Regents (KUAT-FM), Tucson, Ariz. 85721, File No. 354-R/413BH70073 for the improvement of a noncommercial educational radio station on 90.5 MH/z, Tucson, Ariz. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $30,762. Grant requested: $23,075. Application signed by: Sherwood Carr.

KQED-FM Inc., 800-8th Street, San Francisco, Calif. 94103, File No. 355-R/413BH70074 for the improvement of a noncommercial educational radio station on 88.5 MH/z, San Francisco, Calif. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $190,040. Grant requested: $142,530. Application signed by: Arthur Porter.

Boulder Community Broadcasting Association, P.O. Box 1076, Boulder Colo. 80206, File No. 356-R/413BH70142 for the establishment of a noncommercial educational radio station on 88.5 MH/z, Boulder, Colo. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $105,498. Grant requested: $79,124. Application signed by: Carla Selby.

University of Northern Colorado, Greeley, Colo. 80639, File No. 357-R/413BH70017 for the improvement of a noncommercial educational radio station on 91.5 MH/z, Greeley, Colo. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $92,-000. Grant requested: $69,000. Application signed by: Dr. Richard R. Bond.

University of Southern California, University Park, Los Angeles, Calif. 90007, File No. 358-R/413BH70107 for the improvement of a noncommercial educational radio station on 91.5 MH/z, Los Angeles, Calif. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $437,505. Grant requested: $320,541. Application signed by: Zohrab A. Kapriellan.

Poor People's Radio, Inc. (KPOO-FM), P.O. Box 11008 San Francisco, Calif. 94101, File No. 359-R/413BH70141 for the improvement of a noncommercial educational radio station on 89.5 MH/z, San Francisco, Calif. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $103,398. Grant requested: $66,398. Application signed by: George Kelsey.

University of Southern California (KUSC), University Park, Los Angeles, Calif. 90007, File No. 360-R/413BH70108 for the improvement of a noncommercial educational radio station on 91.5 MH/z, Los Angeles, Calif. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $2,300. Grant requested: $1,748. Application signed by: Zohrab Kaprielian.

Pacifica Foundation, 1030, 15th Street NW., Washington, D.C. 20005, File No. 361-R/413BH70078 for the improvement of a noncommercial educational radio station on 89.3 MH/z, District of Columbia. Proposal determined acceptable: April 25, 1977. Estimated total project costs: $118,345. Grant requested: $88,759. Application signed by: Gregory B. Millard, General Manager.

Greater Washington Educational Telecommunications Association, Inc., Box 2626, Washington, D.C. 20013, File No. 362-R/413BH70093 for the improvement of a noncommercial educational radio station WETA-FM on 90.9 MH/z, District of Columbia. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $240,190. Grant requested: $180,142. Application signed by: Ward B. Chamberlin, Jr. President.

Radio Free Georgia Broadcasting Foundation, Inc., 1091 Euclid Avenue, Atlanta, Ga. 30307, File No. 367-R/413BH70069 for the improvement of a noncommercial educational radio station WRFG-FM on 89.3 MH/z, Atlanta, Ga. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $21,826. Grant requested: $16,369. Application signed by: Fay Bellamy, President.

Seton Hall University, 400 South Orange Drive, South Orange, N.J., 07079, File No. 368-R/413BH70049 for the improvement of a noncommercial educational radio station WSOU on 89.5 MH/z, South Orange, N.J. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $53,810. Grant requested: $40,357. Application signed by: Ms. Margaret Hoppe, Acting Vice President for Student Affairs.

University of Alaska (KUAC-FM), Fairbanks, Alaska 99701, File No. 369-R/413 BH70027 for the improvement of a noncommercial educational radio station on 104.7 MH/z, Fairbanks, Alaska. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $56,984. Grant requested: $42,738. Application signed by: H. A. Cutler.

Newark Public Radio, Inc., 909 Broad Street, Newark, N.J. 07102, File No. 370-R/413BH70102 for the establishment of a noncommercial educational radio station on 88.3 MH/z, Newark, N.J. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $268,350. Grant requested: $201,262. Application signed by: Richard W. Roper, Secretary-Treasurer.

University of New Orleans, Lakefront, New Orleans, La. 70122, File No. 373-R/413 BH70035 for the improvement of a noncommercial educational radio station on 89.9 MH/z, New Orleans, La. Proposal determined acceptable: Apr. 19, 1977. Estimated total project costs: $178,260. Grant requested: $133,696. Application signed by: George D'Aquin, Vice Chancellor for Business Affairs.

Public Radio, Inc., Post Office Box 6614, Baton Rouge, La. 70896, File No. 374-R/413BH70114 for the establishment of a noncommercial educational radio station on 89.3 MH/z, Baton Rouge, La. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $118,414. Grant requested: $88,811. Application signed by Matthew Pitts, President.

New York University, 566 LaGuardia Place, New York, N.Y. 10012, File No. 375-R/413 BH70090 for the improvement of a noncommercial educational radio station on 89.1 MH/z, New York, N.Y. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $50,000. Grant requested: $37,500. Application signed by: Ann H. Greenberg, Director, Office of Sponsored Programs.

Susquehanna University, University Avenue, Selinsgrove, Pa. 17870, File No. 376-R/413BH70133 for the improvement of a noncommercial educational radio station WQSU-FM on 88.9 MH/z, Selinsgrove, Pa. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $50,676. Grant requested: $38,007. Application signed by: Gustave W. Weber, President.

Duquesne University, 801 Bluff Street, Pittsburgh, Pa. 15219, File No. 377-R/413BH-70046 for the improvement of a noncommercial educational radio station WDUQ on 90.5 MH/z, Pittsburgh, Pa. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $167,900. Grant requested: $125,925. Application signed by: Frederick R. Clark, Vice President and Treasurer.

WEVL, Southern Communication Volunteers, 1369 Court Street, Memphis, Tenn. 38101, File 378-R/413BH70120 for the improvement of a noncommercial educational radio station WEVL on 89.9 MH/z, Memphis, Tenn. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $154,458. Grant requested: $113,843. Application signed by: Percy A. Brown, General Manager.

Tennessee State University, 3500 Centennial Boulevard, Nashville, Tenn. 37203, File No. 379-R/413BH70008 for the establishment of a noncommercial educational radio on 91.7 MH/z, Nashville, Tenn. Proposal determined acceptable: Mar. 1, 1977. Estimated total project costs: $59,141. Grant requested: $44,348. Application signed by: Dr. Frederick S. Humphries, President.

University of Puerto Rico, P.O. Box A U.P.R. Station, San Juan, P.R. 00931, File No. 380-R/413BH70126 for the establishment of a noncommercial educational radio station on 89.7 MH/z, San Juan, P.R. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $150,000. Grant requested: $75,000. Application signed by: Dr. Ismael Rodriguez-Bov, Chancellor.

Kings College, 133 North Rivier Street, Wilkes-Barre, Pa. 18711, File No. 381-R/413-BH70063 for the improvement of a non-commercial educational radio station WRKC on 88.5 MH/z, Wilkes-Barre, Pa. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $20,000. Grant requested: $15,000. Application signed by: Rev. Charles D. Sherrer, C.S.C., President.

Wilkes College, River and South Streets, Wilkes-Barre, Pa. 18703, File No. 382-R/-413BH70080 for the improvement of a noncommercial educational radio station WCLH on 90.7 MH/z, Wilkes-Barre, Pa. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $29,789. Grant requested: $22,341. Application signed by: Teresa B. McDonald, Director of Research.

Texas Southern University, 3201 Wheeler Avenue, Houston, Tex. 77004, File No. 383-R/413BH70042 for the expansion of a noncommercial educational radio station KTSU-FM on 90.9 MH/z, Houston, Texas. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $242,483. Grant requested: $181,863. Application signed by: Granville M. Sawyer, President.

Vermont Public Radio, 100 Dorset Street, South Burlington, Vt. 05401, File No. 384-R/413BH70151 for the establishment of a noncommercial educational radio station on 107.9 MH/z, Burlington, Vt. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $154,465. Grant requested: $115,848. Application signed by: Ray Dilley, Station Manager.

Prairie View A&M University, Prairie View, Tex. 77445, File No. 385-R/413BH70076 for the establishment of an FM noncommercial educational radio station on 91.3 MH/z, Prairie View, Tex. Proposal determined acceptable: Apr. 25, 1977. Estimated total costs: $177,403. Grant requested: $133,052. Application signed by: Dr. Alvin I. Thomas, President.

Lamar University, P.O. Box 10050, Beaumont, Tex. 77710, File No. 386-R/413BH70033 for the improvement of a noncommercial educational radio station KVLU on 91.3 MH/z, Beaumont, Tex. Proposal determined acceptable: Apr. 20, 1977. Estimated total project costs: $205,390. Grant requested: $125,654. Application signed by: Dr. Robert Kemble, President.

Central Texas College, U.S. Highway 190 West, Killeen, Tex. 76541, File No. 387R/431BH70086 for the improvement of a noncommercial educational radio KNCT-FM on 91.3 MH/z, Killeen, Tex. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $29,756. Application signed by: Phillip R. Schwartz, Vice President.

University of Texas at Austin, P.O. Box 7158, Austin, Tex. 78712, File No. 389-R/413BH70095 for the improvement of a noncommercial educational radio station KUT-FM on 90.5 MH/z, Austin, Tex. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $181,968. Grant requested: $136,468. Application signed by: H. Eldon Sutton, Vice President for Research.

Alvin Community College, 3110 Mustang Road, Alvin, Tex. 77511, File No. 390-R/413-BH700104 for the establishment of a noncommercial educational radio station KACC on 91.3 MH/z, Alvin Tex. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $69,446. Grant requested: $50,585. Application signed by: Dr. Rodney Allbright, President.

Public Communications Foundation for North Texas, 3000 Harry Hines Boulevard, Dallas, Tex. 75201, File No. 388-R/413BH-70024 for the improvement of the FCC authorized sub-channel service of station KERA on 90.9 MH/z, Dallas, Tex., through the acquisition of sub-carrier receivers. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $209,760. Grant requested: $157,320. Application signed by: Edward J. Pfister, President.

University of Alabama in Birmingham, 1028 7th Avenue South, Birmingham, Ala. 35294, File No. 371-R/413BH70013 for the improvement of the FCC authorized sub-channel service of radio station WBHM, 90.3 MH/z, Birmingham, Ala., through the acquisition of sub-carrier receivers. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $112,500. Grant requested: $84,375. Application signed by: Dr. Donald E. Kiely, Coordinator, Sponsored Programs.

University of South Florida (WUSF-FM), Division of Sponsored Research, Tampa, Fla. 33620, File No. 372-R/413BH70129 for the improvement of the FCC authorized sub-channel service of radio station WUSF, 89.7 MH/z, Tampa, Fla., through the acquisition of sub-carrier receivers. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $50,500. Grant requested: $37,875. Application signed by: William H. Taft, Director of Research.

Greater Washington Telecommunications Association, Inc., Box 2620 Washington, D.C.

20013, File No. 363-R/413BH70094 for the improvement of the FCC authorized sub-channel service of radio station WETA-FM, 90.9 MH/z, District of Columbia, through the acquisition of sub-carrier receivers. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $26,756. Grant requested: $20,067. Application signed by: Ward B. Chamberlin, Jr., President.

Board of Trustees for Michigan State University, East Lansing, Mich. 48824, File No. 364-R/413BH70045 for the improvement of the FCC authorized sub-channel service of radio station WKAR-FM, 90.5 MH/z, East Lansing, Mich., through the acquisition of sub-carrier receivers. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $19,654. Grant requested: $15,729. Application signed by: E. G. Ballard.

Milwaukee Board of School Directors, P.O. Drawer 10-K, Milwaukee, Wis. 53201, File No. 365-R/413BH70056 for the improvement of the FCC authorized sub-channel service of radio station WYMS, 88.9 MH/z, Milwaukee, Wisconsin, through the acquisition of sub-carrier receivers. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $16,500. Grant requested: $13,000. Application signed by: J. T. Marcussen.

Greater Toledo ETV Foundation, 415 North St. Clair Street, Toledo, Ohio 43604, File No. 366-R/413BH70128 for the improvement of the FCC authorized sub-channel service of radio station WGTE, 91.3 MH/z Toledo, Ohio, through the acquisition of sub-carrier receivers. Proposal determined acceptable: Apr. 25, 1977. Estimated total project costs: $3,220. Grant requested: $2,965. Application signed by: Robert G. Smith.

Hutchinson Community Junior College, 1300 North Plum, Hutchinson, Kan. 67501, File No. 236-R/413BH70110, accepted as of December 12, 1975 for the expansion of a noncommercial radio station KHCC-FM operating on 90.1 MH/z, Hutchinson, Kansas, is amended to include additional apparatus necessary to distribute programming utilizing sub-carrier authority. Amended estimated total project costs: $223,247. Amended grant requested: $174,935. Application signed by: G. L. Cooper, Academic Dean.

Amistad Productions, Inc., 2490 Cascade Road, S.W., Atlanta, Ga. 30311, File No. 536-T/413AH70012, accepted as of December 12, 1975 for the establishment of a noncommercial educational television station on Channel 57, Atlanta, Georgia, has been amended as of April 25, 1977 for an estimated total project costs: $1,010,819. Grant requested: $758,114. Application signed: Dan P. Young, Chairman.

(47 U.S.C. 390-95; 397-99.)

(Catalog of Federal Domestic Assistance Program No. 13.413, Educational Broadcasting Facilities Program.)

This notice issued in Washington, D.C.

Dated: August 9, 1977.

JOHN ELLIS,
Acting Commissioner of Education.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES 16358]

ALABAMA

Proposed Withdrawal and Reservation of Lands; Correction

In 42 FR 17533 of April 1, 1977, paragraph 9 of FR Doc. 77-9692 should read:

The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with Section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

LOWELL J. UDY,
Director, Eastern States.

[FR Doc.77-23464 Filed 8-12-77;8:45 am]

National Park Service

CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK COMMISSION

Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held on Wednesday, Septembtr 14, 1977, at 7:30 p.m., at the Great Falls Tavern, C&O Canal National Historical Park, Great Falls, Maryland.

The Commission was established by Public Law 91-664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Mr. Donald R. Frush (chairman), Hagerstown, Md.
Mrs. Bonnie Troxell, Cumberland, Md.
Miss Nancy Long, Glen Echo, Md.
Mrs. Constance Morella, Bethesda, Md.
Mr. Kenneth Rollins, Brookmont, Md.
Mr. Vladimir A. Wahbe, Baltimore, Md.
Mr. Edwin F. Wesely, Jr., Brookmont, Md.
Mr. James B. Coulter, Annapolis, Md.
Mrs. Dorothy Grotos, Arlington, Va.
Mr. James H. Gilford, Frederick, Md.
Mr. Lorenzo W. Jacobs, Jr., Washington, D.C.
Mr. Dayton C. Casto, Jr., Great Cacapon, W. Va.
Mr. Silas F. Starry, Shepherdstown, W. Va.
Mr. Rockwood H. Foster, Washington, D.C.
Mr. R. Lee Downey, Williamsport, Md.
Mr. John C. Frye, Gapland, Md.
Mrs. Kenneth Pohlmann, Dickerson, Md.

The matters to be discussed at this meeting include:

1. Call to order and roll call.
2. Approval of minutes, April 14, 1977.
3. Committee and functional statements.
4. Liaison between committees.
5. Presentation on developments in Georgetown.
6. Status of FY 1977 and 1978 Land Heritage Program projects.
7. Package No. 222, Land Heritage Program proposals.
8. Youth hostels.
9. Canal barge permit, North Branch.
10. Construction projects, Widewater area and Oldtown.
11. Ferry Hill renovations.
12. Lockhouse 7.
13. Access to town campground at Brunswick.
14. Committee reports.

The meeting will be open to the public. However facilities and space for accommodating members of the public are limited and it is expected that not more than 20 persons will be able to attend the sessions. Any member of the public may file with the Committee a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact William R. Failor, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, MD 21782, telephone area code 301-432-2231. Minutes of the meeting will be available for public inspection 2 weeks after the meeting at Park Headquarters, Sharpsburg, Maryland.

Dated: August 5, 1977.

MANNS J. FISH, Jr.,
Regional Director, National Capital Region.

[FR Doc.77-23446 Filed 8-12-77;8:45 am]

[Order No. 3]

FIRE ISLAND NATIONAL SEASHORE

Administrative Officer, et al.; Delegation of Authority Regarding Execution of Contracts and Purchase Orders for supplies, equipment and services

1. Administrative Officer. The Administrative Officer, Fire Island National Seashore, New York may execute, approve and administer contracts not in excess of $25,000 for supplies, equipment or services in conformity with applicable regulations and stautory authority and subject to the availability of appropirated funds.

2. General Supply Assistant. The General Supply Assistant, Fire Island National Seashore, New York may issue purchase orders not in excess of $10,000 for supplies, equipment or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

3. This order supersedes Order No. 2 dated April 21, 1972 (37 FR 11735). (National Park Service Order No. 77 (38 FR 7478) as amended: North Atlantic Region Order No. 2 (42 FR 27687).)

Dated: July 8, 1977.

RICHARD W. MARKS,
Superintendent, Fire Island National Seashore.

[FR Doc.77-23448 Filed 8-12-77;8:45 am]

[Order No. 4]

CHIEF, ADMINISTRATIVE MANAGEMENT, PROCUREMENT AND PROPERTY MANAGEMENT OFFICER AND PURCHASING AGENT, GRAND CANYON NATIONAL PARK, ARIZONA

Delegation of Authority Regarding Execution of Contracts for Construction, Supplies, Equipment, and Services

Section 1. Chief, Administrative Management. The Chief of Administrative Management may execute, approve, and administer contracts and issue purchase orders not in excess of $100,000 for construction, supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to the availability of appropirated funds. Orders to GSA Centers and sources under established Federal Supply Schedules of Contracts or to other Federal agencies may exceed this amount.

Section 2. Procurement and Property Management. The Procurement and Property Management Officer may execute, approve, and administer contracts and issue purchase orders not in excess of $50,000, for construction, supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to the availability of appropirated funds. Orders to GSA Centers and sources under established Federal Supply Schedules of Contracts or to other Federal agencies may exceed this amount.

Section 3. Purchasing Agent. The Purchasing Agent may execute, approve, and administer contracts and issue purchase orders not in excess of $10,000, for construction, supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. Orders to GSA Centers and sources under established Federal Supply Schedules of Contracts or to other Federal agencies may exceed this amount.

Section 4. This authority may be exercised by the incumbents of the positions in sections 1, 2, and 3 in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds in behalf of any area under the supervision of the Superintendent of Grand Canyon National Park.

Section 5. Redelegation. The authority delegated in this Order No. 4 may not be redelegated.

Section 6. Revocation. This order supersedes Order No. 3, dated September 9, 1972, published in 37 FR 176 [National Park Service Order No. 77 (38 FR 7478), published March 22, 1973, as amended and Order No. 7, Superintendent et al. Western Region (37 FR 6326) as amended.]

Dated: July 29, 1977.

JOHN H. DAVIS,
Acting Regional Director,
Western Region.

MERLE E. STITT,
Superintendent.

JUNE 27, 1977.

[FR Doc.77-23451 Filed 8-12-77;8:45 am]

[Order No. 4]

JEFFERSON NATIONAL EXPANSION MEMORIAL; PURCHASING AGENT

Delegation of Authority Regarding Purchasing Authority

Sec. 1. *Purchasing Agent.* The Purchasing Agent may issue purchase orders and enter into contracts not in excess of $10,000 for supplies or equipment and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

Sec. 2. *Revocation.* This order supersedes Section 2 of Order No. 3, Jefferson National Expansion Memorial, dated May 8, 1972 and published at 37 FR 12733, dated June 28, 1972.

(National Park Service Order No. 77, 38 FR 7478 published March 22, 1973, as amended.)

Dated: June 28, 1977.

ROBERT S. CHANDLER,
Superintendent, Jefferson National
Expansion Memorial.

[FR Doc.77-23450 Filed 8-12-77;8:45 am]

MINING PLAN OF OPERATIONS AT DEATH VALLEY NATIONAL MONUMENT

Availability

Notice is hereby given that pursuant to the provisions of section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of section 9.17 of 36 CFR Part 9, Pfizer Inc. has filed a plan of operations in support of proposed mining activities on lands embracing its Mammoth Mining Claim Group within the Death Valley National Monument. This plan is available for public inspection during normal business hours at the Death Valley National Monument Headquarters, Death Valley, California.

Dated: July 15, 1977.

DONALD M. SPALDING,
Superintendent, Death Valley
National Monument.

Dated: August 3, 1977.

JOHN H. DAVIS,
Regional Director,
Western Regional Office.

[FR Doc.77-23453 Filed 8-12-77;8:45 am]

[Order No. 2]

OLYMPIC NATIONAL PARK; ASSISTANT SUPERINTENDENT, ET AL.

Delegation of Authority

Section 1. *Assistant Superintendent.* The Assistant Superintendent is delegated authority as follows:

(a) The Assistant Superintendent may execute and approve contracts not in excess of $100,000 for supplies, equipment, and services in conformity with applicable regulations and statutory authority and availability of appropriated funds.

(b) The Assistant Superintendent may approve Area Travel Authorizations and Specific Trip Authorizations.

(c) The Assistant Superintendent may designate who shall wear uniforms and what kind and approve allowances for the same.

Section 2. *Administrative Officer.* The Administrative Officer may execute and approve contracts not in excess of $50,000 for supplies, equipment, and services in conformity with applicable regulations and statutory authority and availability of appropriated funds.

Section 3. *Procurement Agent.* The Procurement Agent may issue purchase orders not in excess of $10,000 for supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

Section 4. *Procurement Clerk (typing).* The Procurement Clerk may issue purchase orders not in excess of $2,000 for supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

Section 5. *Revocation.* This order supersedes all previous delegations of authority issued by the Superintendent of Olympic National Park.

(National Park Service Order No. 77, 38 FR 7478, published March 22, 1973, as amended; Pacific Northwest Region Order No. 3, 37 FR 6325, published March 28, 1972, as amended.)

Dated: July 28, 1977.

JAMES W. COLEMAN, Jr.,
Superintendent,
Olympic National Park.

[FR Doc.77-23449 Filed 8-12-77;8:45 am]

[Order No. 1]

PARK RANGER, PUUKOHOLA HEIAU NATIONAL HISTORIC SITE

Delegations of Authority Regarding Execution of Purchase Orders, Supplies, Equipment, and Services

Section 1. Park Ranger. The Park Ranger may issue purchase orders not in excess of $300.00 for supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds. Orders to GSA Centers and sources under established Federal Supply Schedules of Contracts or to other Federal agencies may exceed this amount.

Section 2. Redelegation. The authority delegated in this Order No. 1 may not be redelegated.

(National Park Service Order No. 77 (38 FR 7478), published March 22, 1973, as amended and Order No. 7, Superintendent et al Western Region (37 FR 6326) as amended.)

Dated: July 18, 1977.

JERRY Y. SHIMODA,
Superintendent,
Puukohola Heiau NHS.

Dated: July 29, 1977.

JOHN H. DAVIS,
Acting Regional Director,
Western Region.

[FR Doc.77-23447 Filed 8-12-77;8:45 am]

[Order No. 1]

VALLEY FORGE NATIONAL HISTORIC PARK

Delegation of Authority Regarding Purchasing Authority; Administrative Officer, et al.

Section 1. Administrative Officer: The Administrative Officer may issue purchase orders and enter into contracts not in excess of $25,000 for supplies, construction, equipment or services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

Section 2. General Supply Specialist: The General Supply Specialist may issue purchase orders not in excess of $2,000 for supplies, materials, equipment and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

Dated: June 14, 1977.

H. GILBERT LUSK,
Superintendent.

[FR Doc.77-23452 Filed 8-12-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[AA1921-169-172]

ANIMAL GLUE AND INEDIBLE GELATIN FROM YUGOSLAVIA, SWEDEN, THE NETHERLANDS, AND WEST GERMANY

Investigation and Hearing

Having received advice from the Department of the Treasury on June 29, 1977, that animal glue and inedible gelatin from Yugoslavia, Sweden, the Netherlands, and West Germany (except that produced and sold by Electro Chemische Fabric Kempen G.m.b.H. of West Germany) are being, or are likely to be, sold at less than fair value, the United States International Trade Commission on August 8, 1977, instituted investigations Nos. AA1921-169, 170, 171, and 172, respectively, under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the investigation will be held in Washington, D.C., beginning at 10 a.m., e.d.t., on Thursday, September 15, 1977, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. All persons shall have the right to appear by counsel or in person, to present evidence and to be heard. Requests to appear at the public hearing, or to intervene under the provisions of section 201(d) of the Antidumping Act, 1921, shall be filed with the Secretary of the Commission, in writing, not later than noon, Thursday, September 8, 1977.

By order of the Commission:

Issued: August 10, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc.77-23477 Filed 8-12-77;8:45 am]

MARINE MAMMAL COMMISSION

PRIVACY ACT OF 1974

The purpose of this document is to give notice that the systems of records identified in a notice published in the FEDERAL REGISTER at 41 FR 39731, as amended by a notice published at 41 FR 50875, continue in effect. The only subsequent change is in the location of the systems of records listed as Systems MMC-1 and MMC-3. This notice is published in accordance with Section 3 of the Privacy Act of 1974, 5 U.S.C. Section 552a(e)(4).

AUGUST 8, 1977.

JOHN R. TWISS, Jr.,
Executive Director.

CONTENTS

MMC-1—Applications for Permits to Take or Import Marine Mammals or to Import Marine Mammal Products for Purposes of Scientific Research or Public Display—MMC.
MMC-2—Personnel Files on Current, Past, and Prospective Employees and Members of the Marine Mammal Commission and its Committee of Scientific Advisors—MMC.
MMC-3—Research Proposals and Contracts—MMC.
MMC-4—General Financial Records—MMC.
MMC-5—Payroll records—MMC.
Appendix MMC.

MARINE MAMMAL COMMISSION

PRIVACY ACT OF 1974

Systems of Records

Note: Systems of records for the Marine Mammal Commission are current as of September 15, 1976.

MMC—1

System name:

Applications for Permits to Take or Import Marine Mammals or to Import Marine Mammal Products for Purposes of Scientific Research or Public Display—MMC.

System location:

Commission Offices, 1625 I Street, NW., Room 307, Washington, D.C. 20006; Commission Members' Offices, presently:

Dr. Donald B. Siniff,
108 Zoology Building,
University of Minnesota,
Minneapolis, Minnesota 55455.

Dr. Douglas G. Chapman,
College of Fisheries,
University of Washington,
Seattle, Washington 98195.

Dr. Richard A. Cooley,
Division of Environmental Studies,
University of California,
Santa Cruz, California 95064.

Committee of Scientific Advisors Members' Offices, presently:

Dr. Robert L. Brownell, Jr.,
National Fish and Wildlife Laboratory,
USNM, Smithsonian Institution,
Washington, D.C. 20560.

Dr. Paul K. Dayton,
Asst. Professor of Oceanography,
Scripps Institution of Oceanography,
La Jolla, California 92037.

Dr. L. Lee Eberhardt,
2528 West Klamath Avenue,
Kennewick, Washington 99336.

Mr. Karl W. Kenyon,
11990 Lakeside Place, N.W.,
Seattle, Washington 98125.

Mr. John H. Prescott,
New England Aquarium,
Central Wharf,
Boston, Massachusetts 02110.

Dr. Clayton E. Ray,
National Museum of Natural History,
Smithsonian Institution,
Washington, D.C. 20560.

Dr. Sam H. Ridgway,
Biomedical Division,
Naval Undersea Center,
San Diego, California 92132.

Dr. Tim D. Smith,
Department of Zoology,
University of Hawaii at Manoa,
Honolulu, Hawaii 96822.

Categories of individuals covered by the system:

Individuals who have submitted applications, as required by the Marine Mammal Protection Act of 1972 and regulations of the Departments of Interior and Commerce, for permits to take or import marine mammals or to import marine mammal products.

Categories of records in the system:

Name, mailing address, telephone number, date of birth, height, weight, color of hair, color of eyes, sex, business or institutional affiliation, education and/or experience of the applicant which qualifies him/her to conduct the proposed activities.

Authority for maintenance of the system:

Title II, Section 206(5) of the Marine Mammal Protection Act of 1972, 16 U.S.C. 1406(5).

Routine uses of records maintained in the system, including categories of users the purposes of such uses:

See Appendix. Information contained in permit applications is used by the Commission, its Committee of Scientific Advisors, the Executive Director and his staff for the purpose of reviewing such applications and making recommendations thereon, regarding proper disposition of the application, to the Secretaries of Commerce and Interior in order to

carry out the duties assigned to the Commission by the Marine Mammal Protection Act of 1972. Subsequent to final disposition of the application, records are maintained for use in connection with the review of future applications submitted by the same individuals. The records contained in the system also are available for inspection by members of the public.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Maintained in 8½ by 11 inch folders in verticle file.

Retrievability:

Manual—indexed by name of applicant.

Safeguards:

Records are maintained in an office which is accessible only to authorized persons.

Retention and disposal:

Records will be retained in the Commission offices during the life of the Commission. Copies forwarded to the offices of individual Commissioners and Committee members are disposed of after disposition of the permit application, or at such other times as are deemed appropriate by the Commissioners and Committee members.

Method of disposal:

No particular method of disposal is followed.

System manager(s) and address:

Executive Director, Marine Mammal Commission, 1625 I Street, NW., Room 307, Washington, D.C. 20006.

Notification procedure:

An individual may obtain notification of whether the system of records contains a record pertaining to him/her by forwarding an inquiry to the System Manager, or by appearing in person, at the above address. See Commission regulations in 50 CFR Part 501.3.

Record access procedures:

See Commission access regulations in 50 CFR Parts 501.4, 501.5.

Contesting record procedures:

The Commission's rules for contesting contents of records, and for appealing adverse determinations with respect thereto, are contained in 50 CFR Part 502.6 through 501.8 Assistance in obtaining access to or contesting the contents of records can be obtained from the System Manager at the above address.

Record source categories:

Subject applicants.

MMC—2

System name:

Personnel files on current, past and prospective employees and members of the Marine Mammal Commission and its Committee of Scientific Advisors—MMC.

System location:

Commission offices, 1625 I Street, NW., Room 307, Washington, D.C. 20006.

Categories of individuals covered by the system:

Present and past employees, individuals who have submitted solicited or unsolicited applications for employment, members of the Commission and Committee of Scientific Advisors, and individuals who have been invited to submit personal information for consideration as a potential member of the Committee.

Categories of records in the system:

Name, address, telephone number, educational background, employment history, special employment qualifications, honors and awards, research and other activities relating to position, publications, letters of recommendation, and memoranda regarding conversations between Commission staff members and previous employers concerning quality of job performance.

Authority for maintenance of the system:

Title II, Section 206(5) of the Marine Mammal Protection Act of 1972, 16 U.S.C. 1406(5).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See Appendix. Information contained in the system is used, in conjunction with data supplied on Standard Civil Service Commission forms, for the purpose of assessing the qualification of subject individuals for appointment to the various positions described above. The Chairman of the Commission, the Executive Director, and the Administrative Officer are authorized users of the System.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in 8½ by 11 inch folders in a locked vertical file.

Retrievability:

Manual—indexed by name.

Safeguards:

The system is maintained in a locked, metal safe, the access combination to which is known only by the Executive Director, his Administrative Officer, and one member of his support staff. Other members of the staff have been instructed that they are under no circumstances to make any use of the system except in accordance with procedures promulgated by the agency pursuant to Subsection 552a(f)(3) of the Privacy Act.

Retention and disposal:

Records in the system will be retained during the life of the Commission.

Method of disposal:

No particular method of disposal is followed.

System manager(s) and address:

Executive Director, Marine Mammal Commission, 1625 I Street, NW., Room 307, Washington, D.C. 20006.

Notification procedure:

An individual may obtain notification of whether the system of records contains a record pertaining to him/her by forwarding an inquiry to the System Manager, or by appearing in person, at the above address. See Commission regulations in 50 CFR Part 501.3.

Record access procedures:

See Commission access regulations in 50 CFR Parts 501.4, 501.5.

Contesting record procedures:

The Commission's rules for contesting contents of records, and for appealing adverse determinations with respect thereto, are contained in 50 CFR Parts 501.6 through 501.8. Assistance in obtaining access to or contesting the contents of records can be obtained from the System Manager at the above address.

Record source categories:

Subject individuals; former and/or present employers of subject individuals; and others familiar with the individual and whom the individual has suggested as a reference.

MMC—3

System name:

Research proposals and contracts—MMC.

System location:

Commission offices, 1625 I Street, NW., Room 307, Washington, D.C. 20006; Commission Members' Offices, presently:

Dr. Donald B. Siniff, 108 Zoology Building, University of Minnesota, Minneapolis, Minnesota 55455.

Dr. Douglas G. Chapman, College of Fisheries, University of Washington, Seattle, Washington 98195.

Dr. Richard A. Cooley, Division of Environmental Studies, University of California, Santa Cruz, California 95064.

Committee of Scientific Advisers Members, Offices, presently:

Dr. Robert L. Brownell, Jr., National Fish and Wildlife Laboratory, USNM, Smithsonian Institution, Washington, D.C. 20560.

Dr. Paul K. Dayton, Asst. Professor of Oceanography, Scripps Institution of Oceanography, La Jolla, California 92037.

Dr. L. Lee Eberhardt, 2528 West Klamath Avenue, Kennewick, Washington 99336.

Mr. Karl W. Kenyon, 11990 Lakeside Place, N.W., Seattle, Washington 98125.

Mr. John H. Prescott, New England Aquarium, Central Wharf, Boston, Massachusetts 02110.

Dr. Clayton E. Ray, National Museum of Natural History, Smithsonian Institution, Washington, D.C. 20560.

Dr. Sam H. Ridgway, Biomedical Division, Naval Undersea Center, San Diego, California 92132.
Dr. Tim D. Smith, Department of Zoology, University of Hawaii at Manoa, Honolulu, Hawaii 96822.

Categories of individuals covered by the system:

Individuals who have submitted proposals to conduct scientific research, including those to whom research contracts have been awarded.

Categories of records in the system:

Name, address, telephone number, educational background, employment history, honors and awards, part research activities, publications, records of payments made to individuals pursuant to research contracts that have been awarded.

Authority for maintenance of the system:

Title II, Section 206(5) of the Marine Mammal Protection Act of 1972, 16 USC 1406(5).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See Appendix. Research proposals, containing personal qualifications information, are utilized by the Scientific Program Director and other members of the Commission staff, outside consultants, and Members of the Commission and the Committee for the purpose of determining the merit of such proposals. Records of contract payments are utilized by the Scientific Program Director, the Executive Director and his staff, and members of the Commission and Committee for purposes of budgeting, contract review, and evaluation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in 8½ by 11 inch folders in a vertical file.

Retrievability:

Manual—indexed by name.

Safeguards:

Records are maintained in an office which is accessible only to authorized persons.

Retention and disposal:

Records in the system will be retained during the life of the Commission.
Method of disposal: None.

System manager(s) and address:

Executive Director, Marine Mammal Commission, 1625 I Street, NW., Room 307, Washington, D.C. 20006.

Notification procedure:

An individual may obtain notification of whether the system of records contains a record pertaining to him/her by forwarding an inquiry to the System Manager, or by appearing in person, at the above address. See Commission regulations in 50 CFR Part 501.3.

Record access procedures:

See Commission access regulations in 50 CFR Parts 501.4, 501.5.

Contesting record procedures:

The Commission's rules for contesting contents of records, and for appealing adverse determinations with respect thereto, are contained in 50 CFR Parts 501.6 through 501.8. Assistance in obtaining access to or contesting the contents of records can be obtained from the System Manager at the above address.

Record source categories:

Subject individuals, Research Program Director, and other Commission personnel administering contract payments.

MMC—4

System name:

General Financial Records—MMC.

System location:

General Services Administration, Central Office; copies held by the Commission. (GSA holds records for Commission under contract.)

Categories of individuals covered by the system:

Commission employees.

Categories of records in the system:

SF 1038, Application and account for advance of funds; Vendor register and vendor payment tape. Information is used by accounting technicians to maintain adequate financial information and by other officers and employees of GSA and the Commission who have a need for the record in the performance of their duties.

Authority for maintenance of the system:

31 U.S.C., generally; Section 206(5) of the Marine Mammal Protection Act of 1972, 16 U.S.C. 1406(5).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See appendix. Records also are released to GAO for audits; to the IRS for investigation; and to private attorneys, pursuant to a power of attorney.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper and tape.

Retrievability:

Manual and automated by name.

Safeguards:

Stored in guarded building; released only to authorized personnel.

Retention and disposal:

Disposition of records shall be in accordance with the HB GSA Records Maintenance and Disposition System OAD P 1820.2)/

System manager(s) and address:

Executive Director, Marine Mammal Commission, 1625 I Street NW., Washington, D.C. 20006, Room 307.

Notification procedure:

See Commission access regulations in 50 CFR Part 501.3.

Record access procedures:

See Commission access regulations in 50 CFR Parts 501.4, 501.5.

Contesting record procedures:

See Commission regulations in 50 CFR Part 501.6 through 501.8.

Record source categories:

The subject individual; the Commission.

MMC—5

System name:

Payroll records.—MMC.

System location:

General Services Administration, Region 3 Office; copies held by the Commission (GSA holds for Commission under contract.)

Categories of individuals covered by the system:

Past and present Commission employees. 96

Varied payroll records, including among other documents, time and attendance cards; payment vouchers; comprehensive listing of employees; health benefits records; requests for deductions, tax forms; W2 forms; overtime requests; leave data; retirement records. Records are used by Commission and GSA employees to maintain adequate payroll information for Commission employees and otherwise by Commission and GSA employees who have a need for the record in the performance of their duties.

Authority for maintenance of the system:

31 U.S.C., generally.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See appendix. Records also are released to GAO for audits; to the Internal Revenue Service for investigation; and to private attorneys, pursuant to a power of attorney.

A copy of an employee's Department of the Treasury Form W–2, Wage and Tax Statement, also is disclosed to the State, city, or other local jurisdiction which is authorized to tax the employee's compensation. The record will be provided in accordance with a withholding agreement between the State, city, or other local jurisdiction and the Department of the Treasury pursuant to 5 U.S.C. 5516, 5517, or 5520, or, in the absence thereof, in response to a written request from an appropriate official of the taxing jurisdiction to the Executive Director, Marine Mammal Commission, 1625 I Street NW., Room 307, Washington, D.C. 20006. The request must include a copy of the applicable statute or ordinance authorizing the taxation of compensation and should indicate whether the authority of the jurisdiction to tax the employee is based on place of residence, place of employment, or both.

Pursuant to a withholding agreement between a city and the Department of the Treasury (5 U.S.C. 5520), copies of executed city tax withholding certificates shall be furnished the city in response to written request from an appropriate city official to the Executive Director of the Marine Mammal Commission.

In the absence of a withholding agreement, the Social Security Number will be furnished only to a taxing jurisdiction which has furnished this agency with evidence of its independent authority to compel disclosure of the Social Security Number, in accordance with section 7 of the Privacy Act, Pub. L. 93–579.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper and microfilm.

Retrievability:

Social Security Number.

Safeguards:

Stored in guarded building; released only to authorized personnel.

Retention and disposal:

Disposition of records shall be in accordance with HB GSA Records Maintenance and Disposition System (OAD P 1820.2)/

System manager(s) and address:

Executive Director, Marine Mammal Commission, 1625 I Street, NW., Washington, D.C. 20006.

Notification procedure:

See Commission access regulations in 50 CFR Part 501.3.

Record access procedures:

See Commission access regulations in 50 CFR Part 501.4, 501.5.

Contesting record procedures:

See Commission regulations in 50 CFR Part 501.6 through 501.8.

Record source categories:

The subject individual; the Commission.

APPENDIX MMC

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or particular program statute, or by regulation, rule or order pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

A record from this system of records may be disclosed as a "routine use" to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract or the issuance of a license grant or other benefit.

A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that information is relevant and necessary to the requesting agency's decision in the matter.

A record from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee.

A record from this system of records may be disclosed to the United States Civil Service Commission in accordance with the agency's responsibility for evaluation and oversight of Federal personnel management.

A record from this system of records may be disclosed to officers and employees of a Federal agency for purposes of audit.

A record from this system of records may be disclosed to officers and employees of the General Services Administration in connection with administrative services provided to this agency under agreement with GSA.

Disclosure may be made, as a routine use, to a Congressional office from the record of an individual contained in any of the Commission's systems in response to an inquiry from the Congressional office made at the request of that individual.

[FR Doc.77-23465 Filed 8-12-77;8:45 am]

NATIONAL CREDIT UNION ADMINISTRATION

NATIONAL CREDIT UNION BOARD

Meeting and Agenda

Pursuant to the provisions of the Federal Advisory Committee Act, Public Law 92–463, 86 Stat. 770, notice is hereby given that the National Credit Union Board will hold its quarterly meeting on September 13–14, 1977, at the Offices of the National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456. The meetings will commence at 9:00 a.m. daily in Room 4002.

The agenda for this meeting will consist of an update briefing regarding the activities of the several offices of the National Credit Union Administration. The Board will also discuss share insurance and other aspects of the Administration.

A discussion of legislative activities will also be held.

This meeting of the National Credit Union Board will be open to the public. Members of the public may file written statements with the Board either before or after the meeting. To the extent that time permits, interested persons may be permitted to present oral statements to the Board only on items listed in the aforementioned agenda. Requests to present such oral statements must be approved in advance by the Chairman of the Board. Such requests should be directed to the Chairman, National Credit Union Board, National Credit Union Administration, Washington, D.C. 20456.

LORENA C. MATTHEWS,
Acting Administrator.

AUGUST 10, 1977.

[FR Doc.77-23478 Filed 8-12-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE ATLANTIC GENERATING STATION

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittee on the Atlantic Generating Station will hold a meeting on August 31, 1977 at the Colony Resort Motel, Boardwalk at Indiana Avenue, Atlantic City, NJ 08401. The purpose of this meeting is to continue the ACRS review of this project.

The agenda for subject meeting shall be as follows:

WEDNESDAY, AUGUST 31, 1977

8:30 a.m.—Until conclusion of business (Open.)

The Subcommittee, with any of its consultants who may be present, will meet in Executive Session to explore their preliminary opinions regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will meet to hear presentations by representatives of the NRC Staff, the Offshore Power Systems, and their consultants, and will hold discussions with these groups pertinent to the review.

The technical matters to be discussed at this meeting are related to the following:

1. Selection of the design basis hydrologic events.
2. Selection of the safe shutdown earthquake.
3. Stability of soils.
4. Breakwater design.
5. Mooring system design.

Subsequent meeting(s) will be scheduled to cover the remainder of the matters needed to complete the ACRS review.

At the conclusion of these sessions, the Subcommittee may caucus in an open session to determine whether the matters identified in the initial session have been adequately covered.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Public Law 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 readily reproducible copies to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than August 24, 1977 to Mr. Gary R. Quittschreiber, ACRS, NRC, Washington, DC 20555, will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room 1717 H Street, NW, Wash., DC 20555, and at the Stockton State College Library, Pomona, NJ 08240.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on August 29, 1977 to the Office of the Executive Director of the Committee (telephone 022/634-1374, Attn: Mr. Gary R. Quittschreiber) between 8:15 a.m. and 5:00 p.m., EDT.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional informational may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. Gary R. Quittschreiber, of the ACRS office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after September 7 and November 30, 1977, respectively, at the NRC Public Document Room, 1717 H Street, N.W., Washington, DC 20555 and at the Stockton State College Library, Pomona, NJ 08240.

Copies may be obtained upon payment of appropriate charges.

Dated: August 11, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-23512 Filed 8-12-77;8:45 am]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS JOINT MEETING OF THE ACRS SUBCOMMITTEES ON THE SAN JOAQUIN NUCLEAR PROJECT, THE SKAGIT NUCLEAR PROJECT AND SEISMIC ACTIVITY

Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittees on the San Joaquin Nuclear Project, the Skagit Nuclear Project, and Seismic Activity will hold a joint meeting on September 1 and 2, 1977 at the Sheraton Inn, 1177 Airport Boulevard, San Francisco, CA 94010. The purpose of this meeting is to review matters relating to the geology, seismoiogy, and hydrology of the proposed San Joaquin site; to review matters relating to the evaluation of the 1872 Wenatachee earthquake; and to review matters relating to the geology and seismology of the proposed Skagit site.

The agenda for subject meeting shall be as follows:

THURSDAY, SEPTEMBER 1, AND FRIDAY, SEPTEMBER 2, 1977

8:30 a.m.—Until conclusion of business each day. (Open.)

The Subcommittees will hear presentations by representatives of the Los Angeles Department of Water and Power, the Puget Sound Power and Light Company, the NRC Staff, the U.S. Geological Survey, and their consultants, and will hold discussions with these groups pertinent to the above listed reviews.

The Subcommittees, in connection with the above meeting, may hold one or more open Executive Sessions with their consultants in order to explore their opinions and recommendations.

At the conclusion of these sessions, the Subcommittees may caucus in an open session to determine whether the matters identified in the initial session have been adequately covered and whether the projects are ready for review by the full Committee. Upon conclusion of this caucus, the Subcommittees will announce their determination.

In addition, it may be necessary for the Subcommittees to hold one or more closed sessions for the purpose of exploring matters involing proprietary information. I have determined, in accordance with Subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of this meeting is empowered to conduct it in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACSR meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 20 readily reproducible copies to the Subcommittees at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than August 25, 1977 to Dr. Andrew L. Bates, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room 1717 H Street, NW., Wash., D.C. 20555; at the Kern County Library, 1315 Truxtun Avenue, Bakersfield, CA 93301; and at the Sedro Wooley Library, 802 Ball Avenue, Sedro Wooley, WA 98294.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittees will receive oral statements on topics relevant to their purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on request for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on August 30, 1977 to the Office of the Executive Director of the Committee (telephone 202/634-1919, Atten: Dr. Andrew L. Bates) between 8:15 a.m. and 5:00 p.m., EDT.

(d) Questions may be propounded only by members of the Subcommittees, their consultants, and the Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Dr. Andrew L. Bates, of the ACRS office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after September 9 and December 3, 1977, respectively, at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, at the Kern County Library, 1315 Truxtun Avenue, Bakersfield, CA 93301, and at the Sedro Wooley Library, 802 Bass Avenue, Sedro Wooley, WA 98294.

Copies may be obtained upon payment of appropriate charges.

Dated: August 11, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-23513 Filed 8-12-77;8:45 am]

[Docket No. 50-286]

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.; POWER AUTHORITY OF THE STATE OF NEW YORK

Availability of Draft Environmental Statement on the Preferred Closed Cycle Cooling System for Installation at Indian Point Nuclear Generating Unit No. 3

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation related to the preferred closed cycle cooling system for installation at Indian Point Unit No. 3, located in Westchester County, New York, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. and in the Hendrick Hudson Free Library, 31 Albany Post Road, Montrose, New York 10548. The Draft Statement (NUREG-0296) is also being made available at the New York State Division of the Budget, State Capitol, Albany, New York 12224 and the Tri-State Regional Planning Commission, 1 World Trade Center, New York, New York 10048. Requests for copies of the Draft Environmental Statement should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director of Document Control.

The Applicant's Environmental Report, as supplemented, submitted by the Consolidated Edison Company of New York, Inc., is also available for public inspection at the above-designated locations. Notice of availability of the Applicant's Environmental Report was published in the FEDERAL REGISTER on March 29, 1976 (41 FR 12933).

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Applicant's Environmental Report and the Draft Environmental Statement for the Commission's consideration. Federal State, and specified local agencies are being provided with copies of the Applicant's Environmental Report and the Draft Environmental Statement. Other interested persons or local agencies may obtain these documents upon request. Comments are due by October 3, 1977. Comments by Federal, State, and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C., and the Hendrick Hudson Free Library, 31 Albany Post Road, Montrose, New York. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Draft Environmental Statement from interested persons of the public should be addressed to the U.S. Nuclear Regulatory Commis-

sion, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Rockville, Maryland this 4th day of August 1977.

For the Nuclear Regulatory Commission,

GEORGE W. KNIGHTON,
Chief, Environmental Projects Branch 1, Division of Site Safety and Environmental Analysis.

[FR Doc.77-23514 Filed 8-12-77;8:45 am]

EXECUTIVE DIRECTOR FOR OPERATIONS

Termination of Authority Delegation

On June 30, 1977, the Nuclear Regulatory Commission (NRC) made an expanded delegation of authority to its Executive director for Operations "* * * to take effect on July 1, 1977, and to continue until a Commission quorum is constituted." 42 FEDERAL REGISTER 33390 (June 30, 1977). On August 9, 1977, Dr. Joseph M. Hendrie was sworn in as the Chairman of the NRC. As a result, on that date the statutory quorum of three NRC Commissioners, 42 U.S.C. 5841, was reconstituted. Accordingly, the June 30 delegation of authority terminated as of that date and is no longer in effect. Pursuant to Paragraph 2 of the Delegation, 42 FEDERAL REGISTER 33391, unless hereafter extended by the Commission, the time for consideration of all properly filed petitions for review of decisions of an Atomic Safety and Licensing Appeal Board and for review on its own motion of decisions of a Board began to run on August 9, 1977.

Dated at Washington, D.C. this 12th day of August 1977.

For the Commission,

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.77-23612 Filed 8-12-77;9:48 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 August 5, 1977 (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

DEPARTMENT OF COMMERCE

United States Travel Service, Federal Assistance Application Form, USTS 1, on occasion, State, city and private nonprofit, Lowry, R. L., 395-3772.

National Oceanic and Atmospheric Administration, EDS Programs Benefit-Cost Study Questionnaire, single time, users of EDS services, economics and general Government division, Raynsford, R., 395-3451.

DEPARTMENT OF DEFENSE

Department of the Air Force, Description of Vessels/Description of Operations, Engr. 3031, 3931A, annually, commercial vessel operators, Warren Topelius, 395-5872.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration, Aviation Automated Observation System (AVAWOS) User Opinion Survey, single time, pilots and other weather users in Newport News vicinity, Raynsford, R., 395-3814.

Federal Highway Administration:

State Motor Vehicle Registration Fees and Other Receipts, initial distribution by collecting agencies, PR-566, annually, 50 States, District of Columbia, Puerto Rico, and Guam, Strasser, A., 395-5867.

State Drivers' Licenses and Fees, PR-562, annually, 50 States, District of Columbia, Puerto Rico, American Samoa, and Guam, Marsha Traynham, 395-4529.

State Motor Fuel Tax Receipts and Initial Distribution by Collection Agencies, PR-556, annually, 50 States, District of Columbia, and Puerto Rico, Marsha Traynham, 395-4529.

Local Road and Street Finance Report, PR-535, annually, 50 States, District of Columbia, and Puerto Rico, Marsha Traynham, 395-4529.

State Highway Expenditures Within Standard Metropolitan Statistical Areas, PR-532B, annually 48 States, District of Columbia, and Puerto Rico, Strasser, A., 395-5867.

Driver's Log, MCS-139, 139A, on occasion, drivers of interstate motor carriers of property and passengers, Strasser, A., 395-5867.

Federal Aviation Administration, Aviation Review Conference Questionnaire, FAA-1800OT, single time, aviation community, Strasser, A., 395-5867.

REVISIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Report on Current Upward Bound Student, OE-1196, on occasion, colleges and universities, Kathy Wallman, 395-6140.

DEPARTMENT OF LABOR

Bureau of Labor Statistics, (a) establishment information, (b) Wage Data, (c) Quarterly Report, (d) Benefit Document, (e) Benefit Change Document, 3076, refinement survey, 3038A-E 3076, -77, quarterly, private nonfarm establishments excluding households and governments, Strasser, A., 395-5867.

EXTENSIONS

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit, Proposed Turnkey Project Description, HUD 5090, other (see SF-83), local public housing agencies, Marsha Traynham, 395-4529.

EXTENSIONS

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration, contracts awarded—force account construction authorized, PR-525, monthly, 50 States, District of Columbia, and Puerto Rico, Marsha Traynham, 395-4529.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.77-23528 Filed 8-12-77;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on 08/08/77 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice thru this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

UNITED STATES INTERNATIONAL TRADE COMMISSION

Distributors' Questionnaire (Bolts, Nuts, and Large screws of Iron or Steel, single time, business firms, Evinger, S. K., 395-3719.

DEPARTMENT OF AGRICULTURE

Forest Service, Economic Importance of Wildland Recreation in Montana, single time, business firms serving wildland recreationists, Gaylord Worden, 395-4730.

Economic Research Service, Request for Proposed Surveys on Control of Cotton and Citrus Pests, singe time, cotton and citrus producers, Gaylord Worden, 395-4730.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Endorsement of Defaulted Notes (National Direct Student Loan Program), on occasion, institutions of postsecondary education, Kathy Wallman, 395-6140.

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration, LEAA—Standards and Goals National Assessment Report Form, single time, selected LE/CJ agencies in 27 states, George Hall, 395–6140.

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration, Farmers' Questiannaire, single time, farmers in study area, Strasser, A., 395–5867.

Country Grain Elevator Operators Questionnaire, single time, country elevator operators, Strasser, A., 395–5867.

Terminal Grain Elevator Operators Questionnaire, single time, terminal grain elevator operators, Strasser, A., 395–5867.

REVISIONS

RAILROAD RETIREMENT BOARD

Employee Annuitant's Statement Regarding Family and Earnings, G–319, on occasion, employee annuitant, Warren Topelius, 395–5872.

Statement of Spouse of Employee Annuitant, G–318, on occasion, spouse of employee annuitant, Warren Topelius, 395–5872

Statement Regarding Student Age 18–22, G–320, on occasion, employee annuitant, Warren Topelius, 395–5872.

DEPARTMENT OF AGRICULTURE

Agriculture Research Service, 1977–78 Nationwide Survey of Household Food, single time, nonresponse households, Human Resources Division, Gaylord Worden, 395–3532.

Statistical Reporting Service:

Peanut Variety Survey—Virignia, SRSCE 613, annually, peanut growers, Gaylord Worden, 395–4730.

Survey of Flue-Cured Tobacco Varieties (Virginia), annually, tobacco growers, Gaylord Worden, 395–4730.

Tobacco Surveys, other (see SF–83), Tobacco growers, Gaylord Worden, 395–4730.

DEPARTMENT OF COMMERCE

Bureau of Census:

Margarine (Manufacturer's Packaging Operations), M20R, annually, margarine manufacturers, Marsha Traynham, 395–4529.

Carpet and Rugs, MQ–22Q, annually, manufacturers of carpet and rugs, Marsha Traynham, 395–4529.

Cotton, Manmade Fiber Staple and Raw Linters, (consumption and stocks, and spindle activity), MA–22P, annually, manufacturing plants consuming raw cotton and manmade fiber, Peterson, M. O., 395–5631.

DEPARTMENT OF DEFENSE

Department of the Air Force, Defense Small Business Subcontracting Program Quarterly, report, DD1140–1, quarterly, all with Government contracts over $500,000, Lowry, R. L., 395–3772.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, lenders request for payment of interest on student loans, OE–1166 and 1166–2, on occasion, participating lending institutions, Kathy Wallman, 395–6140.

FOOD AND DRUG ADMINISTRATION

Food and Drug Administration, Resource Data for State Food and Drug Programs, FD 2525, on occasion, FDA related State agencies, Richard Eisinger, 395–6140.

Health Care Financing Administration, Hospital Survey Report (Utilization Review), HCFA–1538, on occasion, hospitals participating in medicare or medicaid, C. Louis Kincannon, 395–3211.

DEPARTMENT OF THE INTERIOR

Bureau of Mines, Stone, 6–1220–A, annually, small producers of stone, Warren Topelius, 395–5872.

COMMUNITY SERVICES ADMINISTRATION

Project Progress Review Report, CSA–440, semi-annually, private nonprofits organizations and units of government, Budget Review Division, Lowry, R. L., 395–4775.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service:

Marketing and Payment Report (Milk), ASCS–374, on occasion, dairy farmers, Marsha Traynham, 395–4529.

Regulations—Milk Indemnity Payment Program (For farmers who remove milk from the market due to its pesticide content), on occasion, dairy producers, Marsha Traynham, 395–4529.

Application for Milk Indemnity Payment (For farmers who remove milk from the market due to its pesticide content), ASCS–373, on occasion, dairy farmers, Human Resources Division, Gaylord Worden, 395–3532.

DEPARTMENT OF DEFENSE

Department of the Air Force:

Request for Secondary School Transcript, on occasion, candidates for service academies, Marsha Traynham, 395–4529.

Nomination for Appointment, on occasion, Vice President, Members of Congress and other authorized sources, Marsha Traynham, 395–4529.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration, Food Canning Establishment and Process Filing for Other Than Still Retort and Agitating Processes, FD 2541 C, on occasion, low-acid canned food processors, Warren Topelius, 395–5872.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit:

Title I Dealer/Contractor Application, FH–13, on occasion, contractors and suppliers, Housing, Veterans and Labor Division, Larry Haber, 395–3532.

Outline Specification, Low-Rent Public Housing, HUD–5087, on occasion, Developers and Public Housing Agencies, Marsha Traynham, 395–4529.

Contractors Certificate of Actual Cost, FHA 2330–A, on occasion, Mortgagors of HUD–insured housing projects, Sunderhauf, M. B., 395–6140.

Mortgagors Certificate of Actual Cost, FHA 2330, on occasion, Mortgagors of HUD–insured housing projects, Sunderhauf, M. B., 395–6140.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.77–23529 Filed 8–12–77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 9881; 811–2425]

CONSOLIDATED INVESTORS TRUST

Filing of Application for an Order Declaring That Company Has Ceased To Be an Investment Company

AUGUST 8, 1977.

Notice is hereby given that Consolidated Investors Trust, 4601 Ponce de Leon Boulevard, Coral Gables, Florida 33146 (formerly known as Consolidated Investors Real Estate Trust) ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as an open-end diversified, management company, filed an application on June 27, 1977, and an amendment thereto on July 21, 1977, pursuant to Section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein, which are summarized below.

Applicant registered under the Act by filing a Form N–8A Notification of Registration on October 29, 1973. Applicant represents that on June 22, 1977, a majority of its shareholders voted for the termination and liquidation of Applicant. Accordingly, Applicant's custodian, First National Bank of Boston, was directed to distribute all assets in cash to the holders of beneficial interest of the Applicant in proportion to their respective rights by no later than June 29, 1977. Applicant further represents that all of the assets have been distributed to the holders of beneficial interest.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 2, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon 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 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.77-23408 Filed 8-12-77;8:45 am]

[File No. 1-4359]

FALCON SEABOARD INC.

Application to Withdraw From Listing and Registration

AUGUST 4, 1977.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

This security has become listed and registered on the New York Stock Exchange, Inc., and the management of the company has concluded that the costs of maintaining listings on both exchanges outweigh the possible benefits of dual listing.

The American Stock Exchange, Inc. has not objected to this application.

Any interested person may, on or before August 25, 1977 submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-23409 Filed 8-12-77;8:45 am]

[File No. 81-268]

INTER-COMM DATA CORP.

Application and Opportunity for Hearing

AUGUST 5, 1977.

Notice is hereby given that Inter-Comm Data Corporation, ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended, ("the Exchange Act") for an exemption from filing a Form 10-K required by the provisions of Sections 13 and 15(d) of the Exchange Act.

Section 13 provides that each issuer of a security which is registered pursuant to Section 12 of the Exchange Act shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate for the proper protection of investors and to insure fair dealing in the security, certain annual, current and quarterly reports.

Section 15(d) provides that each issuer who has filed a registration statement which has become effective pursuant to the Securities Act of 1933, as amended, shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, such supplementary and periodic information, documents, and reports as may be required pursuant to Section 13 of the Exchange Act in respect of a security registered pursuant to Section 12 of the Exchange Act.

Section 12(h) empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the registration, periodic reporting, and proxy solicitations provisions under Sections 12, 13 and 14 of the Exchange Act and to grant exemptions from the insider reporting and trading provisions of Section 16 of the Exchange Act, if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The Application states, in part:

1. At the end of its fiscal year on June 30, 1976, Applicant, a Delaware corporation, had outstanding one class of securities registered pursuant to Section 15(d) of the Exchange Act.

2. On February 14, 1977, the principal shareholders of Applicant's common stock exchanged all of such shares for an equivalent number of shares of HRD, Inc. ("HRD").

3. As a result, HRD became the majority shareholder of Applicant owning 81.3 percent of Applicant's issued and outstanding common stock.

4. On March 31, 1977, Applicant's shareholders approved a merger between HRD, and Applicant pursuant to which each outstanding share of Applicant's common stock (other than those owned by HRD) became entitled to receive $0.15 and was cancelled. Applicant's shares held by HRD were cancelled and the shares of HRD common stock (all of which were held by the principal shareholders) were converted into an equivalent number of shares of Applicant's common stock.

5. As a result of the above-described transactions all of Applicant's outstanding common stock is held by three shareholders.

In the absence of an exemption, Applicant would be required to file an annual report on Form 10-K for the fiscal year ended June 30, 1977.

Applicant argues that no useful purpose would be served in filing said report.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than August 30, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communications or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should briefly state the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

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. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-23410 Filed 8-12-77;8:45 am]

[File No. 81-278]

PLUS PRODUCTS

Application and Opportunity for Hearing

AUGUST 5, 1977.

Notice is hereby given that Plus Products ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act") for exemption from Section 15(d) of the 1934 Act.

Section 15(d) provides that each issuer which has filed a registration statement which has become effective pursuant to the Securities Act of 1933, as amended, shall file with the Commission in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, such supplementary and periodic information, documents, and reports as may be required pursuant to Section 13 of the 1934 Act in respect of a security registered pursuant to Section 12 of the 1934 Act.

Section 12(h) empowers the Commission to exempt in whole or in part, any issuer or class of issuers from Section 15(d) if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activi-

ties of the issuer, or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The Applicant states, in part:

1. Applicant, a California corporation, merged into MGL Holdings Inc. effective April 25, 1977. MGL Holdings Inc., a California corporation, was a new, wholly-owned subsidiary of The MacDonald Group, Ltd., a privately held Nevada corporation. The public shareholders received cash for their shares. Upon effectiveness of the merger, Plus Products ceased existence as a separate corporate entity and the surviving corporation changed its name to Plus Products.

2. Pursuant to Section 15(d), Applicant is obligated to file all periodic reports with the Commission which may be applicable to its current fiscal year ending approximately December 31, 1977. The duty to file will be suspended as to succeeding years.

3. Applicant has no public shareholders.

4. The stock is not traded.

Accordingly, Applicant believes that the granting of the exemption would not be inconsistent with any public interest or the protection of any investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street, Washington, D.C.

Notice is further given that any interested person not later than August 30, 1977 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-23411 Filed 8-12-77;8:45 am]

[Release No. 20133; 70-6040]

SOUTHERN CO. ET AL.

Proposed Issuance and Sale of Common Stock Pursuant to the System's Employee Stock Ownership Plan

AUGUST 8, 1977.

Notice is hereby given that The Southern Company ("Southern"), 64 Perimeter Center East, P.O. Box 720071, Atlanta, Georgia, a registered holding company; and its subsidiary companies, the Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, Southern Company Services, Inc., and the Southern Electric Generating Company have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, 9(a), and 10 of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the following proposed transactions. All interested persons are reffered to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Southern proposes to issue and sell from time to time through September 30, 1978, a maximum of $15,000,000 of its authorized but unissued common stock, par value $5 per share, in order to provide common stock to fund The Employee Stock Ownership Plan of the Southern Company System ("Plan"). Southern intends to apply the proceeds from the proposed sale of the common stock for further equity investments as authorized by this Commission (File No. 70-5978) and for other corporate purposes.

The application-declaration states that in order to encourage and assist employees of Southern's subsidiaries to acquire ownership of Southern's common stock and thereby promote in the employees a strong interest in the successful operation of The Southern Company System, Southern Company Services, Inc., Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Southern Electric Generating Company (the "Employing Companies") have adopted the Plan, effective January 1, 1976, in accordance with Section 301(d) of the Tax Reduction Act of 1975, as amended, and Section 401(a) of the Internal Revenue Code of 1954, as amended. The Employing Companies will be entitled to an additional 1% investment tax credit which they otherwise would not be able to claim. Thus, in effect, money that would otherwise be paid in taxes is used, as described below, to provide employees with an ownership interest in Southern.

Under the Plan, the Employing Companies will, in each calendar year, obligate themselves to contribute cash or common stock of Southern having an aggregate value equal to 1 percent of the amount of their qualified investment in property in respect of which investment tax credit has been claimed by the Employing Companies in their consolidated Federal income tax return for the preceding year. The Plan will be administered by the Plan Committee, the members of which are appointed by the Board of Directors of Southern Company Services, Inc. Contributed cash and common stock will be held in trust (the "Trust") under the Employees' Stock Ownership Plan Agreement of Trust for the benefit of participating employees of the Employing Companies. Generally, each employee who has been employed at least one year and who is at least twenty-five years of age automatically participates in the Plan. (Union employees participate in the Plan only if their union representative and the Employing Company so agree.)

Cash contributed under the Plan is to be primarily invested in common stock of Southern. In addition, cash dividends paid on the common stock of Southern held in the Trust will, unless a participant elects to have dividends allocated to his account paid to him currently, be reinvested in additional shares of Southern's common stock. Common stock which the Employing Companies contribute to the Trust, as well as common stock purchased by the Trust, may be purchased on the open market or by private purchase, including purchases directly from Southern; however, it is currently anticipated that such common stock will be primarily purchased directly from Southern. The purchase price per share of common stock purchased by the Employing Companies or by the Trust (with contributed cash) will: (a) if the stock is purchased on the open market, be the market price thereof; (b) if the stock is purchased directly from Southern, be either (1) an amount equal to the closing price of Southern's common stock on the New York Stock Exchange for the trading day immediately preceding the date of purchase, or (2) the 20-Day Average, or (3) such other price, if any, as may be prescribed by the Internal Revenue Code of 1954, as amended, or by the Internal Revenue Service in rules or regulations relating to plans similar to the Plan; and (c) if the stock is purchased privately other than from Southern, be no greater than the highest of the prices specified in (b) above. In reinvesting cash dividends allocated to a participant's account, the Trust may purchase common stock under Southern's Dividend reinvestment and Stock Purchase Plan (at the price provided for in such plan), on the open market, or by private purchase, including purchases directly from Southern (at the prices described above).

All costs of establishment and administration of the Plan and the Trust, in excess of those costs allowed by the Internal Revenue Code of 1954 and the Tax Reduction Act of 1975 to be paid from contributions to the Trust, will be paid by the Employing Companies.

Under the Plan, the number of shares allocated to a participating employee's account with respect to any calendar year will generally be an amount which bears the same relation to the aggregate amount of all shares to be allocated with respect to that year as the amount of compensation (up to $100,000) actually paid to such participating employee during that year bears to the total compensation (up to $100,000 for each participating employee) paid to all participating employees during that year. Amounts credited to the account of a participant under the Plan shall be fuly vested and nonforfeitable. Participants in the Plan are not allowed to make contributions thereto on their own behalf. Participants in the Plan (or their beneficiaries) receive the shares held in the Trust for their benefit only in the event that the participant ceases to be an employee or upon the showing by a participant of an unusual or special situation in his financial affairs requiring the withdrawal of shares.

Each employee who is a participant in the Plan will be entitled to direct the manner in which voting rights on shares of common stock credited to his or her account under the Plan are to be exercised. Shares for which voting instructions are not received will not be voted.

Fees and expenses to be incurred in connection with the proposed transactions are to be filed by amendment. It is stated that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than September 2, 1977, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified should the Commission 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 filed or as it may be 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 and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-23412 Filed 8-12-77;8:45 am]

[File Nos. 2-52263 (22-8125) 2-57682 (22-9055)]

STANDARD OIL CO. AND SOHIO PIPE LINE CO.

Application and Opportunity for Hearing

AUGUST 9, 1977.

Notice is hereby given, That The Standard Oil Company (an Ohio corporation) ("Sohio") and Sohio Pipe Line Company (a Delaware corporation) ("Sohio Pipe Line") have filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeships of Morgan Guaranty Trust Company of New York (the "Bank") under certain indentures which are qualified under the Act and under a new indenture which is not qualified under the Act are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under any of such qualified indentures.

Section 310(b) of the Act provides, inter alia, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the Section), it shall within ninety days after ascertaining that it has such conflicting interest either eliminate such conflicting interest or resign. Subsection (1) of this Section provides, with certain exceptions, that a trustee is deemed to have a conflicting interest if it is acting as trustee under another indenture of the same obligor. However, pursuant to clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture or indentures under which other securities of such obligor are outstanding, if the issuer shall have sustained the burden of proving on application to the Commission, and after opportunity for hearing thereon, that trusteeship under the indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under any of such indentures.

Sohio and Sohio Pipe Line allege that:

1. The Bank, as Trustee, has entered into (i) an Indenture dated as of December 1, 1974 (the "1974 Indenture") with Sohio/BP Trans Alaska Pipeline Finance Inc. (which name has since been changed to Sohio/BP Trans Alaska Pipeline Capital Inc.), a Delaware corporation ("Capital"), pursuant to which there has been issued $250,000,000 principal amount of Capital's 9¾% Debentures Due 1999 (the "Capital Debentures") and (ii) three indentures each dated as of December 1, 1976 (collectively, the "1976 Indentures") with Sohio pursuant to which Sohio issued $75,000,000 principal amount of its 6⅛% Notes due December 1, 1979, $75,000,000 principal amount of its 6½% Notes Due December 1, 1981 and $200,000,00 principal amount of its 7½% Notes Due December 1, 1986, respectively (collectively, the "Notes"). The 1974 Indenture was filed as Exhibit 4 to Registration Statement No. 2-52263 under the Securities Act of 1933 and the 1976 Indentures were filed as Exhibits 2 (a), (b) and (c) to Registration Statement No. 2-57682 under the Securities Act of 1933, and all of such Indentures have been qualified under the Act.

2. Capital is owned 67.8% by Sohio Pipe Line, a wholly-owned subsidiary of Sohio, and 32.2% by BP Pipelines Inc. ("BP Pipelines"), a wholly-owned subsidiary of The British Petroleum Company Limited ("BP"). Simultaneously with the issuance and sale of the Capital Debentures, Capital applied the proceeds thereof to the purchase of a note of Sohio Pipe Line (the "Sohio Pipe Line Note") in a principal amount equal to 67.8% of the Capital Debentures and a note of BP Pipelines in a principal amount equal to 32.2% of the Capital Debentures. The Sohio Pipe Line Note is guaranteed by Sohio and has been pledged to the Bank, as Trustee under the Capital Indenture, to secure payment of the Capital Debentures. The Capital Debentures are also secured by the pledge of rights under the completion agreement and throughout agreement of Sohio referred to below. Sohio is obligated with respect to 67.8% in principal amount of the Capital Debentures pursuant to its unsecured guarantee of the Sohio Pipe Line Note and it is also committed under a completion agreement and a throughput agreement with Sohio Pipe Line to advance funds sufficient to enable Sohio Pipe Line to pay its share of the construction costs of its interest in the Trans Alaska Pipeline System and all of its financial obligations, including those which relate to the Capital Debentures, as they become due. BP is obligated with respect to the remaining 32.2% in principal amount of the Capital Debentures.

3. On July 14, 1977, the City of Valdez, Alaska (the "City") and the Bank, as Trustee, entered into an Indenture dated as of July 1, 1977 (the "1977 Indenture") pursuant to which the City issued $350,000,000 aggregate principal amount of its 6% Marine Terminal Revenue Bonds (Sohio Pipe Line Company and BP Pipelines Inc. Projects) Series A, Due July 1, 2007 (the "Bonds"). The Bonds are being issued to provide funds for the acquisition, construction and equipping of certain docks, wharves and facilities directly related thereto and real property and interests therein constituting a portion of the Trans Alaska Pipeline System Marine Terminal (the "TAPS Marine Terminal") being constructed in Port Valdez in the City. The City has acquired a leasehold interest in a portion of the undivided interest of Sohio Pipe Line in the TAPS Marine Terminal (the "Sohio Pipe Line Project") pursuant to a Lease, dated as of July 1, 1977 (the "Sohio Pipe Line Lease"), between the City and Sohio Pipe Line, and the City has acquired a leasehold interest in a portion of the undivided interest of BP Pipelines in the TAPS Marine Terminal (the "BP Pipelines Project") pursuant to a Lease, dated as of July 1, 1977 (the "BP Pipelines Lease"), between the City and BP Pipelines. The City has subleased the Sohio Pipe Line Project to Sohio Pipe Line pursuant to a Sublease Agreement, dated as of July 1, 1977 (the "Sohio Pipe Line Sublease"), between the City and Sohio Pipe Line, and the City has subleased the BP Pipelines Project to BP Pipelines pursuant to a Sublease Agreement, dated as of July 1, 1977 (the "BP Pipelines Sublease"), between the City and BP Pipelines. The Bonds will be payable from and secured by subrents derived under the Sohio Pipe Line Sub-

lease, which subrents will be sufficient to pay 67.8% of the principal of, premium, if any, and interest on the Bonds, and by subrents derived under the BP Pipelines Sublease, which subrents will be sufficient to pay 32.2% of the principal of, premium, if any, and interest on the Bonds. In addition, pursuant to a Guarantee Agreement, dated as of July 1, 1977 (the "Sohio Guarantee Agreement"), Sohio has guaranteed to the Trustee, for the benefit of the holders of the Bonds and of the coupons appertaining thereto, the payment of 67.8% of the principal of, premium, if any, and interest on the Bonds, and pursuant to a Guarantee Agreement, dated as of July 1, 1977 BP has guaranteed to the Trustee, for the benefit of the holders of the Bonds and of the coupons appertaining thereto, the payment of 32.2% of the principal of, premium, if any, and interest on the Bonds. The obligations of Sohio and BP under the Guarantee Agreements are several and not joint obligations of Sohio and BP, respectively. The Bonds have not been registered under the Securities Act of 1933 on the basis of the exemption provided by Section 3(a)(2) thereof, and the 1977 Indenture has not been qualified under the Act on the basis of the provisions of Section 304(b) thereof.

4. Section 6.08(c)(1) of each of the 1976 Indentures contains the provision permitted by the proviso of Section 310(b)(1) of the Act and specifically permits the Bank to act as Trustee under the 1974 Indenture, as well as under each of the other 1976 Indentures. Accordingly, no conflict is deemed to exist under the 1976 Indentures, each of which has been qualified under the Act, as a result of the Bank's acting as Trustee thereunder and under the 1974 Indenture. Under Section 8.09(c)(1) of the 1974 Indenture, the Bank shall not be deemed to have a conflicting interest by reason of acting as Trustee under the 1976 Indentures and the 1974 Indenture if Sohio shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that the trusteeships under the 1974 Indenture and the 1976 Indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting under one of such Indentures. Pursuant to Section 8.09(c)(1) of the 1974 Indenture, Sohio applied for an exemption under Section 310(b)(1)(ii) of the Act to permit the Bank to continue to act as Trustee under the 1974 Indenture. Such application (File No. 3-5173) was granted by order of the Commission dated March 16, 1977. Accordingly, no conflict is deemed to exist under the 1974 Indenture, which has been qualified under the Act, as a result of the Bank's acting as Trusteee thereunder and under the 1976 Indentures.

5. Under Section 6.08(c)(1) of each of the 1976 Indentures, the Bank shall not be deemed to have a conflicting interest by reason of acting as Trustee under the 1977 Indenture if Sohio shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that the trusteeships under the 1976 Indentures and the 1977 Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under one of such Indentures. Under Section 8.09(c)(1) of the 1974 Indenture, the Bank shall not be deemed to have a conflicting interest by reason of acting as Trustee under the 1977 Indenture if Sohio and Sohio Pipe Line shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that the trusteeships under the 1974 Indenture and under the 1977 Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under one of such Indentures.

6. No default has at any time existed under the 1974 Indenture, the 1976 Indentures or the 1977 Indenture. Sohio's Obligations in respect of the Capital Debentures, the Notes and the Bonds are wholly unsecured and rank equally pari passu. Sohio Pipe Line's obligations in respect of the Capital Debentures and the Bonds are wholly unsecured and rank equally pari passu. The 1974 Indenture (including the Sohio Pipe Line Note Purchase Agreement referred to therein) and the 1976 Indentures include covenants of Sohio relating to limitations on liens, sale and lease-back transactions, dividends and distributions on stock and consideration, merger and sale, all of which apply to the future. Except for the covenant relating to consolidation, merger and sale, there are no comparable covenants of Sohio included in the 1977 Indenture (including the Sohio Guarantee Agreement). The 1974 Indenture (including the Sohio Pipe Line Note Purchase Agreement referred to therein) includes covenants of Sohio Pipe Line relating to limitations on liens, sale and lease-back transactions and consolidation, merger and sale, all of which apply to the future. There are no comparable covenants of Sohio Pipe Line included in the 1977 Indenture (including the Sohio Pipe Line Lease and the Sohio Pipe Line Sublease).

7. Such differences as exist among the 1974 Indenture, the 1976 Indentures, and the 1977 Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under any of the said Indentures.

Sohio and Sohio Pipe Line have waived (a) notice of hearing, (b) hearing on the issues raised by said application and (c) all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street NW., Washington, D.C.

Notice is further given, That any interested person may, not later than August 31, 1977, 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 law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-23413 Filed 8-12-77;8:45 am]

[Release No. 34-13836; File No. SR-SCCP 77-1]

STOCK CLEARING CORPORATION OF PHILADELPHIA

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 22, 1977, 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 Stock Clearing Corporation of Philadelphia (SCCP) proposes a rule change which will change its billing method from that of charging an all inclusive fee for each 100 share unit to a method of billing for individual services rendered. The revised fee schedule is attached hereto as Exhibit No. 1.

STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed rule change is to provide unbundled clearing rates applicable to specific services in place of all inclusive blanket rates.

The proposed rule change provides an equitable allocation of dues, fees, and other charges among its participants in accordance with the standards set forth in Section 17A(b)(3)(D) of the Act.

Formal comments from members were solicited but not received.

Stock Clearing Corporation of Philadelphia believes that no burden on competition will be imposed by the proposed rule change. The proposed rate schedule

does not discriminate between marketplaces nor does it inhibit clearing interfaces.

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 (60) days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary 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 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 filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should be submitted on or before September 5, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

AUGUST 8, 1977.

GEORGE A. FITZSIMMONS,
Secretary.

EXHIBIT 1.—TEXT OF PROPOSED RULE CHANGE

SCCP AND PHILADEP RATE SCHEDULE

1. ACCOUNT CHARGES

a. Brokers and dealers:	
Per clearing account, per month	$125.00
Per additional suffix, per month	5.00
Minimum transaction charge, per month	25.00
Per PHILADEP account, per month	None
Dues, non-PHLX member, per year	1,000.00
b. PHILADEP bank participants:	
Per PHILADEP account, per month	[1] 100.00
Minimum transaction charge, per month	[1] 150.00

2. TRADE RECORDING CHARGES

a. Brokers and dealers:	
Round-lots, per trade—regular	1.00
Odd-lots, per trade—regular	.60
Round-lots per trade-automated execution (note 1)	.25
Odd-lots per trade-automated execution (note 1)	.10
Weekly odd-lot netting	None
b. PHILADEP bank participants:	
Odd- or round-lots, per trade	[1] .50

3. SETTLEMENT CHARGES—CASH ACCOUNTS

a. Brokers and dealers:	
DTC deliveries or receives, trade-for-trades, with money (including 58 cents passthrough), per MDO	2.60
Physical deliveries or transfers, per item	2.00
Physical receives, per item	1.00
Movements between cash account or between cash accounts and PHILADEP depository	1.00
Weekly odd-lot netting	None
b. PHILADEP bank participants	2

4. SETTLEMENT CHARGES—CNS ACCOUNTS WITH PHILADEP

a. Brokers and dealers:	
CNS settlement with PHILADEP positions	None
b. PHILADEP bank participants	2

5. VALUE CHARGES

a. Brokers and dealers:	
Trade-for-trade—regular, per $1,000 of trade value	.05
CNS and other netted accounts—regular, per $1,000 of trade value	.02
Automated execution	None
Weekly odd-lot netting	None
b. PHILADEP bank participants	None

6. PHILADEP DEPOSITORY CHARGES

a. Brokers and dealers:	
Custody fee, per $1,000 of market value, per month ($600 monthly maximum)	.05
OCC pledge fee, per line item	.70
Bank loan pledge, per line item	[1] .35
Intra-PHILADEP movement, per line item (without money)	.35
Deposits through DTC interface (58 cents passthrough), per item	1.00
Deposits (physical), per item	.25
Order outs (by certificate, by transfer or to DTC), per item	1.00
b. PHILADEP bank participants:	
Custody fee	None
Deposits (physical), per item	.50
Order outs (by certificate), per item	2.00
Order outs (by transfer), per item	1.00

7. MISCELLANEOUS CHARGES

Member-to-member envelope service (plus carrier costs) for sender, per envelope	2.00
Draft charges (plus additional bank charges, if any), per item	[1] 6.50
Correspondent delivery and collection (CDCS):	
Per item	[1] 5.00
Per reclamation	[1] 6.00
Per item held overnight	[1] 6.00
Accommodation transfers, per 100 shares or $10,000 bond par value ($1 minimum)	[1] .25
Legal transfers, per item	[1] 25.00
Signature guarantee program, per year	[1] 250.00
National transfer service:	
Per envelope for delivery to New York, New Jersey, Boston, Hartford, and Providence	1.50
Per envelope for delivery to all other areas (plus 5 cents per $1,000 of value)	1.00

[1] Rates unchanged.
[2] Not applicable.

NOTE.—Trade recording charges for automated execution trades have been suspended until such time as the trades can be delivered through interfaces without any interface charge being assessed to the member by the receiving clearing corporation.

[FR Doc.77-23414 Filed 8-12-77;8:45 am]

PHILADELPHIA STOCK EXCHANGE, INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

AUGUST 4, 1977.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Book-of-the-Month Club, Inc., File No. 7-4966, Capital Stock—$1.25 Par Value.

Upon receipt of a request, on or before August 20, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77-23191 Filed 8-12-77;8:45 am]

[Release No. 20134; 3-5270 (54-256)]

BRITISH AMERICAN UTILITIES CORP. AND NORTH EAST HEAT AND LIGHT CO.

Filing of and Order for Hearing

AUGUST 9, 1977.

In the matter of British American Utilities Corp., 718 Ellicott Square Building, Buffalo, N.Y. 14203 and North East Heat & Light Co., 16 North Lake Street, North East, Pa. 16428, notice is hereby given that British American Utilities Corp. ("British American"), a registered holding company, and its sole and wholly-owned subsidiary, North East Heat & Light Co. ("North East"), have filed a plan with this Commission pursuant to Section 11(e) of the Public Utility

Holding Company Act of 1935 ("Act") providing for the reorganization of the British American system. Sections 6, 7, 9, 10, 12 and 13 of the Act and Rule 62 promulgated thereunder have also been designated as applicable to the proposed transaction. All interested persons are referred to the plan, which is summarized below, for a complete statement of the proposed transaction.

The general purpose of the proposed plan is to liquidate British American as a corporate entity and exchange shares of North East for the outstanding shares of British American. British American presently has outstanding 620 of the 3,000 authorized shares of its preferred stock, par value $100 per share, and 2,802½ of the 4,500 authorized shares of its no par common stock. British American has 22 preferred shareholders and 20 common shareholders. North East presently has outstanding all of its 240 authorized shares of common stock, par value $100 per share; all of such stock is held by British American. Prior to the closing date, in order to bring its stock authorization into conformity with that of British American, North East will amend its Articles of Incorporation to authorize 3,000 shares of $100 par preferred stock and 4,500 shares of no par common stock.

At the closing North East will issue and deliver to British American, or to such persons as British American may designate, 620 shares of the newly authorized North East preferred stock and 2,802½ shares of the newly authorized North East common stock. British American will direct that the newly issued North East stock be delivered to the existing shareholders of British American to replace, on a share for share basis, the shares held by those shareholders.

At the closing British American will convey all of its properties, rights and assets to North East. At that time North East will assume all of British American's liabilities, contracts and obligations. Upon completion of the above transactions British American, then having no assets, will be liquidated.

British American states that if necessary it will make a request to the Commission, pursuant to the provisions of Section 11(e), that the Commission apply to a court, in accordance with Section 18(f), to enforce and carry out the provisions of the plan.

A statement of the fees and expenses to be incurred in connection with the proposed transaction will be filed by amendment. All such fees will be paid by North East. The Pennsylvania Public Utilities Commission has jurisdiction over the proposed recapitalization of North East.

It is hereby ordered, That a hearing on this matter be held September 7, 1977, at 10:00 a.m., E.D.T., in Room 2416 of the office of the Securities and Exchange Commission, 1100 L Street, NW., Washington, D.C. 20549. Any person desiring to be heard in connection with this matter or proposing to intervene therein shall file with the Secretary of the Commission, on or before September 2, 1977, a written request relative thereto as provided in Rule 9 of the Commission's Rules of Practice. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. Persons filing an application to participate or be heard will receive notice of any adjournment of the hearing as well as other actions of the Commission involving the subject matter of this proceeding.

It is further ordered, That an Administrative Law Judge, hereafter to be designated, shall preside at said hearing. The officer so designated is hereby authorized to exercise all the powers granted to the Commission under Section 18(c) of the Act and to a hearing officer under the Commission's Rules of Practice.

It is further ordered, That at said hearing evidence shall be adduced with respect to the foregoing matters and questions.

It is further ordered, That jurisdiction be, and it hereby is, reserved to separate, in whole or in part, either for hearing or for disposition, any issues or questions which may arise in these proceedings and to take such other action as may appear conducive to an orderly, prompt, and economical disposition of the matters involved.

It is further ordered, That the Secretary of the Commission shall serve notice of such hearing by mailing a copy of this notice and order by registered mail to British American and North East, and to the Pennsylvania Public Utilities Commission; that British American mail a copy of this notice and order to all public holders of record of its capital stock at least twenty days prior to the date of hearing; and that notice of said hearing be given to all other interested persons by a general release of the Commission and by publication of this notice and order in the FEDERAL REGISTER.

For the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77-23121 Filed 8-12-77;8:45 am]

WESTERN AMERICA ENERGY CORP.

[File No. 500-1]

Suspension of Trading

AUGUST 8, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading inthe securities of Western America Corp. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 10:00 a.m. (EDT) on August 8, 1977 through midnight August 17, 1977.

By the Commission.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77-23494 Filed 8-12-77;8:45 am]

CONDEC CORP.

[File Nos. 2-41386 (22-6807), 2-57850 (22-9076), 3-5268]

Application and Opportunity for Hearing

AUGUST 10, 1977.

Notice is hereby given that Condec Corp. has filed an application under (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeship of United States Trust Company under two indentures heretofore qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify United States Trust Company from acting as trustee under any such indenture.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest, it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, with certain exceptions that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the issuer are outstandstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The company alleges that:

(1) United States Trust Co. of New York ("U.S. Trust") is presently acting as trustee under an Indenture dated as of January 21, 1977 (the "1977 Indenture") between U.S. Trust as trustee and the company pursuant to which $12,069,600 principal amount of 10 percent Subordinated Debentures due April 15, 1977 (the "1977 Debentures") were outstanding as of May 31, 1977.

Bankers Trust Co. ("Bankers Trust") was the trustee under and Indenture dated as of December 1, 1971 (" 1971 Indenture") between Bankers Trust and the company, pursuant to which $7,638,010 principal amount of 7¾ percent Con-

vertible Subordinated Debentures due December 1, 1996 (the "1971 Debentures"), were outstanding as of May 31, 1977. By letter dated June 24, 1977, Bankers Trust notified the company of its intention to resign as trustee under the 1971 Indenture pursuant to Section 8.10 thereof upon acceptance of appointment by a successor trustee. By resolution adopted on June 27, 1977, the Board of Directors of the company determined that if Bankers Trust resigns, U.S. Trust is appointed as successor trustee to Bankers Trust under the 1971 Indenture.

(2) The 1971 Indenture and the 1977 Indenture (the 1971 Indenture and the 1977 Indenture being collectively referred to herein as the "Indentures") were qualified under the Trust Indenture Act as No. 22-6807 and No. 22-9076, respectively. Each Indenture contains the provisions permitted by the proviso of Section 310(b)(1) of the Trust Indenture Act.

(3) The obligations of the company under the Indentures are wholly unsecured and each such obligation ranks equally with the other. The company is not in default under either Indenture.

(4) The terms of the Indentures vary as to principal amounts and interest rates, maturity, payment dates of principal, interest and sinking fund, provisions for registration and transfer, redemption procedure, redemption dates and redemption prices, certain grace periods relating to event of default, and in several other respects. The descriptive language in various provisions of each of the Indentures differs occasionally.

(5) Such differences as exist between the Indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify U.S. Trust from acting as successor trustee under the 1971 Indenture while continuing to serve as trustee under the 1977 Indenture.

The company has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Securities Exchange Commission in connection with this matter. For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the Commission at 1100 L Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than September 3, 1977, request in writing that a hearing be held on such matter, stating that the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing theron. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the interest of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

[FR Doc.77-23495 Filed 8-12-77;8:45 am]

[Rel. No. 34-13845; Filed No. SR-TAD-77-2]

TAD DEPOSITORY CORP.

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 21, 1977, 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 consists of the stated policy of TAD not to release its nominee shares, except in an emergency to participants for circulation. The change will reverse this policy and provide for the release of TAD & Co. nominee stock certificates to TAD participants.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is one step toward providing TAD participants with a full complement of depository services prior to and in conjunction with the establishment of a "link" between TAD and the National Securities Clearing Corporation (NSCC) as described in the Securities and Exchange Commission Release No. 13163, dated January 13, 1977.

The proposed rule change relates to TAD's releasing stock certificates registered in its inominee name, TAD & Co., to TAD participants. Presently, TAD is the only depository which does not release its nominee stock as a common practice. In order for TAD to effect the interface with NSCC and DTC, this service will be necesary. This will serve to complement TAD's capacity to facilitate the prompt and accurate clearance and settlement of securities transactions.

Comments on the proposed rule change have not been solicited from our members but we have been advised by them that this service is of need and value to them.

The TAD Depository Corp. believes that the proposed rule change will not impose any burdens on competition.

By September 19, 1977, 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 21 days after the date of this publication. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

AUGUST 10, 1977.

[FR Doc.77-23496 Filed 8-12-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

FLIGHT SERVICE STATION AT NEEDLES, CALIFORNIA

Reduction of Hours

Notice is hereby given that on or about October 8, 1977, the Needles Flight Service Station will be closed each day from 4 p.m. to 8 a.m. local time. This information will be reflected in forth-coming issues of the Airman's Information Manual.

Issued in Los Angeles, California on August 1, 1977.

FRANK HAPPY,
Acting Deputy Director, Western Region.

[FR Doc.77-23426 Filed 8-12-77;8:45 am]

Materials Transportation Bureau

ASSOCIATED UNIVERSITIES, INC.

Receipt of Application for Inconsistency Ruling

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Public notice and invitation to comment.

SUMMARY: Associated Universities, Incorporated (AUI) has applied for an administrative ruling on whether Section 175.111 of the New York City Health Code, which restricts the transportation of radioactive meaterials in and through

the City of New York, is inconsistent with and thus preempted by the Hazardous Materials Transportation Act or regulations issued thereunder. Public comment is solicited.

DATES: Comments received on or before September 30, 1977 will be considered before an inconsistency ruling is issued by the Office of Hazardous Materials Operations (OHMO).

ADDRESSES: The AUI application, the City of New York's response, and comments thereon, may be reviewed in the Docket Section, Room 6500, Trans Point Building, 2100 2nd Street SW., Washington, D.C. 20590 (phone 202-426-2077), both before and after close of the public comment period. Comments on the AUI application should be submitted, preferably five copies, to the Docket Section at the above address. A copy of each comment must also be sent to Mr. N. Peter Rathvon, Jr., Associated Universities, Inc., Upton, N.Y. 11873, and that fact certified to OHMO at the time the comment is submitted to OHMO.

FOR FURTHER INFORMATION CONTACT:

Douglas A. Crockett, Office of the Assistant General Counsel for Materials Transportation Law, Department of Transportation, Room 6222, Trans Point Building, 2100 2nd Street SW., Washington, D.C. 20590 (phone 202-755-4972).

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

Section 112 of the Hazardous Materials Transportation Act (Title I of Pub. L. 93-633; 49 U.S.C. 1801-1812) (HMTA) expressly preempts "any requirement, of a State or political subdivision thereof, which is inconsistent with any requirement" of the HMTA or regulations issued under the HMTA. Section 112 also provides that preemption of such inconsistent State and local requirements is terminated if the State or local government can convince the Secretary that its requirement provides a greater level of public safety than Federal requirements and does not unduly burden commerce.

Effective January 3, 1977, the DOT Hazardous Materials Regulations, 49 CFR Parts 171-179, were reissued under the HMTA (41 FR 38175, September 9, 1976), bringing them under the coverage of the express premption provision of Section 112. Additional procedural regulations have also been issued under the HMTA and codified at 49 CFR Parts 102 and 107. They include two separate procedures (49 CFR 107.201-.225; 41 FR 38167 September 9, 1976, effective January 3, 1977) used by the Materials Transportation Bureau (MTB) to provide (1) inconsistency rulings (administrative opinions on whether State or local requirements are inconsistent with Federal hazardous materials transportation requirements); and (2) nonpreemption determinations (findings under Section 112 that determine whether Federal preemption of such inconsistent requirements is terminated).

Briefly, an inconsistency ruling is an administrative opinion on the relationship which exists between a Federal requirement (in the HMTA or regulations thereunder) and a final State or local requirement. An inconsistency ruling clarifies rights and obligations which already exist by virtue of existing law and does not create new or alter existing rights or obligations, except that reliance on a ruling of inconsistency is one of three ways in which a State or locality may establish that its requirement is inconsistent with Federal requirements in order to qualify that requirement for consideration in a nonpreemption determination.

THE AUI INCONSISTENCY RULING APPLICATION AND RESPONSE

The AUI application was received by OHMO on March 1, 1977, and requests an inconsistency ruling that Section 175.111 of the New York City Health Code, as amended January 15, 1976, which regulates the transportation of radioactive materials in and through the City, is inconsistent with the HMTA and regulations issued thereunder. AUI states it is chartered under the New York State Education Law and that it is a "person" affected by the Health Code because Brookhaven National Laboratory, which AUI operates for scientific research, is both a consignee and shipper of radioactive materials. Brookhaven National Laboratory is located in Upton, Long Island, about 70 miles east of the City, and the only land route from Brookhaven to the mainland is through the City.

AUI states that, except for U.S. Government shipments for military or national security purposes or which are related to national defense, Section 175.111 of the Health Code effectively prohibits certain materials from being transported through the City, because the section is devoid of meaningful criteria upon which the Commissioner of Health's determination to issue or not to issue a Certificate of Emergency Transport must be based.

AUI states that regulations issued under the HMTA are permissive in character, authorizing shipment of hazardous materials if certain conditions are met, while Section 175.111, with limited exceptions inapplicable to Brookhaven shipments, is an effective ban obstructing the shipment of radioactive materials. Section 175.111 is said to thwart the DOT regulatory scheme by prohibiting shipments made in full compliance with DOT regulations. AUI states that Congress (in passing the HMTA) intended to regulate commerce by providing strict standards ensuring that risks associated with transportation of hazardous materials are remote, and intended that localities respond only to purely local safety concerns which are not susceptible to uniform Federal regulation.

AUI also states that Section 175.111 is inconsistent with Federal requirements under the HMTA because AUI cannot comply with both and still ship radioactive materials in commerce through the City.

AUI urges that the City's restrictions are unwarranted and unreasonable as the benefit derived from Section 175.111 in reducing a risk made remote by compliance with DOT regulations does not outweigh the benefit to the public from scientific research at Brookhaven and from a free flow of commerce. (A copy of the City's amendment to § 175.111 of the Health Code submitted by AUI as "Exhibit A" to its ruling application, is reproduced as Appendix A to this notice.

A response was received by OHMO on May 3, 1977, from the Corporation Counsel for the City of New York. The City states that AUI has not cited any section of the Code of Federal Regulations with which Section 175.111 conflicts, that no such conflict exists, and that AUI's position amounts to a contention that the Materials Transportation Bureau has so thoroughly regulated the transportation of radioactive materials that any State or local actions in this field are preempted.

The City states that Federal regulation supersedes State regulation only where the intent to do so is clear, and that preemption does not occur where a locality, such as the City, enacts regulations which are vital to local health concerns and which affect a (Federally) unregulated aspect of a (Federally) regulated operation.

The City states that DOT regulations reveal no attempt to preempt local regulations; that to the contrary, 49 CFR 397.3 requires motor vehicles containing hazardous materials to be driven and parked in compliance with local laws, ordinances and regulations; that 49 CFR 397.9 directs that motor vehicles containing hazardous materials must operate over routes that avoid heavily populated areas, unless there is not any other practicable alternative (where the motor carrier's operating convenience is not a basis for determining practicableness); and that in the cited sections of 49 CFR Part 397, the DOT has acknowledged the local jurisdiction of the Board of Health as exercised through Section 175.111 of the Health Code, and has recognized the need to regulate routing to ensure public safety. The City also states that for Brookhaven shipments, transportation by water is a practicable alternative to ground transportation through the City.

III. PUBLIC COMMENT

Comments should be restricted to the question of whether Section 175.111 of the New York City Health Code is inconsistent with the HMTA or regulations issued thereunder. An application for a nonpremption determination regarding Section 175.111 has not been filed and comments pertinent to such a determination will not be considered in this proceeding.

The City, in its response to the AUI application, has asked that MTB schedule a public hearing on the matter, and similar requests have been received from other interested parties. However, MTB is declining to schedule a public hearing because it believes that written comments are fully adequate for the com-

munication of views and are, in fact, better suited to assist consideration of the AUI application than a public hearing. The City has also asserted that an Environmental Impact Statement is a necessary prerequisite to issuance of an inconsistency ruling. The MTB disagrees. Inconsistency rulings, which are opinions as to existing relationships between existing State or local and Federal requirements, are not major Federal actions requiring preparation of an Environmental Impact Statement.

Persons intending to comment on the AUI application should examine the HMTA (49 U.S.C. 1801–1812), the DOT Hazardous Materials Regulations (49 CFR Parts 171–179), and the procedures governing the Department's consideration of applications for inconsistency rulings (49 CFR 107.203–211), as well as Section 175.111 of the New York City Health Code. Each comment is to be accompanied by a certification that a copy of that comment has been sent to AUI.

(49 U.S.C. 1811, 49 CFR 1.53(e), 49 CFR Part 107 Subpart C. Issued in Washington, D.C. on August 4, 1977.)

ALAN I. ROBERTS,
Director, Office of Hazardous Materials Operations.

APPENDIX A

HEALTH SERVICES ADMINISTRATION
DEPARTMENT OF HEALTH

RESOLUTIONS ADOPTED

At a meeting of the Board of Health of the Department of Health held January 15, 1976, the following resolution was adopted:

Resolved, that section 175.111 of the New York City Health Code, as repealed and reenacted by resolution adopted on the fifteenth day of November, nineteen hundred seventy-three and filed with the City Clerk on the twentieth day of November, nineteen hundred seventy-three, be and the same hereby is amended by adding a new subsection (1) thereto, to follow subsection (k) thereof, to be printed together with explanatory notes, to read as follows:

(l) Notwithstanding the foregoing provisions of this section, a Certificate of Emergency Transport issued by the Commissioner or his designated representative shall be required for each shipment, to be transported through the City or brought into the City, of any of the following materials:

(1) Plutonium isotopes in any quantity and form exceeding two grams or 20 curies, which ever is less;

(2) Uranium enriched in the isotope U–235 exceeding 25 atomic per cent of the total uranium content in quantities where the U–235 content exceeds one kilogram;

(3) Any of the actinides (i.e., elements with atomic number 89 or greater) the activity of which exceeds 20 curies;

(4) Spent reactor fuel elements or mixed fission products associated with such spent fuel elements the activity of which exceeds 20 curies; or

(5) Any quantity of radioactive material specified as a "Large Quantity" by the Nuclear Regulatory Commission in 10 CFR Part 71, entitled "Packaging of Radioactive Material for Transport."

NOTES.—Subsection (l) was added by resolution adopted on January 15, 1976, to require the approval of the Commissioner or his designated representative through the issuance of a Certificate of Emergency Transport for the transport or the bringing into this City of specified large quantities of plutonium, enriched uranium and other actinides and spent reactor fuel elements which would present a great hazard to public health in this densely and highly populated City. It is intended that such Certificate will be issued for the most compelling reasons involving urgent public policy or national security interests transcending public health and safety concerns and that economic consideration alone will not be acceptable as justification for the issuance of such Certificate. Such Certificates are also intended to be issued for hectocurie and kilocurie cobalt-60 and cesium-137 teletherapy sources employed in therapeutic radiology and biomedical research or educational purposes and for medical devices designed for individual human application (e.g., cardiac pacemakers) containing plutonium-238, promethium-147 or other radioactive material. This subsection is not intended to apply to small quantities of specified radioactive materials intended for therapeutic radiology and biomedical research or educational purposes.

Resolved, further, that subsection (c) of section 175.111 of the New York City Health Code, as repealed and reenacted by resolution adopted on the fifteenth day of November, nineteen hundred seventy-three and filed with the City Clerk on the twentieth day of November, nineteen hundred seventy-three, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

(c) This section shall not apply to radiation sources shipped by or for the United States Government for military or national security purposes or which are related to national defense. Nothing herein shall be construed as requiring the disclosure of any defense information or restricted data as defined in the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974, as amended.

NOTES: Subsection (c) was amended by resolution adopted on January 15, 1976 to conform its provisions with subsection (l) adopted by the same resolution.

Resolved, further, that this resolution shall take effect immediately.

A true copy.

PATRICIA J. CARUSO,
Acting Secretary.

[FR Doc.77-23454 Filed 8-12-77;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 156, Amdt. 2]

DELEGATION OF AUTHORITY

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: This Amendment permits the Assistant Commissioner (Compliance), Deputy Assistant Commissioner (Compliance), and Director, Disclosure Operations Division to disclose, pursuant to Internal Revenue Code section 6103(m)(2), a taxpayer's mailing address to officers and employees of an agency for use in the collection or compromise of a claim against the taxpayer under the Federal Claims Collection Act of 1966 (31 U.S.C. 951–953). The text of the Amendment appears below.

EFFECTIVE DATE: August 8, 1977.

FOR FURTHER INFORMATION CONTACT:

Howard T. Martin, CP:D, 1111 Constitution Ave., NW., Room 1603, Washington, D.C., 20224, Telephone number 202–566–3908 (not a toll-free telephone number).

HOWARD T. MARTIN,
Director, Disclosure Operations Division.

AUTHORITY TO PERMIT DISCLOSURE OF TAXPAYER MAILING ADRESSES UNDER INTERNAL REVENUE CODE 6103(M)(2)

Pursuant to the authority vested in the Commissioner of Internal Revenue by Treasury Department Order No. 150–37, dated March 17, 1955, authority is hereby delegated as follows:

(1) The Assistant Commissioner (Compliance), Deputy Assistant Commissioner (Compliance), and Director, Disclosure Operations Division are authorized to disclose the mailing address of a taxpayer to officers and employees of an agency when needed to prepare for any proceeding (or investigation which may result in such proceeding) pertaining to a Federal claim against such taxpayer, subject to the conditions prescribed in IRC 6103(m)(2). The authority delegated in this paragraph may be redelegated to the Assistant Director, Disclosure Operations Division, Branch Chiefs, Disclosure Operations Division, and Section Chiefs, Disclosure Operations Division.

(2) This Amendment supplements paragraph 9(c) of Delegation Order No. 156. Delegation Order No. 156, issued May 19, 1976, is printed in the FEDERAL REGISTER dated May 21, 1976, Vol. 41, Number 100, Page 20898.

WILLIAM E. WILLIAMS,
Acting Commissioner.

AUGUST 5, 1977.

[FR Doc.77-23473 Filed 8-12-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[No. 459]

ASSIGNMENT OF HEARINGS

AUGUST 10, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 111729 (Sub No. 693) Purolator Courier Corp., now being assigned October 3, 1977, at Salem, Oreg. (1 week) in a hearing room to be later designated.

MC 19227 Sub No. 227 Leonard Bros. Trucking Co., Inc., MC 32882 Sub No. 77 Mitchell Bros. Truck Lines, MC 60014 Sub No. 43 Aero Trucking, Inc., MC 73165 Sub No. 394 Eagle Motor Lines, Inc., MC 74321 Sub No. 124 B. F. Walker, Inc., MC 83539 Sub No. 449 C & H Transportation Co., Inc., MC 106644 Sub No. 225 Superior Trucking Company, Inc., MC 109397 Sub No. 330 Tri-State Motor Transit Co., MC 111545 Sub No. 232 Home Transportation Company, Inc., MC 112304 Sub No. 108 Ace Doran Hauling & Rigging Co., MC 113855 Sub No. 366 International Transport, Inc., MC 114211 Sub No. 296, Warren Transport, Inc., MC 117574 Sub No. 277 Dailey Express, Inc., MC 124211 Sub No. 286 Hilt Truck Line, Inc., MC 124692 Sub No. 173 Sammons Trucking, MC 123048 Sub No. 355 Diamond Transportation System, Inc., MC 125433 Sub No. 89 F-B Truck Line Company, MC 128762 Sub No. 16 P. L. Lawton, Inc., MC 142059 Sub No. 2 now being assigned November 7, 1977 (1 week) at San Francisco, Calif. and continued to November 14, 1977 (1 week) at Atlanta, Ga. in hearing rooms to be later designated.

MC 114211 (Sub-291), Warren Transport, Inc, now assigned September 20, 1977 at Chicago, Ill., will be held in Room 1319 Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 128030 (Sub-No. 109), The Stout Trucking Co., Inc., now assigned September 21, 1977 at Chicago, Ill., will be held in Room 1319 Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 117815 (Sub-260), Pulley Freight Lines, Inc., now assigned September 26, 1977 at Chicago, Ill., will be held in Room 1319 Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 141084 (Sub-5), National Freight Lines, Inc., now assigned September 28, 1977 at Chicago, Ill., will be held in Room 1319 Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 105636 (Sub-No. 35), Armellini Express Lines, Inc., now assigned September 8, 1977 at Washington, D.C., hearing canceled, application dismissed.

MC 107295 Sub 697, Pre-Fab Transit Corp. now assigned September 20, 1977 at Nashville, Tenn. and will be held in Room A-761, U.S. Courthouse and Federal Building, 801 Broadway.

MC 142484 Sub 1, Stringfellow Transportation Company now assigned September 13, 1-77 at Birmingham, Ala. and will be held in the GSA Conference Room 345, Federal Building, 1800 5th Avenue North.

MC 73165 Sub 402, Eagle Motor Lines, Inc. now assigned September 14, 1977 at Birmingham, Ala. and will be held in GSA Conference Room 345, Federal Building, 1800 5th Avenue North.

MC 135867 Sub 2, H.T.L., Inc. now assigned September 15, 1977 at Birmingham, Ala. and will be held in GSA Conference Room 345, Federal Building, 1800 5th Avenue North.

MC 121644 Sub 2, S & W Freight Lines, Inc. now assigned September 12, 1977 at Memphis, Tenn. and will be held at the Executive Plaza Inn, 1471 East Brooks Road.

MC 1380 Sub 21, Colonial Motor Freight Line, Inc. now assigned September 12, 1977 at Charlotte, N.C. and will be held at the Charlotte Downtowner East, 301 South McDowell Street.

MC 135288 Sub 7, McGill's Taxi and Bus Lines, Inc., dba Asheboro Coach Co. now assigned September 7, 1977 at Greensboro, N.C. and will be held in Room 127, U.S. Post Office and Federal Courthouse Building, 324 West Market Street.

MC 141848, Yellow Enterprise Systems, Inc. now assigned September 26, 1977 at Louisville, Ky. and will be held in Room 1052A, Federal Building, Federal Plaza, 6th and Chestnut Streets.

MC 121470 Sub 9, Tanksley Transfer Co. now assigned September 22, 1977 at Nashville, Tenn. and will be held in Room A-761, U.S. Courthouse and Federal Building, 801 Broadway.

MC-F 13011, Jack I. Murphee—Continue Control—Jimco, Inc., MC 142586, Jimco, Inc. and MC 96961 Sub 3, West Tennessee Motor Express, Inc. now assigned September 19, 1977 at Nashville, Tenn. and will be held in Room A-440, U.S. Courthouse and Federal Building, 801 Broadway.

MC 114632 Sub No. 92, Apple Lines, Inc. now being assigned November 1, 1977 (1 day) at Denver, Colo. in a hearing room to be later designated.

MC 134286 Sub 17, Illini Express, Inc. now being assigned November 2, 1977 (1 day) at Denver, Colo. in a hearing room to be later designated.

MC 58035 Sub 11, Trans-Western Express, Ltd. now being assigned November 3, 1977 (2 days) at Denver, Colo. in a hearing room to be later designated.

MC 114569 Sub 160, Shaffer Trucking, Inc. now being assigned November 7, 1977 (2 days) at Denver, Colo. in a hearing room to be later designated.

MC 111375 Sub No. 85, Pirkle Refrigerated Freight Lines, Inc. now being assigned November 9, 1977 (3 days) at Denver, Colo. in a hearing room to be later designated.

MC 129003 (Sub-7), Emporia Motor Freight, Inc., now being assigned October 17, 1977 (1 week) at Topeka, Kans., in a hearing room to be later designated.

MC 126118 (Sub-No. 36), Crete Carrier Corp., MC 128375 (Sub-No. 148), Crete Carrier Corp. and MC 128375 (Sub-No. 149), Crete Carrier Corp., now being assigned October 12, 1977, (3 days), at Kansas City, Mo., in a hearing room to be later designated.

MC 66886 (Sub-No. 54), Belger Cartage Service, Inc., now being assigned October 17, 1977 (2 days), at Kansas City, Mo., in a hearing room to be later designated.

MC 26739 (Sub-No. 91), Crouch Freigth Systems, Inc., now being assigned October 19, 1977 (3 days), at Kansas City, Mo., in a hearing room to be later designated.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-23474 Filed 8-12-77;8:45 am]

[Notice No. 208]

MOTOR CARRIER TRANSFER PROCEEDINGS

August 15, 1977.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77252. By application filed August 8, 1977, Gary D. Allen, an individual, P.O. Box 14, Kirk, CO 80824, seeks temporary authority to transfer the operating rights of John G. Riedesel, an individual, d.b.a. Riedesel Truck Line, P.O. Box 11, Kirk, CO 80824, under section 210a(b). The transfer to Gary D. Allen, an individual, of the operating rights of John G. Riedesel, an individual, d.b.a. Riedesel Truck Line, is presently pending.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-23475 Filed 8-12-77;8:45 am]

[Notice No. 207]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) 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.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before September 14, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77073, filed July 22, 1977. Transferee: GLESS BROS., INC., 534 Geneseo St., P.O. Box 216, Blue Grass, Iowa 52726. Transferor: W. W. Gless, doing business as Gless Bros., 534 Geneseo St., P.O. Box 216, Blue Grass, Iowa 52726. Applicants' representatives: Larry D. Knox/Ronald R. Adams, Attorneys-at-Law, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificates Nos. MC-93840, MC-93840 (Sub-No. 6), MC-93840 (Sub-No. 7), MC-93840

(Sub-No. 10), MC-93840 (Sub-No. 12), MC-93840 (Sub-No. 18), MC-93840 (Sub-No. 20), and MC-93840 (Sub-No. 21), issued by the Commission June 6, 1949, August 24, 1950, April 23, 1969, August 3, 1973, Janutry 31, 1974, April 2, 1976, September 8, 1976, and July 15, 1976, respectively, as follows: Tanks, wire, fencing materials, agricultural implements, coal, roofing, iron, steel, and wire products, livestock, poultry, eggs, feed, egg case materials, fertilizer, brick, tile, clay products, meat scraps and tankage, sale, liquid feed, liquid feed supplements, molasses, in bulk, iron and steel articles, and materials, equipment and supplies used in the manufacture and distribution of iron and steel articles, from, to, or between points in Illinois, Indiana, Iowa, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77193, filed August 8, 1977. Transferee: SAV-ON TRANSPORTATION, INC., 143 Frontage Road, Manchester, N.H. 03101. Transferor: D & G Transportation, Inc., 20 Cameron St., Clinton, Mass. 01510. Applicants' representative: Frank J. Weiner, Attorney-at-Law, 15 Court Square, Boston, Mass. 02108. Authority sought for purchase by transferee of the operating rights of transferor set forth in Permits Nos. MC-138385 (Sub-No. 1) and MC-138385 (Sub-No. 2), issued September 12, 1974 and November 28, 1975, respectively, as follows: Plastic articles, from Lyndhurst, N.J. to points in New York, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Tennessee, Ohio, California, and the District of Columbia; cereal, from Clinton, Mass. to Fulton and Rochester, N.Y., Hershey and Reading, Pa., Hackettstown, N.J., Frankfort and Kendallville, Ind., and Salinas, Calif.; plastic pellets (except in bulk), from, Kobuta, Pa. to Lyndhurst, N.J.; cereal, plastic articles, lunch and picnic kits, napkins, salt, pepper, sugar, condiments, and straws (except in bulk), from Clinton, Mass. to points in New York, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Tennessee, Ohio, California, District of Columbia, Maine, New Hampshire, Vermont, Rhode Island, Connecticut, and New Jersey; and plastic pellets (except in bulk), from Kobuta, Pa. to Clinton, Mass., restricted to a transportation service to be performed for certian specified shippers. Transferee presently holds authority from this Commission under Permit No. MC-143117, as well as a temporary authority under MC-141921 (Sub-No. 2TA). Application has not been filed for temporary authority under Section 210a (b) of the Act.

No. MC-FC-77121, filed August 4, 1977. Transferee: ITG TRUCKING COMPANY, INC., 249 Copeland Street, Jacksonville, Florida, 32203. Transferor: THE BIG E CORP., 1020 Atlantic Bank Building, Jacksonville, Florida, 32202. Applicants' representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, Florida, 32202. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC-135257 (Sub-No. 1) issued March 29, 1973, as follows: Meats, meat products, and meat by-products, and articles distributed by meat packinghouses, except commodities in bulk between the plant sites and warehouses of Jones-Chambliss Co., and Henry's Hickory House at Jacksonville, Fla. on the one hand and, on the other, points in Alabama, California, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, and Wisconsin. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77206, filed July 12, 1977. Transferee: LEONA WILLMOTH AND CHARLES E. WILLMOTH, A Partnership. Doing Business As Willmoth & Son, R.R. # 6, Paris, Illinois, 61944. Transferor: Roy Willmoth (Leona Willmoth—Executor) and Charles E. Willmoth, A Partnership Doing Business As Roy Willmoth and Son, R.R. # 6, Paris, Illinois, 61944. Applicants' representative: Roger Fruin, Fruin, Andrews & Hoff, 129 North Central Avenue, Paris, Illinois, 61944. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC-106104, issued October 1, 1946, as follows: Agricultural products, from points and places in Edgar, Douglas, and Vermilion Counties, Ill., and Vermillion and Parke Counties, Ind., to points and places in Kentucky, Tennessee, and Missouri and from points and places in Edgar, Douglas, and Vermilion Counties, Ill. to points and places in Indiana; Coal, from points and places in Sullivan, Clay, Vigo, Vermillion, and Gibson Counties, Ind., and Sand Gap, Ky., and points and places in Kentucky west of a line beginning at the Kentucky-Indiana State line and extending along Kentucky Highway 75 to junction Kentucky Highway 81 at South Carrollton, Ky., and thence along Kentucky Highway 81 to the Kentucky-Tennessee State line, including points and places on the indicated portions of the highways specified, to points and places in Edgar, Douglas, and Vermilion Counties, Ill.; Phosphate, from points and places in Giles and Maury Counties, Tenn., to points and places in Edgar, Vermilion, Douglas, Coles, and Clark Counties, Ill., and Vigo and Vermillion Counties, Ind.; Lumber and fence posts, from points and places in Kentucky and Tennessee, to points and places in Edgar, Douglas, and Vermilion Counties, Ill., and Vigo and Vermillion Counties, Ind.; Livestock, from points and places in Edgar, Douglas, and Vermilion Counties, Ill., to Indianapolis and Terre Haute, Ind.; Emigrant movables, between points and places in Edgar, Douglas, and Vermilion Counties, Ill. on the one hand and, on the other, points and places in Indiana, Kentucky, and Tennessee. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77207, filed July 11, 1977. Transferee: J. SCHRODER CARTAGE, INC., 1330 W. 7th Street, Cincinnati, Ohio, 45203. Transferor: J. ZEMBRODT EXPRESS, INC., Norman I. Barron, trustee in bankruptcy, 920 Central Trust Tower, Cincinnati, Ohio, 45202. Applicant's representative: William P. Whitney, Jr., Suite 708 McClure Building, Frankfort, Kentucky, 40601. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 6695 issued December 22, 1960, as follows: General commodities, with normal exceptions, between Cincinnati, Ohio, on the one hand, and, on the other, Covington, Ludlow, and Newport, Ky. Between Cincinnati, Ohio, on the one hand, and, on the other, points in Kenton and Boone Counties, Ky. within 15 miles of Cincinnati (except Ludlow, Ky., and points on U.S. Highways 42 and 25 in those counties). Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77218, filed July 19, 1977. Transferee: GAY TRUCK LINE, INC., P.O. Box 134, Falkner, Mississippi, 38629. Transferor: Ross C. Gay, D.B.A. GAY TRUCK LINE, P.O. Box 134, Falkner, Mississippi 38629. Applicant's representative: Harold D. Miller, Jr., P.O. Box 22567, 1700 Deposit Guaranty Plaza, Jackson, Mississippi 39211. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates No. MC 104881 (Sub-No. 2), MC 104881 (Sub-No. 4), and MC 104881 (Sub-No. 6), issued January 10, 1963, May 14, 1969, and November 19, 1969, respectively, as follows: General commodities, with normal exceptions, over specified regular routes, between Memphis, Tenn., and Walnut, Miss., serving the intermediate and off-route points of Ashland, Ripley, Falkner, Tiplersville, Blue Mountain, Brownfield, and Chalybeate, Miss.; Between Memphis, Tenn., and Walnut, Miss., serving all intermediate points between the Mississippi-Tennessee State line, and Walnut, and the off-route point of Michigan City, Miss.; General commodities, with normal exceptions, over specified regular routes, between Walnut, Miss., and Middleton, Tenn., serving all intermediate points; and Reclaimed rubber, rubber compounds, and rubber compounding chemicals, except in bulk, over irregular routes, From Ripley, Miss., to Hohenwald, Tenn. Transferee presently holds no authority from this Commis-

sion. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77222, filed July 21, 1977. Transferee: ROBERT N. TOOMEY TRUCKING CO., a corporation, 1516 South George St., York, Pa. 17403. Transferor: Robert N. Toomey, d.b.a. Robert N. Toomey Trucking Co., 1516 South George St., York, Pa. 17403. Applicants' representative: Charles E. Creager, attorney-at-law, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, Md. 21740. Authority sought for purchase by transferee of the operating rights of transferor set forth in Permits Nos. MC 124144, MC 124144 (Sub-No. 3), MC 124144 (Sub-No. 6), MC 124144 (Sub-No. 8), MC 124144 (Sub-No. 12), Mc 124144 (Sub-No. 16), and MC 124144 (Sub-No. 18), issued by the Commission August 20, 1964, August 24, 1973, July 25, 1974, July 7, 1975, October 10, 1975, March 19, 1976, and July 11, 1977, respectively, as follows: Wire cloth, from York, Pa., to points in California, Texas, and Oklahoma; fiberglass screening, from the plantsite of Oxford Mills in Compton, Calif., to the plantsite of New York Wire Company in Chicago, Ill. and to York, Pa.; agricultural chemicals (except in bulk), from Hanover, Pa., to points in California, Washington, Nevada, Oregon, and Arizona; foodstuffs, food treating compounds, chemicals and additives, and commodities the transportation of which is exempt or partially exempt from economic regulation under the provisions of section 203 (b)(6) of the Act, from Baltimore, Md., to points in Texas and Louisiana; chain and attachments and hardware therefor, cable, wire rope, and chain manufacturing machinery and equipment (except commodities which by reason of their size or weight require the use of special equipment), from York, Pa., to points in Washington, Oregon, California, Idaho, Nevada, Montana, Wyoming, Utah, Arizona, Colorado, New Mexico, Oklahoma, and Texas; chains, cotter pins, hoisting equipment, trolleys, screws, washers and abrasive wheels, from York, Pa., to points in Texas; chains, attachments and hardware for chains, cable, wire rope, and chain manufacturing equipment and machinery, from Denver, Colo., to points in Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington; and iron and steel (except commodities which because of size and weight require the use of special equipment), from points in California to York, Pa., under continuing contracts with specified shippers. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b) of the Act.

No. MC-FC-77223, filed July 18, 1977. Transferee: REILE'S TRANSFER & DELIVERY, INC., 1621 South 14th St., Fargo, N.D. 58102. Transferor: Reinhold Reile, d.b.a. Reile's Transfer, 1621 South 14th St., Fargo, N.D. 58102. Applicant's representative: Richard P. Keller, attorney-at-law, 4744 IDS Center, Minneapolis, Minn. 55402. Authority sought for purchase by transferee of the operating rights of transferor set forth in Permit No. MC 109471, issued March 1, 1974, as follows: Such merchandise as is dealt in by retail chain department stores or mail order houses, between Fargo, N. Dak., on the one hand, and, on the other, points in Minnesota within 100 miles of Moorhead, Minn., subject to specified restrictions. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b) of the Act.

No. MC-FC-77234, filed July 28, 1977. Transferee: John M. Rueter and Diane K. Rueter, d.b.a. PRESCOTT TRANSFER AND STORAGE COMPANY, 659 Sixth St., Prescott, Ariz. 86301. Transferor: Charles R. Steger and Susan A. Steger, d.b.a. Prescott Transfer and Storage Co., 659 Sixth Street, Prescott, Ariz. 86301. Applicants' representative: Ronald V. Meeks, 4541 North 12th St., Phoenix, Ariz. 85014. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate of Registration No. MC 98699 Sub-2, issued September 9, 1971, as follows: *Freight and baggage* over the public highways designated as those in Prescott, Ariz. and vicinity. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

H. G. Homme, Jr.
Acting Secretary.

[FR Doc.77-23476 Filed 8-12-77;8:45 am]

CODIFICATION OF THE INTERSTATE COMMERCE ACT

August 10, 1977.

The Interstate Commerce Commission is required by section 312 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210) to prepare and submit to the Congress, by February 4, 1978, a recodification and revision of the Interstate Commerce Act and related statutes. Most of the statutes involved are now to be found in title 49 of the United States Code beginning at sections 1, 301, 901, and 1001.

The recodification of the Interstate Commerce Act is being carried out as a joint project of the Commission and the Law Revision Counsel of the United States House of Representatives. The Law Revision Counsel has the legal responsibility for the continuing recodification of the entire United States Code.

On or about September 1, 1977, a draft of the proposed recodification will be made publicly available, in the form of a committee print of the House Committee on the Judiciary. The Commission and the Law Revision Counsel seek comments on the draft from interested persons. Comments should be submitted in writing by October 3, 1977. Four copies of the comments should be furnished if possible.

Copies of the draft recodification will be mailed to all interested persons upon request. Requests for copies of the draft and comments should be sent to:

Codification Project, I.C.C., Washington, DC 20423.

Copies will also be available for pickup on or about September 1. The Commission will issue a subsequent notice giving the exact date when the copies will be available and the locations at which they may be picked up.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-23509 Filed 8-12-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409), 5 U.S.C. 552b(e)(3).

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1

CIVIL AERONAUTICS BOARD.

[MA–22 amending M–43]

AUGUST 9, 1977.

Notice of addition of items to August 16, 1977 meeting agenda.

TIME AND DATE: 10:00 a.m., August 16, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 22. Dockets 30058; 28110 and 28342, Rocky Mountain Airways' request to use Dash 7 aircraft in scheduled service in Colorado; Aspen Airways' and Rocky Mountain Airways' requests for Denver-Aspen certificate authority. (Memo No. 4680B, BOR, BLJ, OGC.)

23. Docket 30526, Pan American's request to suspend service at Philadelphia on its transatlantic route. (Memo No. 7079, BOR, OGC, BIA.)

24. Docket 31184, Weekend excursion fares in the Minneapolis/St. Paul-Los Angeles/San Francisco markets proposed by Northwest. (BE.)

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary 202–673–5068.

SUPPLEMENTARY INFORMATION: The original Meeting Notice for August 16, 1977, was issued before it was realized that the above items needed to be discussed at the August 16, 1977, Board Meeting. This Notice still permits a full seven days' notice. The following Board Members have voted that agency business requires the addition of these items to the agenda of its August 16, 1977 meeting and that no earlier announcement of the additions was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Elizabeth E. Bailey
Member Lee R. West did not participate.

[S–1097–77 Filed 8–10–77;4:21 pm]

2

[M–43]

AUGUST 9, 1977.

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10:00 a.m., August 16, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1. Ratification of Items Adopted by Notation.[1]

2. Docket 30704, Application of Trans World Airlines, Inc., for approval of an agreement pursuant to section 412 of the Federal Aviation Act of 1958, Agreement #26563. (Memo No. 7206A, BE, BIA.)

3. Docket 31082, Exemption requested by Frontier to deviate from Phase 9 formula fares in certain markets. (Memo No. 7223A, BE.)

4. Docket 30904, Petition for prior approval to hold joint air carrier discussions on matters relating to the transportation of handicapped. (Memo No. 7320, BE, BOR.)

5. Docket 27948, Interline Air Express Agreement between Delta, Ozark, and Southern; Agreements C.A.B. 25188, 25188–A1. (Memo No. 6379–C, BE, BOR.)

6. Docket 30502 and 30651, Adequacy of service complaints. (Memo No. 7117, BOR.)

7. Docket 30236, United's Subpart N Application For Nonstop Cleveland-San Diego Authority. (Memo No. 6817B, BOR, OGC, BLJ.)

8. Docket 26769, Application for prior Board approval of an agreement between Wien Air Alaska and Munz Northern Airlines Agreement CAB 21066. (Memo No. 7322, BOR.)

9. Dockets 21389 and 28985, Suspension/Deletion of Kokomo-Logansport-Peru, Indiana. (Memo No. 1213J, BOR.)

10. Docket 29873, Daetwyler Airfreight Corp. (Swiss) d/b/a Interamerican Airfreight Corp. (U.S.A.) renewal of foreign indirect air carrier permit. (Memo No. 7321, BOR, BIA, OGC.)

11. Docket 29727, Caraibische Lucht Transport Maatschappij N.V. (Caribbean Air Transport Company, Inc.), order finalizing order to show cause. (Memo No. 6192B, BOR, BIA, OGC.)

[1] The ratification process provides an entry in the Board's Minutes of items already adopted by the Board through the written Notation process (memoranda circulated to the Members sequentially). A list of items ratified at this meeting will be available in the Board's Public Reference Room (Room 710, 1825 Connecticut Avenue NW., Washington, D.C. 20428) following the meeting.

12. Docket 30871, Guyana Airways Corporation, Order finalizing order to show cause. (Memo No. 7212A, BOR, BIA, OGC.)

13. Docket 29701, Air-Siam Air Company Limited—Dismissal of Proceeding and Cancellation of Carrier's Foreign Air Carrier Permit. (Memo No. 7182A, BOR, BIA, OGC.)

14. Docket 28898, Trans-Provincial Airlines Ltd., Renewal of a Foreign Air Carrier Permit. (Memo No. 4231A, BIA, BOR, OGC.)

15. Docket 30710, Kinniburgh Spray Service Ltd., Issuance of a Foreign Air Carrier Permit. (Memo No. 7177A, BOR, BIA, OGC.)

16. Report on Passengers Enplaned at Local Service Points by Local Service Carriers—Fiscal Years 1976 and 1975. (Memo No. 4278H, BOR, BAS, OCCR, OL.)

17. Docket 26310, *Rules and Practices Relating to the Acceptance and Carriage of Live Animals in the Domestic Air Freight Transportation*, Opinion and Order on Discretionary Review. (Memo No. 7328, OGC.)

18. Dockets 28848, 28778, 28800, 28961 and 29186, *Improved Authority to Wichita Case, Additional Dallas/Ft. Worth-Kansas City Nonstop Service Case, Phoenix-Des Moines/Milwaukee Route Proceeding, Sacramento-Denver Nonstop Case and Milwaukee/Memphis-Twin Cities Case.* (Memo No. 7324, OGC, BLJ.)

19. Docket 30182, *Iowa/Illinois-Atlanta Route Proceeding*, Order on reconsideration and Consolidation. (Memo No. 6950, BLJ, IGC.)

20. Docket 28196, *California-Alberta Route Proceeding*, Order on Discretionary Review. (Memo No. 7332, OGC, BE.)

21. Docket 30775, Discretionary review on Board initiative of dismissal letter by Director, BOE in *Lufthansa German Airlines* v. *Lufttransport Unternehmen GmbH & Co. KG*. (Memo No. 7335, OGC.)

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202–673–5068.

[S–1098–77 Filed 8–10–77;4:21 pm]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10:00 a.m., August 16, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Customer Protection Rules
Status of Associated Persons Affiliated with Unregistered Option Sales Companies

Portion closed to the public:

Enforcement Matter

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1100-77 Filed 8-10-77;4:58 pm]

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:00 a.m., August 19, 1977.

PLACE: 2033 K Street, N.W., Washington, D.C., 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1101-77 Filed 8-11-77;9:24 am]

5

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (Eastern time), Tuesday, August 16, 1977.

PLACE: Chairman's Conference Room No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED: Proposed Budget Request for Fiscal Year 1979.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This Notice Issued August 9, 1977.

[S-1096-77 Filed 8-10-77;4:21 pm]

6

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-1094-77.

PREVIOUSLY ANNOUNCED TIME AND DATE MEETING: 9:30 a.m. August 16, 1977.

STATUS: Closed to the public.

CHANGE IN THE MEETING: Additional matter to be considered:

Litigation Authorization; General Counsel Recommendations. Matters closed to the public under Sec. 1612.13 (a) of the Commission's regulations. (42 FR 13830, March 14, 1977.)

A majority of the entire membership of the Commission determined by recorded vote, on August 10, 1977, that the business of the Commission requires this change and that no earlier announcement was possible.

The vote was as follows:

In favor of change: Eleanor Holmes Norton, Chair; Ethel Bent Walsh, Vice Chair; Daniel E. Leach, Commissioner.

Opposed: None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at 202-634-6748.

This Notice issued August 10, 1977.

[S-1099-77 Filed 8-10-77;4:58 pm]

7

FEDERAL POWER COMMISSION

AUGUST 9, 1977.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Power Commission.

TIME AND DATE: August 16, 1977, 2:00 p.m.

PLACE: 825 North Capitol Street.

STATUS: Open.

MATTERS TO BE CONSIDERED: (Agenda) *Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of the matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, room 1000.

GAS AGENDA, 7668TH MEETING, AUGUST 16, 1977, REGULAR MEETING, PART I, (20:00 P.M.)

G-1.—Docket No. RP77-103. Algonquin Gas Transmission Company.

G-2.—Docket No. RP73-43 (PGA77-3), Mid Louisiana Gas Company.

G-3.—Docket No. RP74-100 (PGA76-2), National Fuel Gas Supply Corporation. Docket No. RP76-101, National Fuel Gas Supply Corporation.

G-4.—Docket No. RP76-38, *Arizona Electric Power Cooperative, Inc. and the city of Willcox, Arizona v. El Paso Natural Gas Company.*

G-5.—Docket No. RP74-50-5, Florida Hydrocarbons Company and Florida Gas Transmission Company.

G-6.—Docket No. RP75-79, *Lehigh Portland Cement Company, Complainant v. Florida Gas Transmission Company, Respondent.*

G-7.—Docket No. RI77-98, Infill Wells Drilled Pursuant to New Mexico Oil Conservation Commission Order No. R-1670-T.

G-8.—Docket No. RI77-48, Elms Brothers and Company.

G-9.—Docket No. RI77-87, North American Royalties Inc.

G-10.—Docket No. RI77-35, Dixie Well Service, Inc.

G-11.—Docket No. AR61-2 and AR69-1, et al., Area Rate Proceeding, et al., (Southern Louisiana Area).

G-12.—Docket No. CI76-743, Ladd Petroleum Corporation.

G-13.—Docket No. CP76-85, et al., Algonquin Gas Transmission Company, et al.

G-14.—Docket No. CP76-424, Kentucky West Virginia Gas Company.

C-15.—Docket No. CP75-131 and CP76-129, Mountain Fuel Supply Company. Docket No. CP76-94, Phillips Petroleum Company.

C-16.—Docket No. CI77-306, Transco Exploration Company.

G-17.—Docket No. CP76-511, Natural Gas Pipeline Company of America.

G-18.—Docket No. CP76-517, Natural Gas Pipeline Company of America.

G-19.—Docket No. CP77-21, et al., Tennessee Gas Pipeline Company, Columbia Gulf Transmission Company and Southern Natural Gas Company. Docket No. CI76-730, Mobil Oil Corporation. Docket No. CI77-120, Texaco Inc.

G-20.—Docket No. CP76-413, United Gas Pipe Line Company and Tennessee Gas Pipeline Company, a division of Tenneco Inc. Docket No. CP76-414, Tennessee Gas Pipeline Company, a division of Tenneco Inc. and Midwestern Gas Transmission Company. Docket No. C-10632, Northern Illinois Gas Company.

G-21.—Docket No. CP77-216, Distrigas of Massachusetts Corporation. Docket No. CP77-217 and CP77-218, Distrigas Corporation.

G-22.—Docket No. CP76-106, Northwest Pipeline Corporation.

G-23.—Docket No. CP77-425, Algonquin Gas Transmission Company.

G-24.—Docket No. CP76-52, Northern Natural Gas Company. Docket No. CP76-166, Northern Natural Gas Company operating as Peoples Natural Gas Division, operator.

G-25.—Docket No. CP77-440, Sea Robin Pipeline Company.

G-26.—Docket No. CP77-448, NGP-LNG, Inc. Docket No. CP77-449, Natural Gas Pipeline Company of America.

G-27.—(A) Docket No. CP77-397, Northern Natural Gas Company. (B) Docket No. CP77-39, Iowa Power and Light Company.

G-28.—Docket No. CP77-362, Texas Gas Transmission Corporation.

G-29.—Docket No. CP77-13, Transwestern Pipeline Company.

G-30.—Section 157.7; Budget facilities.

G-31.—Docket No. CP77-193, Northern Natural Gas Company.

G-32.—Docket No. CP76-246, Northern Natural Gas Company.

G-33.—Docket No. CP77-489, Southern Natural Gas Company, Natural Gas Pipeline Company of America, Columbia Gulf Transmission Company and United Gas Pipeline Company.

G-34.—Docket No. CP77-445, Colorado Interstate Gas Company. Docket No. CP77-455, El Paso Natural Gas Company. Docket No. CP77-457, Northwest Pipeline Corporation. Docket No. CP77-462, Transwestern Pipeline Company.

G-35.—Docket No. CP77-441, Mississippi River Transmission Corporation.

G-36.—Docket No. CP73-70, Columbia Gulf Transmission Company.

G-37.—Docket No. CP77-504, Transcontinental Gas Pipe Line Corporation. Docket No. CP77-513, Tennessee Gas Pipeline Company.

G-38.—Docket No. CP77-478, Panhandle Eastern Pipe Line Company.

G-39.—Docket No. CP77-413, Algonquin LNG Inc., and Algonquin Gas Transmission Company.

G-40.—Docket No. CP77-434, Southwest Gas Corporation.

G-41.—Docket No. G-3072, EXXON Corporation.

MISCELLANEOUS AGENDA, 7668TH MEETING, AUGUST 16, 1977, REGULAR MEETING, PART I

M-1.—Docket No. RM76-13, The Need for Site Selection and Facility Operation Criteria for Liquified Natural Gas Importation and Storage Terminals.

GAS AGENDA, 7668TH MEETING, AUGUST 16, 1977, REGULAR MEETING, PART II

CG-1.—Docket No. RP77-31 and RP73-64 (PGA 77-2a), Southern Natural Gas Company.

CG-2.—Docket No. RP77-110, Alabama-Tennessee Natural Gas Company.

CG-3.—Docket No. RP77-57, National Fuel Gas Supply Corporation.

CG-4.—Docket No. RP77-96, Natural Gas Pipeline Company of America.

CG-5.—Docket Nos. G-2017, et al., Texas Gas Transmission Corporation.

CG-6.—Phillips Petroleum Company. FPC Gas Rate Schedule No. 600. Texas Pacific Oil Company, Inc., FPC Gas Rate Schedule No. 121.

CG-7.—Docket No. CI73-427, Texas Pacific Oil Company, Inc. Docket No. CS75-341, Tricentrol United States, Inc. Docket No. CS71-659, Kilroy Properties Incorporated. Docket No. CS72-266, Harrington & Bibler, Inc., Docket No. CS73-268, Bridger Petroleum Corporation. Docket No. CS75-389, Arden P. Blair.

CG-8.—Pennzoil Company, FPC Gas Rate Schedule No. 10.

CG-9.—Docket No. CP77-382, Transcontinental Gas Pipeline Corporation.

CG-10.—Docket No. CP77-346, Natural Gas Pipeline Company of America, Trunkline Gas Company, Columbia Gulf Transmission Company.

CG-11.—Docket No. CP77-264, Transcontinental Gas Pipe Line Corporation, United Gas Pipe Line Company.

CG-12.—Docket No. CP77-460, Cities Service Gas Company.

CG-13.—Docket No. CP77-375, United Gas Pipe Line Company.

CG-14.—Docket No. CP77-398, Columbia Gas Trasnmission Corporation.

CG-15.—Docket No. CP77-322, United Gas Pipeline Company and Southern Natural Gas Company.

CG-16.—Docket No. CP77-122, Sea Robin Pipeline Company.

CG-17.—Docket No. CP77-408, El Paso Natural Gas Company. Docket No. CP77-411, Southwest Gas Corporation.

CG-18.—Docket Nos. CP77-369 and CP77-370, Transcontinental Gas Pipe Line Corporation.

CG-19.—Docket No. CP77-347, Western Gas Interstate Company.

CG-20.—Docket No. CP77-339, Columbia Gas Transmission Corporation.

CG-21.—Docket No. CP77-230, Florida Gas Transmission Company and United Gas Pipe Line Company.

CG-22.—Docket No. CP77-109, Texas Eastern Transmission Corporation.

CG-23.—Docket No. CP77-403, Texas Gas Transmission Corporation. Docket No. CP77-426, Transcontinental Gas Pipe Line Corporation.

CG-24.—Docket No. CP76-410, El Paso Natural Gas Company.

CG-25.—Docket No. CP77-249, Trunkline Gas Company.

CG-26.—Docket No. CP75-326, Transcontinental Gas Pipe Line Corporation.

CG-27.—Docket No. CI76-407, Columbia Gas Development Corporation. Docket No. CP76-132, Transcontinental Gas Pipe Line Corporation.

CG-28.—Docket No. CP77-11, Northern Natural Gas Company. Docket No. CP77-17, Trunkline Gas Company and Panhandle Eastern Pipe Line Company. Docket No. RP77-92, Trunkline Gas Company and Panhandle Eastern Pipe Line Company. Docket No. CP77-54, Northern Natural Gas Company.

CG-29.—Docket No. CP70-188, Texas Gas Transmission Corporation.

CG-30.—Docket No. CP77-427, Transcontinental Gas Pipe Line Corporation. Docket No. CP77-480, Panhandle Eastern Pipe Line Company and Trunkline Gas Company.

CG-31.—Docket No. CP76-363, Transcontinental Gas Pipe Line Corporation.

CG-32.—Docket No. CP63-177, Texas Eastern Transmission Corporation and Tennessee Gas Pipeline Company a division of Tenneco Inc.

CG-33.—Docket No. CP67-381, CP68-166 and CP69-71, Tennessee Gas Pipeline Company a division of Tenneco Inc.

CG-34.—Docket No. CP73-43, Mountain Fuel Supply Company.

CG-35.—Docket No. CP74-126, El Paso Natural Gas Company. Docket No. CP74-162, Natural Gas Pipeline Company of America.

CG-36.—Docket No. CP74-213, Michigan Wisconsin Pipe Line Company.

CG-37.—Docket No. CP76-362, Texas Eastern Transmission Corporation, Transcontinental Gas Pipe Line Corporation and Northern Natural Gas Company.

CG-38.—Docket No. CP75-301, Tennessee Gas Pipeline Company, a division of Tenneco Inc., and Michigan Wisconsin Pipe Line Company.

CG-39.—Docket No. CP76-492, National Fuel Gas Supply Corporation and National Fuel Gas Storage Corporation.

CG-41.—Docket No. CP76-500, United Gas Pipeline Company.

CG-42A.—*H. S. Phillips, et al.*, v. *F.P.C. 5th Cir. No. 77-2324* (Docket No. CS76-64).

CG-42B.—*Blanco Oil Company* v. *F.P.C.* D.C. Cir. No. 77-1458 (Docket No. AR64-2, et al.).

G-43.—Docket No. CP77-210, Michigan Wisconsin Pipe Line Company, United Gas Pipe Line Company.

KENNETH F. PLUMB,
Secretary.

[S-1094-77 Filed 8-10-77;4:01 pm]

8

FEDERAL POWER COMMISSION

AUGUST 10, 1977.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 8552B.

AGENCY HOLDING MEETING: Federal Power Commission.

TIME AND DATE: August 17, 1977, 2:00 p.m.

PLACE: 825 North Capitol Street.

STATUS: Open.

MATTERS TO BE CONSIDERED: (Agenda.) *NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of the matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, room 1000.

POWER AGENDA, 7689TH MEETING, AUGUST 17, 1977, REGULAR MEETING, PART I, (2:00 P.M.)

P-1.—Docket No. E-8176, Southern California Edison Company.

P-2.—Docket No. E-8264, Maine Public Service Company.

P-3.—Docket Nos. ER77-102 and ER77-277, Pennsylvania Power Company.

P-4.—Docket No. ER76-320, Connecticut Light & Power Company.

P-5.—Docket No. ER77-388, Superior District Power Company.

P-6.—Docket No. ER76-533, Central Vermont Public Service Corporation.

P-7.—Docket No. E-9593, Central Power & Light Company, et al.

P-8.—Project No. 120, Southern California Edison Company.

P-9.—Project No. 2735, Pacific Gas and Electric Company.

P-10.—Project No. 2100, State of California, Department of Water Resources.

P-11.—Project Nos. 233, 2106, 2155, California, Pacific Gas and Electric Company.

P-12.—Project No. 362, Minnesota Ford Motor Company.

P-13.—Project No. 137, California, Pacific Gas and Electric Company.

P-14.—Project No. 137, California, Pacific Gas and Electric Company.

P-15.—Project No. 175, California, Pacific Gas and Electric Company.

P-16.—Potential for Hydroelectric Development in Their Area.

POWER AGENDA, 7668TH MEETING, AUGUST 17, 1977, REGULAR MEETING, PART II

CP-1.—Docket No. ER77-238, Public Service Company of Oklahoma.

CP-2.—Docket No. ER77-223, Bangor Hydro-Electric Company.

CP-3.—Docket No. ER77-292, Kansas Power & Light Company.

CP-4.—State Director, Bureau of Land Management (I-13221), Boise, Idaho.

CP-5.—State Director, Bureau of Land Management (CA-4256), Sacramento, California.

CP-6.—Docket No. ID-1598, Willis S. White, Jr.

CP-7.—Docket No. ID-1682, Frederick Lange.

CP-8.—Docket No. ID-1811, Ernest D. Huggard.

CP-9.—Docket No. ID-1813, S. Hale Lull.

CP-10.—Docket No. DA-506-Colorado, U.S. Geological Survey, Lands Withdrawn in Power Site Classification No. 219 and 357.

CP-11.—Docket No. ER77-427 and ER77-473, Minnesota Power and Light Company, Superior Water, Light and Power Company.

CP-12.—Docket No. ER77-480, Montaup Electric Company.

CP-13.—Docket No. ER77-464, Public Service Company of New Mexico.

CP-14.—Docket No. ER77-9572, *Papago Tribal Utility Authority and Arizona Electric*

Power Cooperative, Inc., v. Arizona Public Service Company.

CP–15.—Docket No. E–9579, Idaho Power Company.

MISCELLANEOUS AGENDA, 7668TH MEETING, AUGUST 17, 1977, REGULAR MEETING, PART II

CM–1.—Central Hudson Gas and Electric Corporation.

CM–2.—Northern States Power Company (Minnesota).

CM–3.—Mississippi Power and Light Company.

CM–4.—Commission Minutes.

KENNETH F. PLUMB,
Secretary.

[S–1095–77 Filed 8–10–77;4:01 pm]

9

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH.

TIME AND DATE: 9:30 a.m.–3:30 p.m., September 16, 1977.

PLACE: Room 823, National Institute of Education, 1200 19th Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approve minutes.
2. Adjustment of future calendars and agendas.
3. Director's remarks.
4. Action on proposed policy for fundamental research.
5. Status report on FY 1978 Budget, FY 1979 Budget and alternatives for any necessary replanning.
6. Initial discussion of long-range planning for NIE especially FY 1980 guidance to come from the Council.
7. Report of Review and Reports Committee, Review of Resolution 19.6; Outline for FY 1977 Report; Discussion of External Review Process.

PERSON TO CONTACT FOR INFORMATION:

Ella L. Jones, Administrative Coordinator. Telephone: 202–254–7900.

PETER H. GERBER,
Chief, Policy and Administrative Coordination/NCER, National Council on Educational Research.

[S–1103–77 Filed 8–11–77;11:16 am]

10

THE RENEGOTIATION BOARD.

AGENCY HOLDING THE MEETING: The Renegotiation Board.

DATE AND TIME: Wednesday, September 7, 1977; 10 a.m.

PLACE: Conference Room, 4th floor, 2000 M St. NW., Washington, D.C. 20446.

STATUS: Matters 1 through 4 are open to the public. Matter 5 is closed to the public. Status is not applicable to matters 6 and 7.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of meeting held August 30, 1977, and other Board meetings, if any.
2. Request for Permission to Make Untimely Filing of Application for Commercial Exemption: Phipps Product Corporation, Fiscal Year Ended September 30, 1975.
3. Recommended Clearances Without Assignment: (List 1882).

A. Arcturus Manufacturing Corporation, Fiscal Year Ended June 30, 1975.

B. American Airlines, Fiscal Year Ended December 31, 1975.

C. Corning Glass Works, Fiscal Years Ended January 2, 1972, December 31, 1972, December 30, 1973 and December 29, 1974.

D. Components Incorporated, Fiscal Year Ended June 18, 1971.

E. Components Incorporated, Fiscal Years Ended December 31, 1971, December 31, 1972, December 30, 1973 and December 30, 1974.

F. Spacetac Incorporated, Fiscal Years Ended June 20, 1971, December 31, 1971, December 31, 1972, December 31, 1973 and December 31, 1974.

G. Zirconium Corporation of America, Fiscal Year Ended December 31, 1971.

H. Signetics Corporation, Fiscal Years Ended January 2, 1972, December 30, 1972, November 7, 1973, December 30, 1973 and December 29, 1974.

I. Schlienger Incorporated, Fiscal Years Ended January 2, 1972, December 31, 1972, December 31, 1973, and December 29, 1974.

J. Cohart Refractories Company, Fiscal Year Ended December 31, 1972.

4. Report of the Chairman concerning: (a) Budget. (b) Personnel Actions. (c) Organization of the Staff. (d) Rulemaking and Regulations.
5. Court of Claims case: Bennett Box & Pallet Co., Inc., Fiscal Years Ended December 31, 1967, 1968 and 1969.
6. Approval of Agenda for meeting to be held September 20, 1977.
7. Approval of Agenda for other meetings, if any.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446 (202–254–8277).

Dated: August 10, 1977.

GOODWIN CHASE,
Chairman.

[S–1102–77 Filed 8–11–77;9:42 am]

federal register

MONDAY, AUGUST 15, 1977

PART II

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

■

TRANSPORT CATEGORY AIRPLANE FATIGUE REGULATORY REVIEW PROGRAM

Fatique Proposals

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 25]

[Docket No. 16280; Notice No. 77-15]

TRANSPORT CATEGORY AIRPLANE FATIGUE REGULATORY REVIEW PROGRAM

Fatigue Proposals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the standards applicable to the type certification of transport category airplanes by revising the structural fatigue evaluation requirements and by incorporating related compliance provisions. Adoption of these proposals would improve and update the current standards by taking into account state-of-the-art developments and accumulated service experience. In general, the notice is based on proposals discussed at the Transport Category Airplane Fatigue Regulatory Review Conference during March 15–17, 1977.

DATES: Comments must be received on or before November 14, 1977.

ADDRESSES: Send comments on the proposals in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC-24), Docket No. 16280, 800 Independence Avenue SW, Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Adolfo O. Astorga, Airworthiness Review Branch (AFS-910), Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; Telephone 202-755-8714.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before November 14, 1977, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of Additional Copies of Notice

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to: Federal Aviation Administration, Office of Public Affairs, Attn.: Public Information Center (APA-430), 800 Independence Avenue SW., Washington, D.C. 20591; Telephone 202-426-8058.

Each communication must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Background and Discussion of Proposals

During recent years, there have been significant state-of-the-art and industry-practice developments in the area of structural fatigue and fail-safe-strength evaluation of transport category airplanes. Recognizing that these developments could warrant some revision of existing fatigue requirement contained in §§ 25.571 and 25.573 of Part 25 of the Federal Aviation Regulations, the FAA, on November 18, 1976, gave notice of its Transport Category Airplane Fatigue Regulatory Review Program and invited interested persons to submit proposals to amend those requirements (see 41 FR 50956). Subsequently, the FAA convened a Transport Category Airplane Fatigue Regulatory Review Conference during March 15–17, 1977, in Arlington, Va., to obtain the views of all concerned on the proposals submitted for the review.

Participants in the Review Conference discussed the proposals submitted for the review. These proposals and the related discussions form the basis for the FAA's belief that a comprehensive revision of the structural fatigue evaluation standards of §§ 25.571 and 27.573 is warranted. to that end, it is proposed to substantially revise § 25.571, to delete § 25.573 (but expand the scope of § 25.571 to cover the substance of the deleted section), and to add a new Appendix H to Part 25 containing compliance provisions related to proposed § 25.571. A discussion of significant aspects of the proposed changes follows:

1. *Requirement for damage-tolerance (fail-safe) fatigue evaluation.* Under current §§ 25.571 and 25.573, applicants for a type certificate must show that critical parts of the airplane structure have either adequate fatigue strength (capability to withstand the repeated loads of variable magnitude expected in service) or adequate fail-safe strength (capability to withstand specified loads after fatigue failure of a principal structural element). Service experience has indicated that structure designed to these criteria are nevertheless subject to unpredictable deterioration in service. Fatigue cracks may develop despite exhaustive fatigue analysis and testing; corrosion may weaken the structure; and accidental damage may occur.

Manufacturers of modern transport category airplanes have successfully dealt with this problem by using, wherever practical, the approach known in the industry as "damage-tolerance (fail-safe)" design. The objective of this approach is to design the structure in such a manner that, should damage occur, the structure would retain adequate residual strength until the damage is detected (and repaired) in the course of a manufacturer-developed inspection program. The inspection program is based on analytical predictions, testing of complete structure or subcomponents, and previous operational and design experience. If the damage-tolerance (fail-safe) approach is found to be impractical for particular structure, a conventional fatigue (safe-life) design is used.

The FAA believes that the use, where practical, of structural design based on a damage-tolerance (fail-safe) evaluation would raise the current level of structural reliability and would further reduce the existing extremely low probability of catastrophic failure.

Accordingly, proposed § 25.571(a), in part, would require the use, where practical, of a damage-tolerance (fail-safe) evaluation of critical structure; proposed § 25.571(b) would set forth the basic criteria for that evaluation, including the applicable loading conditions; and proposed § 25.571(c) would allow the use of a fatigue (safe-life) evaluation if the applicant establishes that a damage-tolerance (fail-safe) evaluation under proposed § 25.571(b) would be impractical for specific structure. In addition, proposed §§ 25.571(d) and 25.629(d)(4)(v) would be revised to refer to the loading conditions in proposed § 25.571(b) but would otherwise remain substantively unchanged.

Proposed § 25.571(b) would require, among other things, that multiple site damage be considered during damage-tolerance (fail-safe) evaluation of critical structure. Service experience has shown that when cracks occur, they can propagate in more than one location simultaneously.

It should be noted that the loading conditions set forth in proposed § 25.571(b) are expanded relative to those in current § 25.571(c). The FAA believes that the proposed loading conditions are more representative of actual in-service airplane usage.

Moreover, based on a review of the probability of attaining limit load during actual service, the FAA believes that it is necessary to specify a residual static strength level of 100 percent of limit load in place of the 80 percent of limit load specified in current § 25.571(c) and the 1.15 dynamic effects factor specified in current § 25.571(e). This proposed revision is covered in the loading conditions of proposed § 25.571(b).

In addition, proposed § 25.571(b)(5)(ii) would eliminate the 1.33 factor applied to the pressurized cabin load condition in current § 25.571(e)(2) in favor of a loading condition based on the expected external aerodynamic pressure in 1 g flight combined with a cabin differential pressure equal to 1.1 times the normal operating pressure without any other load. The FAA believes that this is a more realistic loading condition for damage-tolerance (fail-safe) evaluation since the inspection procedures the manufacturer would be required to establish

under proposed § 25.571(a)(3) are keyed to a specified number of cycles at normal operating differential pressure.

2. *New requirement for damage-tolerance (discrete source) evaluation.* The FAA has determined, on the basis of service experience, that there is a need to design transport category airplanes so that the structure can withstand likely structural damage due to the impact of birds or the impact of fragments from failed propellers, engines, or high-energy rotating machinery. Accordingly, proposed § 25.571(e) would require that following such an impact the airplane be capable of successfully completing the flight.

3. *Deletion of current* § 25.573. The FAA believes that there is no longer a need to distinguish between landing gear and other structure with respect to damage-tolerance or fatigue evaluation. Therefore, as proposed, § 25.573 would be deleted, and § 25.571 would apply to all parts of the structure which could contribute to catastrophic failure of the airplane. To avoid possible confusion, the term "landing gear" would be added to the list of parts in proposed § 25.571 (a) that would be specifically identified as covered under § 25.571. It should be noted that the term "empennage" would also be added to the list to make it clear that the empennage warrants the same evaluation as the other parts listed.

4. *New Appendix H to Part 25.* To provide detailed guidance for showing compliance with the general requirements set forth in proposed § 25.571, the FAA proposes to add a new Appendix H to Part 25. The compliance provisions in this Appendix would supplement the provisions in proposed § 25.571 dealing with damage-tolerance (fail-safe), fatigue (safe-life), and damage-tolerance (discrete source) evaluations of structure.

Under § H25.2(a) of proposed Appendix H, the type certificatee applicant would be allowed to use probabilistic methods of damage-tolerance evaluation (such as risk analysis) rather than the more commonly used deterministic methods if the applicant shows that the loss of the airplane would be extremely improbable and that the statistical data employed in the analysis is based on operational experience or tests of similar structure. The FAA believes that in certain instances the use of probabilistic methods would enable a more realistic assessment of damage-tolerance, without compromising safety.

Also under § H25.2(a) of proposed Appendix H, the applicant would be allowed to appy the damage-tolerance (fail-safe) evaluation approach to both single load path and multiple load path structure. The FAA believes that the applicant can, by sufficient anlysis and testing, establish that a single load path structure has sufficiently slow crack growth properties so that, if a crack were to develop, it would be discovered during a properly designed inspection program.

5. *Sonic fatigue evaluation for all turbine-engine-powered airplanes.* Under current § 25.571(a) sonic fatigue evaluation of the structure is prescribed for turbojet powered airplanes only. The FAA believes that other turbine-engine-powered airplanes are also subject to sonic fatigue with essentially the same effect on safety. Accordingly, proposed § 25.571(a) would require sonic fatigue evaluation under proposed § 25.571(d) for all turbine-engine-powered air planes.

6. *Establishment of inspection or other procedures in accordance with § 25.1529.* The FAA believes that a vital and necessary element of both the damage-tolerance evaluation approach and the fatigue evaluation approach is an inspection program aimed at detecting (and permitting repair of) initial damage in sufficient time to prevent catastrophic failure. Accordingly, proposed § 25.571(a)(3) would require the manufacturer to establish inspections or other procedures, based on the evaluation approach selected, as necessary to prevent catastrophic failure.

7. *Consideration of temperatures and humidities expected in service.* The FAA believes that variations in both temperature and humidity in the airplane's operating environment may have a significant effect on the damage-tolerance and fatigue characteristics of conventional metallic materials, and of composite materials, used in critical structures. Accordingly, proposed § 25.571(a)(1)(i) would require consideration of these effects in the required evaluations.

Drafting Information

The principal authors of this document are Irving Fagin, Flight Standards Service, and Samuel Podberesky, Office of the Chief Counsel.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Part 25 of the Federal Aviation Regulations (14 CFR Part 25) as follows:

1. By revising § 25.571 to read as follows:

§ 25.571 Damage-tolerance and fatigue evaluation of structure.

(a) *General.* The strength, detail design, and fabrication of the airframe structure must be such as to avoid catastrophic failure due to fatigue, corrosion, or accidental damage throughout its operational life. This must be shown by an evaluation conducted in accordance with the provisions of paragraphs (b) and (e) of this section, except as specified in paragraph (c) of this section, for each part of the structure which could contribute to such failure (including wing, empennage, control surfaces and their systems, the fuselage, landing gear, and their related primary attachments). For turbine-engine-powered airplanes, those parts must also be evaluated under paragraph (d) of this section. Appendix H of this part contains compliance provisions related to the requirements of this section. In addition, the following apply:

(1) Each evaluation required by this section must include—

(i) The typical loading spectra, temperatures, and humidities expected in service;

(ii) The identification of principal structural elements and detail design points, the failure of which could cause catastrophic failure of the airplane; and

(iii) An analysis, supported by test evidence, of the principal structural elements and detail design points identified in paragraph (a)(1)(ii) of this section.

(2) The service history of airplanes of similar structural design, taking due account of differences in operating conditions and procedures, may be used in the evaluations required by this section.

(3) Based on the evaluations required by this section, inspections or other procedures must be established as necessary to prevent catastrophic failure, and must be included in the maintenance manual required by § 25.1529.

(b) *Damage-tolerance (fail-safe) evaluation.* The eveluation must include a determination of the probable locations and modes of damage due to fatigue, corrosion, or accidental damage. The determination must be by analysis supported by test evidence and service experience. Damage at multiple sites due to prior fatigue exposure must be included where the design is such that this type of damage can be expected to occur. The evaluation must incorporate repeated load and static analyses supported by test evidence. The extent of damage for residual strength evaluation at any time within the operational life must be consistent with the initial detectability and subsequent growth under repeated loads. The residual strength evaluation must show that the remaining structure is able to withstand loads (considered as static ultimate loads) corresponding to the following conditions:

(1) The limit symmetrical maneuvering conditions specified in § 25.337 at V_c and in § 25.345.

(2) The limit gust conditions specified in §§ 25.341 and 25.351(b) at the specified speeds up to V_c, and in § 25.345.

(3) The limit rolling conditions specified in § 25.349 and the limit unsymmetrical conditions specified in §§ 25.367 and 25.427, at speeds up to V_c.

(4) The limit yaw maneuvering conditions specified in § 25.351(a) at the specified speeds up to V_c.

(5) For pressurized cabins, the following conditions:

(i) The normal operating pressure combined with the expected external aerodynamic pressures must be applied simultaneously with the flight loading conditions specified in paragraphs (b)(1) through (4) of this section if they have a significant effect.

(ii) The expected external aerodynamic pressures in 1g flight combined with a cabin differential pressure equal to 1.1 times the normal operating pressure without any other load.

(6) For landing gear and directly-affected airframe structure, the limit ground loading conditions specified in §§ 25.473, 25.491, and 25.493.

If significant changes in structural stiffness or geometry, or both, follow

from a structural failure, or partial failure, the effect on damage tolerance must be further investigated.

(c) *Fatigue (safe-fail) evaluation.* Compliance with the damage-tolerance requirements of paragraph (b) of this section is not required if the applicant establishes that their application for particular structure is impractical. This structure must be shown by analysis, supported by test evidence, to be able to withstand the repeated loads of variable magnitude expected during its service life. Any cracking must be detectable by standard inspection methods. Appropriate safe-life scatter factors must be applied.

(d) *Sonic fatigue strength.* It must be shown by analysis, supported by test evidence, or by the service history of airplanes of similar structural design and sonic excitation environment, that:

(1) Sonic fatigue cracks are not probable in any part of the flight structure subject to sonic excitation; or

(2) Catastrophic failure caused by sonic cracks is not probable, assuming that the loads prescribed in paragraph (b) of this section are applied to all areas affected by those cracks.

(e) *Damage-tolerance (discrete source) evaluation.* The airplane must be capable of successfully completing a flight during which likely structural damage occurs as a result of:

(1) Impact with a 4-pound bird at likely operational speeds at altitudes up to 8,000 feet;

(2) Propeller and uncontained fan blade impact;

(3) Uncontained engine failure; or

(4) Uncontained high energy rotating machinery failure.

The damaged structure must be able to withstand the static loads (considered as ultimate loads) which are reasonably expected to occur on the flight. Corrective action to be taken by the pilot following the incident, such as limiting maneuvers, avoiding turbulence, and reducing speed must be considered. Dynamic effects on static loads must be considered. However, if significant changes in structural stiffness or geometry, or both, follow from a structural failure, or partial failure, the effect on damage tolerance must be further investigated.

§ 25.573 [Deleted]

2. By deleting § 25.573 and marking it "[Reserved]".

§ 25.629 [Amended]

3. By amending § 25.629(d)(4)(v) by deleting "§ 25.571(c)" and inserting in its place "§ 25.571(b)".

4. By adding a new Appendix H to read as follows:

APPENDIX H—DAMAGE-TOLERANCE AND FATIGUE EVALUATION OF STRUCTURE

H25.1 *Introduction.* The provisions contained in this Appendix are considered by the FAA in determining compliance with the damage-tolerance and fatigue requirements of § 25.571. Although a uniform approach to the evaluation required by § 25.571 is desirable, it is recognized that in such a complex field new design features and methods of fabrication, new approaches to the evaluations, and new configurations may necessitate variations and deviations from the procedures described in this Appendix.

Damage-tolerance design is required, unless it entails such complications that an effective damage-tolerant structure cannot be achieved within the limitations of geometry or inspectability. Under these circumstances, a design that complies with the fatigue evaluation (safe-life) requirements must be used. Typical examples of structure that may not be conducive to damage tolerance design are landing gear and engine mounting attachments.

Experience with the application of methods of fatigue evaluation indicates that a test background must exist in order to achieve the design objective. Even under the damage-tolerance method discussed in § H25.2 of this Appendix, it is the general practice within industry to conduct damage-tolerance tests for design information and guidance purposes. Damage location and growth data must be considered in establishing a recommended inspection program.

Assessing the fatigue characteristics of certain structural elements, such as major fittings, joints, typical skin units, and splices, to ensure that the anticipated service life can reasonably be attained, is required for structure to be evaluated under § 25.571(c).

(a) *Typical loading spectra expected in service.* The loading spectrum must be based on measured statistical data of the type derived from government and industry load history studies and, where insufficient data are available, on a conservative estimate of the anticipated use of the airplane. The principal loads to be considered in establishing a loading spectrum are as follows:

(1) Flight loads, gust and maneuver.

(2) Ground loads, taxiing, landing impact, turning, engine runup, braking, and towing.

(3) Pressurization loads.

The development of the loading spectrum requires the definition of the expected flight plan which involves climb, cruise, descent, flight times, operational speeds and altitudes, and the approximate time to be spent in each of the operating regimes. Operations for crew training, and other pertinent factors, such as the dynamic stress characteristics of any flexible structure excited by turbulence, must also be considered. For pressurized cabins, the loading spectrum must, under § 25.571(b)(5), include the repeated application of the normal operating pressure, and the superimposed effects of flight loads and external aerodynamic pressures.

(b) *Components to be evaluated.* In assessing the possibility of serious fatigue failures, the design must be examined to determine probable points of failure in service. In this examination, consideration must be given, as necessary, to the results of stress analyses, static tests, fatigue tests, strain gage surveys, tests of similar structural configurations, and service experience. Service experience has shown that special attention must be focused on the design details of important discontinuities, main attach fittings, tension joints and splices, and cutouts such as windows, doors, and other openings. Locations prone to accidental damage (such as that due to impact with ground servicing equipment near airplane doors) or to corrosion must also be considered.

(c) *Analyses and tests.* Unless it is determined from the foregoing examination that the normal operating stresses at critical regions in the structure are of such a low order that the probability of serious damage growth is extremely low, repeated load analyses or tests must be conducted on structure representative of components or subcomponents of the wing, control surfaces, empennage, fuselage, landing gear, and their related primary attachments. Test specimens must include structure representative of attachment fittings, major joints, changes in section, tensile area cutouts, and discontinuities. Any method used in the analyses must be supported, as necessary, by test or service experience.

H25.2 *Damage-tolerance (fail-safe) evaluation.*—(a) *General.* The damage-tolerance evaluation of structure is intended to ensure that should serious fatigue, corrosion, or accidental damage occur within the operational life of the airplane, the remaining structure can withstand reasonable loads without failure or excessive structural deformation until the damage is detected. Included are the considerations historically associated with fail-safe design. The evaluation encompasses establishing the components which are to be designed as damage-tolerant, defining the loading conditions and extent of damage, conducting structural tests or analyses, or both, to substantiate that the design obective has been achieved, and establishing data for inspection programs to ensure detection of damage. This evaluation applies to either single or multiple load path structure. Design features which must be considered in attaining a damage-tolerant structure include the following:

(1) Multiple load path construction and the use of crack stoppers to limit the growth of cracks.

(2) Duplicate structures designed so that a failure occurring in one-half of the structural member will be confined to the failed half and the remaining structure will still possess adequate load-carrying ability.

(3) Backup structure wherein one member carries all the load, with a second member available and capable of assuming the extra load if the primary member fails.

(4) Materials and stress levels that, after initiation of cracks, provide a controlled slow rate of crack propagation combined with high residual strength.

(5) Arrangement of design details to ensure a sufficiently high probability that a failure in any critical structural element will be detected before the strength has been reduced below the level necessary to withstand the loading conditions specified in § 25.571(b) so as to permit replacement or repair of the failed elements.

(6) Provisions to limit the probability of multiple damage due to fatigue, including the effects of fretting, particularly under high life conditions arising from the following:

(i) A number of small adjacent initial cracks, each of which being less than the minimum detectable length, developing into a long crack.

(ii) Failures, or partial failures, in adjacent areas following an initial failure due to redistribution of loading.

(iii) Simultaneous failure, or partial failure, of multiple load path discrete elements, working at similar stress levels.

Normally, the damage-tolerance assessment consists of a deterministic evaluation of the above design features and this section provides guidelines for this approach. In certain specific instances, however, damage-tolerant design may be more realistically assessed by a probabilistic evaluation employing methods such as risk analysis. They are routinely employed in fail-safe evaluations of airplane systems and have occasionally been used where structure and systems are interrelated. These methods can be of particular value for structure consisting of discrete isolated elements where damage tolerance depends on the ability of the structure to sustain redistributed loads after failures of discrete elements resulting from fatigue, corrosion,

or accidental damage. Where considered more appropriate than deterministic analysis, probabilistic analysis may be used if it can be shown that loss of the airplane is extremely improbable and the statistical data employed in the analysis is based on tests or operational experience, or both, of similar structure.

(b) *Identification of principal structural elements.* Principal structural elements are those which contribute significantly to carrying flight, ground, and pressurization loads, and whose failure could result in catastrophic failure of the airplane. Typical examples of such elements are as follows:

(1) *Wing and empennage.* (i) Control surfaces, slats, flaps, and their attachment hinges and fittings.

(ii) Integrally stiffened plates.

(iii) Primary fittings.

(iv) Principal splices.

(v) Skin or reinforcement around cutouts or discontinuities.

(vi) Skin-stringer combinations.

(vii) Spar caps.

(viii) Spar webs.

(2) *Fuselage.* (i) Circumferential frames and adjacent skin.

(ii) Door frames.

(iii) Pilot window posts.

(iv) Pressure bulkheads.

(v) Skin and any single frame or stiffener element around a cutout.

(vi) Skin or skin splices, or both, under circumferential loads.

(vii) Skin or skin splices, or both, under fore-and-aft loads.

(ix) Skin around a cutout.

(x) Skin and stiffener combinations under fore-and-aft loads.

(xi) Window frames.

(c) *Extent of damage.* Each particular design must be assessed to establish appropriate damage criteria in relation to inspectability and damage-extension characteristics. In any damage determination, including those involving multiple cracks, it is possible to establish the extent of damage in terms of detectability with the inspection techniques to be used, the associated initially detectable crack size, the residual strength capabilities of the structure, and the likely damage-extension rate considering the expected stress redistribution under the repeated stress experience expected in service and with the recommended inspection frequency. Thus, an obvious partial failure must be considered to be the extent of the damage for residual strength assessment, provided a positive determination is made that the fatigue cracks will be detectable by the available inspection techniques at a sufficiently early stage of the crack development. In a pressurized fuselage, an obvious partial failure might be detectable through the inability of the cabin to maintain operating pressure or controlled decompression after occurrence of the damage. The following are typical examples of partial failures to be considered in the evaluation:

(1) Detectable skin cracks emanating from the edge of structural openings or cutouts.

(2) A detectable circumferential or longitudinal skin crack in the basic fuselage structure.

(3) Complete severance of interior frame elements or stiffeners in addition to a detectable crack in the adjacent skin.

(4) A detectable failure of one element where dual construction is utilized in components such as spar caps, window posts, window or door frames, and skin structure.

(5) The presence of a detectable fatigue failure in at least the tension portion of the spar web or similar element.

(6) The detectable failure of a primary attachment, including a control surface hinge and fitting.

(d) *Inaccessible areas.* In cases where inaccessible and uninspectable blind areas exist, and suitable damage tolerance cannot practically be provided to allow for extension of damage into detectable areas, the structure must be shown to comply with the fatigue (safe-life) requirements in order to ensure its continued airworthiness. Inspectable structures are generally qualified to the damage-tolerance provisions.

(e) *Testing of principal structural elements.* The nature and extent of tests on complete structures or on portions of the primary structure will depend upon applicable previous design, construction, tests, and service experience, in connection with similar structures. Simulated cracks must be as representative as possible of actual fatigue damage. Where it is not practical to produce actual fatigue cracks, damage may be simulated by cuts made with a fine saw, sharp blade, guillotine, or other suitable means. In those cases where it is necessary to simulate damage at joints or fittings, bolts may be removed to simulate the failure if this condition would be representative of an actual failure.

(f) *Identification of locations to be evaluated.* The locations of damage to structure for damage-tolerance evaluation must be identified as follows:

(1) *Determination of general damage locations.* The location and modes of damage may be determined by analysis or by fatigue tests on complete structures or subcomponents. However, tests may be necessary when the basis for analytical prediction is not reliable, such as for complex components. If less than the complete structure is tested, care must be taken to ensure that the internal loads and boundary conditions are valid. If a determination is made by analysis, factors such as the following are to be taken into account:

(i) Strain data on undamaged structure to establish points of high stress concentration as well as the magnitude of the concentration.

(ii) Locations where permanent deformation occurred in static tests.

(iii) Locations of potential fatigue damage identified by fatigue analysis.

(iv) Design details which service experience of similarly designed components indicate are prone to fatigue or other damage.

In addition, the areas of probable damage from sources such as severe corrosive environment must be determined from a review of the design and past service experience.

(2) *Selection of critical damage areas.* The process of actually locating where damage must be simulated in principal structural elements identified in paragraph (b) of this section requires taking into account factors such as the following:

(i) Review analysis to locate areas of maximum stress and low margin of safety.

(ii) Selecting locations in an element where the stresses in adajcent elements would be the maximum with the damage present.

(iii) Selecting partial fracture locations in an element where high stress concentrations are present in the residual structure.

(iv) Selecting locations where detection would be difficult.

(g) *Damage-tolerance analysis and tests.* It is to be determined by analysis, supported by test evidence, that the structure with the extent of damage established for residual strength evaluation can withstand the specified design limit loads (considered as ultimate loads), and that the damage growth rate under the repeated loads expected in service (between the time at which the damage becomes initially detectable and the time at which the extent of damage reaches the value for residual strength evaluation) provides a practical basis for development of the inspection program and procedures described in paragraph (h) of this section. The repeated loads must be as defined in the loading, temperature, and humidity spectra. The loading conditions must take into account the effects of structural flexibility and rate of loading where they are significant. The damage-tolerance characteristics may be shown analytically by reliable or conservative methods such as the following:

(1) By demonstrating quantitative relationships with structure already verified as damage tolerant.

(2) By demonstrating that the damage would be detected before the damage extent for residual strength evaluation is reached.

(3) By demonstrating that the repeated load stresses do not exceed those of previously verified designs of equivalent materials and inspectability.

The maximum extent of immediately obvious damage from discrete sources must be determined and the remaining structure shown to have static strength for the maximum load (considered as ultimate load) expected during the completion of the flight. Normally this would be an analytical assessment. In the case of uncontained engine failures, the fragments and paths to be considered must be consistent with those used in showing compliance with § 25.903(d)(1) and with typical damage experienced in service.

(h) *Inspection.* Detection of damage before it becomes dangerous is the ultimate control in ensuring the damage-tolerance characteristics of the structure. Therefore, the applicant must provide sufficient guidance information to assist operators in establishing the frequency, extent, and methods of inspection of the critical structure. Due to the inherent complex interactions of the many parameters affecting damage tolerance, such as operating practices, environmental effects, load sequence on crack growth, and variations in inspection methods, related operational experience must be taken into account in establishing inspection procedures. Comparative analysis may be used to guide the changes from successful past practice when necessary. Therefore, maintenance and inspection requirements must recognize the dependency on experience and must be specified in a document that provides for revision as a result of operational experience, such as the one containing the manufacturer's recommended structural inspection program.

H 25.3 *Fatigue (safe-life) evaluation.*—(a) *General.* The evaluation of structure under the following fatigue (safe-life) strength evaluation methods is intended to ensure that the probability of a catastrophic fatigue failure, as a result of the repeated loads of variable magnitude expected in service, is extremely low throughout its operational life. Under these methods, loading spectra are established, the fatigue life of the structure for the spectra is determined, and a scatter factor is applied to the fatigue life to establish the safe-life for the structure. The evaluation must include consideration of the following:

(1) Estimating or measuring the expected loading spectra for the structure.

(2) Conducting a structural analysis including consideration of the stress concentration effects.

(3) Fatigue testing of structure which cannot be related to a test background to establish response to the typical loading spectrum expected in service.

(4) Determining reliable replacement times by interpreting the loading history, variable load analyses, fatigue test data, service experience, and fatigue analyses.

(5) Providing data for inspection and maintenance instructions and guidance information to the operators to prevent catastrophic failure.

In some instances, it may be necessary to correlate the loadings used in the analysis with flight load and strain surveys.

(b) *Safe-life determination; scatter factor.* In the interpretation of fatigue analyses and test data, the effect of variability must be accounted for by an appropriate scatter factor. Relating test results to the recommended safe-life is extremely difficult since there are a number of considerations peculiar to each design and test that require evaluation by the applicant. These considerations will depend on the number of representative test specimens, the material, the type of specimen employed, the type of repeated load test, the load levels, and environmental conditions.

(c) *Replacement times.* Replacement times must be established for parts with established safe-lives and must be included in the information prepared under § 25.1529. These replacement times may be extended only if additional data indicates an extension is warranted. Important factors to be considered for such extensions include, but are not limited to, the following:

(1) *Comparison of original evaluation with service experience.*

(2) *Recorded load and stress data.* Recorded load and stress data entails instrumenting aircraft in service to obtain a representative sampling of actual loads and stresses experienced. The data to be measured includes—airspeed, altitude, and load factor versus time data; or airspeed, altitude and strain ranges versus time date; or similar data. This data obtained by instrumenting airplanes in service provides a basis for correlating the estimated loading spectrum with the actual service experience.

(3) *Additional analyses and tests.* If test data and analyses based on repeated load tests of additional specimens are obtained, a reevaluation of the established safe-life may be made.

(4) *Tests of parts removed from service.* Repeated load tests of replaced parts may be utilized to reevaluate the established safe-life. The tests must closely simulate service loading conditions. Repeated load testing of parts removed from service is especially useful where recorded load data obtained in service are available since the actual loading experience by the part prior to replacement is known.

(5) *Repair or rework of the structure.* In some cases, repair or rework of the structure may gain further life.

(d) *Type design developments and changes.* For design developments, or design changes, involving structural configurations similar to those of a design already shown to comply with the applicable provisions of § 25.571(c), it may be possible to evaluate the variations in critical portions of the structure on a comparative basis. Typical examples would be redesign of the wing structure for increased loads, and the introduction in pressurized cabins of cutouts having different locations or different shapes, or both. This evaluation involves analysis of the predicted stresses of the redesigned primary structure and correlation of the analysis with the analytical and test results used in showing compliance of the original design with § 25.571(c).

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.45.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on August 9, 1977.

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

[FR Doc.77-23420 Filed 8-12-77;8:45 am]

federal register

MONDAY, AUGUST 15, 1977

PART III

FEDERAL ENERGY ADMINISTRATION

■

ALLOCATION REGULATIONS REVISION FOR PROPANE AND OTHER NATURAL GAS LIQUIDS

Amendments to Mandatory Petroleum Price Regulations Applicable to the Resale of Crude Oil

FEDERAL ENERGY ADMINISTRATION

[10 CFR Parts 205, 211, and 212]

PROPANE AND OTHER NATURAL GAS LIQUIDS

Allocation Regulations Revision

AGENCY: Federal Energy Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Administration (FEA) hereby gives notice of a proposed rulemaking and public hearing for the purpose of revising and consolidating the Mandatory Petroleum Allocation Regulations with respect to propane, butane and the other allocated natural gas liquid products. Also proposed are amendments to the Mandatory Petroleum Price Regulations which would require separate pricing for sales of non-Canadian imported allocated natural gas liquid products designated for industrial, gas utility or gas transmission company use. It is also the purpose of this proceeding to identify and receive comments and (insofar as is feasible) testimony concerning other outstanding issues relating to the allocation of such products and to provide a basis for any necessary further revisions.

DATES: Comments by September 8, 1977, 4:30 p.m.; requests to speak by September 2, 1977, 4:30 p.m.; statements by September 9, 1977, 4:30 p.m.; hearing to be held on September 12, 1977, at 9:30 a.m., and will be continued if necessary at 9:30 a.m. on September 13, 1977.

ADDRESSES: Comments and requests to speak at the hearing to: Executive Communications, Room 3317, Federal Energy Administration, Box NL; Washington, D.C. 20461. Statements to Regulations Management, Room 2214, Federal Energy Administration, 2000 M Street NW., Washington, D.C. 20461. Hearing held at: Room 2105, 2000 M Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Ed Vilade (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461, 202–566–9833.

Gerald P. Emmer (Regulatory Programs), 2000 M Street NW., Room 2304, Washington, D.C. 20461, 202–254–7200.

Bruce Starnes (Regulatory Programs), 2000 M Street NW., Room 6318, Washington, D.C. 20461.

Joel M. Yudson (Office of the General Counsel), 12th and Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461, 202–566–9565.

SUPPLEMENTAL INFORMATION:

A. Background

The Federal Energy Administration (FEA) has become increasingly aware of a variety of problems associated with the regulation of propane, butane, and natural gasoline under Subpart D and E of the Mandatory Petroleum Allocation Regulations (10 CFR Part 211). Public comment on the need for changes has been received at meetings with industry representatives, public hearings held by FEA, through written requests for rule changes, and general correspondence. The FEA has also encountered difficulties under the current regulations in responding to certain problems which have arisen in day to day operations and also in weather-related emergencies. Particularly, during the severe portion of the 1976–77 winter, FEA found it necessary to adopt a number of emergency amendments pertaining to the allocation of propane and butane in connection with increased natural gas curtailments.

During 1976, FEA was able to make the required statutory findings under Section 12 of the Emergency Petroleum Allocation Act of 1973, as amended (EPAA, Pub. L. 93–159) to exempt a number of refined products from both the Mandatory Petroleum Allocation and Price Regulations. Although the FEA is currently studying the butane and natural gasoline supply, demand, and price situation in relation to the findings specified in Section 12 of the EPAA for exemption of these products from the regulations, no definite decision has yet been reached on whether to proposed exemption of these products. Moreover, because of the uncertainty surrounding the future propane supply/demand balance, the FEA has no plans for proposing the exemption of propane in the near future. Accordingly, FEA is proposing in this notice a set of allocation regulations for allocated natural gas liquid products which FEA believes will resolve some of the problems with and be more workable than the current regulations.

B. New Subpart D

FEA is proposing to replace Subpart D, pertaining to propane, and Subpart E, pertaining to butane and natural gasoline, of the Mandatory Petroleum Allocation Regulations with a new Subpart D entitled "Natural Gas liquids (NGLs)." FEA believes that all "allocated natural gas liquid products" (a term which would be defined in a proposed amendment to § 211.51 as described herein) should appropriately be allocated in one subpart. The structure of the proposed subpart is similar to the current Subpart D of Part 211 in that it contains separate sections as to "Scope" (§ 211.81), "Definitions" (§ 211.82), "Allocation levels" (§ 211.83), "Supplier/purchaser relationships" (§ 211.85), "Method of Allocation" (§ 211.86), and "Procedures and reporting requirements" (§ 211.89), all of which are subject to the general provisions of Subpart A except where specifically noted. In addition, FEA is proposing a new section "Adjustments and Assignments" (§ 211.84) and to amend and move the use limitations now contained in § 211.10(g)(8) to proposed § 211.87. Furthermore, the provisions relating to imported propane and butane would be shifted from § 211.12(g) to proposed new § 211.88. In proposing the new subpart, FEA has attempted to place most of the allocation regulations specifically relating to allocated natural liquid products in one subpart.

Where appropriate, FEA is proposing conforming amendments to Subpart A of Part 211, and in a few instances, substantive changes to that subpart, all of which will be described herein. The pricing provisions in Part 212 relating to imported allocated natural gas liquid products are also proposed to be amended.

C. Scope and Definitions (§ 211.81 § 211.82 and § 211.51)

The proposed subpart provides for the mandatory allocation as separate products with separate allocation entitlements of all commercial propane, propane HD–5, commercial butane, normal butane, isobutane, commercial B–P mixture, commercial grade natural gasoline, all unfractionated NGL mixtures, and (if greater than 10 percent by weight) the propane, butane, and natural gasoline content of all fractionated NGL mixtures produced in or imported into the United States. Excluded are (1) bottled propane or butane; and (2) the propane or butane content of refinery gas used for refinery fuel purposes. Such products allocated by FEA would be defined collectively in § 211.51 by the term "allocated natural gas liquid products." The new subpart would be applicable to all suppliers, including producers, and purchasers of allocated natural gas liquid products, derived from any source, including both refineries and gas processing plants.

Currently, the regulatory definition of propane in § 211.51 includes mixtures containing 10 percent or more of the chemical C_3, by weight. The definition of butane contains a similar provision. Both of these definitions are inconsistent with industry terminology, have created difficulties in reporting, and do not conform to the definitions in the Mandatory Petroleum Pricing Regulations (10 CFR Part 212).

In this proposal FEA would define each allocated natural gas liquid product in a manner consistent with the specifications of the Gas Processors Association (GPA).

Under the proposal, "propane" would mean a normally gaseous paraffinic compound whose chemical composition is predominantly C_3H_8, including all products which meet GPA specifications for commercial propane and propane HD–5. Similarly, "butane" would mean a normally gaseous paraffinic compound whose chemical composition is predominantly C_4H_{10}, including normal and isobutane and mixtures of these two isomers, and all products which meet GPA specifications for commercial butane. The proposal goes on to further define commericial propane, propane HD–5, normal butane, isobutane, commercial butane, and commercial natural gasoline. These products, together with "commercial B–P mixture," also defined, are the specification grade NGL products recognized by the industry. FEA believes that the proposed definitions would alleviate

many of industry's current difficulties in complying with the allocation regulations for natural gas liquid products. FEA is requesting comments as to whether such new definitions would be the most suitable or whether other definitions would be necessary to further the objectives of the Mandatory Petroleum Allocation Program in allocating the distinct products recognized in the marketplace.

Under FEA's proposal, purchasers of specification grade allocated natural gas liquid products would be entitled to allocations based on their base period use of each such product. The base period would continue to be each calendar quarter during the period April 1, 1972, through March 31, 1973, which corresponds to the present calendar quarter.

Purchasers of non-specification grade mixtures of natural gas liquids would receive allocations appropriate to the characteristics of the mixtures purchased during the base period. Unfractionated NGL mixtures, i.e., mixtures the composition of which have not changed since there extraction from "wet" natural gas streams, would be treated as a separate product. It is the FEA's understanding that such mixtures tend to be sold in certain situations to ultimate consumers for use as a distinct product and therefore would be allocated as such, based on the total volume purchased during the base period.

Unlike unfractionated mixtures, the relative proportions of the different allocated NGL products in a fractionated mixture may be subject to determination and control. Under the proposal, suppliers of fractionated NGL mixtures would be required to separately allocate the propane, butane, and natural gasoline components which constitute more than 10 percent by weight of such mixtures. As distinct from the current regulations, the ethane portion of fractionated mixtures would not be allocated.

A comparison of the operation of the current regulations and the proposal should help to clarify the differing treatments. Under the current regulations, a mixture containing fifteen (15) percent of the compound C_3H_8, fifteen (15) percent of the compound C_4H_{10}, and seventy percent ethane would be allocated only as propane and the entire mixture would be so allocated. Under the proposal, the fifteen percent containing C_3H_8 would be allocated as propane, the fifteen percent containing C_4H_{10} would be allocated as butane, and the seventy percent containing ethane would be free from allocation.

Under the proposal, fractionated would be defined to mean separated into components by partial or complete fractional distillation of natural gas liquids mixtures. Once having been so separated, each component would be considered fractionated regardless of subsequent mixing or commingling. For example, if a raw NGL stream would be deethanized and depropanized, the resulting products would be considered to be fractionated. The butane and natural gasoline contained in the remaining stream would be allocated as individual products as would be the propane which has been separated. Any ethane which has been separated would not be subject to allocation.

The definition in § 211.82 of a "producer" would be amended to include a firm which (1) produces an allocated natural gas liquid product in a refinery, (2) maintains an ownership interest in any allocated natural gas liquid product extracted from natural gas in a gas processing plant or separated from an unfractionated natural gas liquid mixture at a fractionating facility or (3) imported into the United States more than 5,000,000 gallons of allocated natural gas liquid products during the immediately preceding four calendar quarters.

In light of FEA's experiences during this past winter when gas utilities were forced to completely curtain industrial users, FEA is also proposing to amend its definition of plant protection fuel. Plant protection fuel would be defined to mean the use of allocated natural gas liquid products in the minimum volume required to prevent physical harm to the plant facilities or danger to plant personnel. As in the current definition this would include the protection of such material and equipment which would otherwise be damaged, but does not include sufficient quantities of allocated natural gas liquid products required to maintain plant production. Furthermore, allocated natural gas liquid products would not be considered plant protection fuel if an alternate fuel capability is in place for a fuel other than allocated natural gas liquid products or natural gas and can be operated on a continuing basis. This last provision is a change from the current definition which excludes from the category of plant protection fuel those situations where an alternate fuel is technically feasible.

The remaining definitions in proposed § 211.82, other than those already referred to, defining bottled propane or butane, dispensing stations, gas service for essential human needs and property protection, merchant storage facility, and process fuel, would be essentially the same as currently provided in § 211.82. Additionally, as discussed herein, in § 211.51, there would be added definitions of gas utility use, gas transmission company use and synthetic natural gas enrichment use.

D. Allocation Levels (§ 211.83)

The allocation levels set forth in proposed § 211.83 would be structured similarly to the current § 211.83 for propane. The proposed paragraphs 211.83(a) and (b), describing the general allocation level scheme and those uses not subject to an allocation fraction, respectively, would be identical to the current regulations except for their applicability to allocated natural gas liquid products instead of propane. Proposed paragraph (c), however, setting forth allocation levels for those end uses subject to an allocation fraction, would differ from current regulations. The following end uses of allocated natural gas liquid products would have an allocation level of 100 percent of current requirements subject to an allocation fraction: emergency services; energy production excluding boiler fuel uses, a change which is intended to be in accord with the President's National Energy Plan; sanitation services; telecommunications services; passenger transportation services; medical and nursing buildings; aviation ground support vehicles and equipment; start-up, testing, and flame stability of electric utility plants; residential use; plant protection fuel use; and petrochemical feedstock use of allocated natural gas liquid products other than propane, commercial B-P mixture and the propane content of fractionated natural gas liquid mixtures.

As indicated, the allocation levels for residential use and plant protection fuel use of allocated natural gas liquid products, which were raised to 100 percent of current requirements for propane, subject to an allocation fraction, in response to emergency needs this past winter, would remain at such levels. FEA believes that plant protection fuel use is a priority use for which 100 percent of current requirements is the appropriate allocation level.

However, FEA is uncertain whether the allocation level for residential use should be at this same level. Although in the emergency situation of this past winter FEA determined that residential users of propane should be protected, there was much criticism of that action by some propane suppliers. Such firms were apprehensive that resellers would actively seek to expand their business by taking on additional residential end user customers, and would then be able to certify such increased requirements to their suppliers pursuant to the procedures set forth in § 211.13(d).

Despite such comments, FEA has tentatively concluded that the allocation level for residential users of allocated natural gas liquid products should remain at 100 percent of current requirements subject to an allocation fraction. FEA believes that this would be the best means of insuring that resellers supplying the residential segment of the allocated natural gas liquid product market will be able to maintain their share with respect to those industrial users which would also be able to receive upward adjustments under proposed § 211.84.

FEA recognizes that since the 1972-73 base period there have been shifts in the residential sector of the propane market. FEA considered returning the allocation level to 100 percent of base period use for residential users but at the same time updating the base period to reflect more recent market conditions. However, FEA was unable to determine a suitable recent base period. Since the peak residential demand is temperature related, FEA examined the most recent winter seasons and concluded that the 1974-75 and 1975-76 winters were above average in temperature and could not be used as a base period to reflect increased growth. The 1976-77 winter, on the other hand, was so severe that many of the transactions and relationships entered into were extraordinary in nature and temporary in duration. Furthermore, because the

propane distribution system was severly strained in certain parts of the country this past winter, using such a period as a base period could result in regional inequities.

However, to prevent excessive upward certifications of increased residential growth at the current allocation level, FEA believes it important to clarify that, under § 211.13(d), certification of increased current requirements is limited to those volumes representing end users' increased requirements since January 1, 1974. Wholesale purchaser-resellers may not certify to their suppliers increased requirements representing volumes of allocated natural gas liquid products which were supplied to end users by another supplier during the year 1973 or earlier. The purpose of the upward certification provision is to allow the base period use for new end users and increased requirements of historical end users to be certified, but not to permit changes in the historical market patterns of wholesale purchaser-resellers.

FEA requests comments as to the appropriate allocation level for residential users, whether an updated base period should be used, and any other suggested resolution of this issue.

Paragraph (c) of proposed § 211.83 also sets forth the end uses which would receive an allocation level of 100 percent of base period use. These would include: petrochemical feedstock use of propane (including the propane content of fractionated natural gas liquid mixtures) and commercial B–P mixture; synthetic natural gas (SNG) plant feedstock use; synthetic natural gas enrichment use; other industrial use; gasoline blending and manufacturing use of allocated natural gas liquid products other than propane; governmental use; gas utility use; refinery fuel use; commercial use; transportation service other than passenger transportation service or aviation ground support vehicles, for vehicles equipped to use allocated natural gas liquid products as of December 27, 1973; and schools.

As can be seen, certain of the proposed allocation levels have been combined from the existing subparts D and E. For instance, petrochemical feedstock use of propane, and allocated natural gas liquid products containing propane (except unfractionated mixtures) would be given an allocation level of 100 percent of base period use to reflect allocation levels currently contained in § 211.83(c)(2)(i). Petrochemical feedstock use of butane and other allocated natural gas liquid products would be given an allocation level of 100 percent of current requirements subject to an allocation fraction to reflect such levels currently in § 211.93(c)(1)(ix).

Commercial use and school use, both of which currently have allocation levels for propane and butane of less than one hundred percent of base period use, would be raised to that level for allocated natural gas liquid products. Further, there would be no annual volumetric limitation on commercial use as now exists. The allocation level for other industrial use is also elevated from ninety percent of base period use to one hundred percent of base period use. The word "other" would be included to recognize that certain of the end uses which have individual allocation levels, such as petrochemical feedstock use, are also industrial uses.

A further change from existing subparts would be that allocation levels for "standby volumes" and "where no substitute for propane (or butane) is available" would be eliminated entirely as these considerations would be adequately covered in qualifying statements to other allocation levels.

Additionally, there would be end uses for which allocation levels are expressly provided for the first time. These include synthetic natural gas enrichment use and gas utility use. "Synthetic natural gas enrichment use" would mean usage by a synthetic natural gas producer to enrich or adjust the Btu value of synthetic natural gas so that the resulting mixture will approximate the Btu value, flame characteristics, and other physical properties of natural gas with which it is to be mixed. During the past three years FEA has issued assignment orders for this end use under the allocation level of 90 percent of base period use for other industrial uses. FEA believes that SNG enrichment use should have a separate allocation level so as to permit appropriate assignments to correspond to assignments for SNG feedstock use, which also has an allocation level of 100 percent of base period use.

Currently, in subparts D and E, the only allocation level for direct gas utility use of propane and butane is for peak shaving. Because FEA has narrowly defined peak shaving, there has been insufficient flexibility under the regulations in dealing with emergency needs of gas utilities for propane. Additionally, there is a use limitation with respect to peak shaving contained in § 211.83(c)(2)(v), which in certain respects has been subsumed by the limitation in 10 CFR 211.10(g)(8) and which, by being included with the allocation level, has caused confusion.

Although FEA intends to act with moderation in permitting new gas utility use of allocated natural gas liquid products, FEA is proposing an allocation level for "gas utility use" to provide greater flexibility and to eliminate the current confusion. Gas utility use would mean usage by firms primarily engaged in the distribution of natural gas to ultimate consumers for the purpose of directly supplementing, replacing, or displacing pipeline natural gas, other than by the manufacture of synthetic natural gas. To the extent appropriate, the use of limitations on gas utility use currently contained in § 211.10(g)(8) and in § 211.83(c)(2)(v) would both be moved to proposed § 211.87 as explained herein.

In a similar vein, FEA is also proposing to define "gas transmission company use," which would mean usage by firms primarily enaged in the pipeline transmission and sale of natural gas for resale for the purpose of supplementing, replacing, or displacing pipeline natural gas, other than by the manufacture of synthetic natural gas. No allocation level would be provided for gas transmission company use, but such usage would be subject to the limitations contained in proposed § 211.87.

FEA expects to propose appropriate criteria under which FEA would evaluate applications for assignments and adjustments to base period use for gas utility use and applications for waivers of the special limitations on both gas utility and gas transmission use.

E. Adjustments and Assignments (§ 211.84)

1. Specified industrial uses

Under the current regulations, petrochemical firms which desire to expand operations or open new plants cannot receive adjustments to their base period use of propane for petrochemical feedstock unless they can show serious hardship or gross inequity with respect to the entire firm, in which case they may petition for an exception to the regulations. These existing regulations may have caused difficulties for the petrochemical industry by forcing petrochemical feedstock users of propane in excess of base period volumes to rely on non-Canadian imports or surplus domestic product, which they could be allowed to receive under an FEA waiver of the use limitation contained in § 211.10(g)(8). FEA also believes that process fuel use of allocated natural gas liquid products is also a priority use for which wholesale purchaser-consumers should, in certain instances, be allowed to receive adjustments to their base period use.

FEA is proposing a new § 211.84 pertaining to specified industrial users, gas utility users and gas transmission company users of allocated natural gas liquid products. Paragraph (a) would provide that a wholesale purchaser-consumer could apply (1) to the FEA National Office for adjustments to its base period use for petrochemical feedstock use of propane (including the propane content of fractionated natural gas liquid mixtures), commercial B–P mixture, or unfractionated natural gas liquid mixtures, and for gasoline blending and manufacturing use of any allocated natural gas liquid product, except propane, and (2) to the appropriate FEA Regional Office for adjustments to base period use of any allocated natural gas liquid product for process fuel use. Conforming amendments to § 211.13(c) are also proposed to permit upward certifications of such adjustments by wholesale-purchaser resellers. Under the proposal no adjustment mechanism would be proposed for petrochemical users of those allocated natural gas liquid products which would have an allocation level of 100 percent of current requirements subject to an allocation fraction.

FEA will promulgate guidelines for consideration of applications for adjustment to the base period uses of petrochemical feedstock users. Persons commenting are requested to suggest any appropriate criteria in addition to those contained in Subpart B of part 205 to evaluate applications for adjustments for petrochemical feedstock use of propane

and should indicate whether, in their opinion, limits should be set on the size of permissible adjustments.

In connection with the above adjustment procedures, FEA is proposing an amendment in § 211.86(f) which would allow FEA additional flexibility in considering applications for adjustments or assignments of allocated natural gas liquid products. Notwithstanding the provisions of § 211.11(b), which defines a firm as including all parts of the parent and all the entities which it controls, in considering such applications for adjustments or assignments filed pursuant to §§ 211.12(h) or 211.84, under the proposal FEA would be able to consider the requirements for a particular facility separate from the remainder of the firm, and could designate the facility for which such assignments or adjustments may be made. This will allow FEA to act in situations where only part of a firm, such as a particular plant, would be impacted without specific relief and where the remainder of the firm should not appropriately be considered under the application.

2. GAS UTILITY OR GAS TRANMISSION COMPANY USE

Paragraph (b) of proposed § 211.84 would be applicable to applications for assignments, adjustments and waivers by gas utilities and gas transmission companies. Under the proposal, wholesale purchaser-consumers would apply to the FEA National Office for all assignments of a base period use of allocated natural gas liquid products for gas utility use, and, nothwithstanding the provisions of § 211.13(e), could apply to the FEA National Office for an adjustment to their base period use, in accordance with Subparts B and C, respectively, of Part 205 of this chapter.

Applications for waivers of the limitations on gas utility use or gas transmission company use of allocated natural gas liquid products set forth in § 211.87 (d) would also be filed with the FEA National office. FEA anticipates that in most cases, waivers of the use limitations would be granted gas utilities rather than their receiving assignments which would establish base period uses. By such a procedure FEA would more easily be able to restrict gas utilities to use only non-domestic supplies of such products. On July 26, 1977, FEA established guidelines to evaluate all such applications (42 FR, 38553, July 29, 1977).

Paragraph (b) would also permit gas utilities to act as agents in acquiring and delivering allocated natural gas liquid products through natural gas pipelines to end-users or wholesale purchaser-consumers separately authorized to purchase such products. Unless otherwise authorized by FEA, such actions would be permitted only in those cases where the wholesale purchaser-consumer or end-user would own the product and bear the entire cost of its storage, gasification, and transmission, where there would be no adverse effects of the gas utility's other customers, and where the user would have no facilities for using a fuel other than pipeline gas. This provision basically would codify a procedure already contemplated by the present guidelines to 10 CFR 211.12(h).

F. SUPPLIER/PURCHASER RELATIONSHIPS (§ 211.85)

1. CHANGES IN RELATIONSHIPS

Under the proposed section § 211.85, in general, as under current §§ 211.85 and 211.95, supplier/purchaser relationships would be as set forth in §§ 211.9–211.13 unless otherwise specified in the proposed subpart. However, unlike existing regulations, proposed § 211.85 provides a method for allowing wholesale purchasers to change base period suppliers under certain circumstances. This section is designed to permit the mandatory supplier/purchaser relationships to follow more closely current market patterns. Under the proposed regulation, any wholesale purchaser of any allocated natural gas liquid product could terminate a supplier/purchaser relationship or adjust downward its base period use by providing written notice to its base period supplier of its intent to do so, provided that the affected supply obligation would and could be assumed by another supplier without adversely impacting the new supplier's historical purchasers. Under the proposal, wholesale purchasers would specify in the written notice the volume of the supply obligation which would be reduced or terminated, and would include the effective date of termination or downward adjustment, which would have to correspond to the first day of a base period. Upon receipt of such notification, a supplier would subtract the volumes so terminated or covered by the downward adjustment from its base period supply obligations, and would not include such volumes in its base period use from its supplier, unless by the exclusion of such volumes its base period use from that supplier, as adjusted, would fall below its original unadjusted base period use.

Any supplier of allocated natural gas liquid products could establish a supplier/purchaser relationship with a wholesale purchaser to the extent such purchaser would have terminated another supplier/purchaser relationship or adjusted downward its base period use, provided that (1) the new supplier's net obligations for a particular calendar quarter corresponding to a base period would not have reduced the supplier's allocation fraction below one (1.0) in the immediately preceding corresponding calendar quarter, or (2) the supplier could clearly demonstrate that its net adjustments to its base period supply obligations for a particular calendar quarter would not reduce its allocation fraction below 1.0 for that quarter. FEA will not accept the ability of a supplier to certify to its supplier adjustments to its base period use as a sufficient demonstration of the adequacy of its supply. The new supplier and the wholesale purchaser would have to notify FEA and obtain approval from the appropriate FEA Regional Office before a new supplier/purchaser relationship and base period use could be established. Under existing procedures, before FEA could approve the change of supplier, it would have to notify possibly aggrieved parties.

A wholesale purchaser-reseller, which in its capacity as a supplier would establish new supplier/purchaser relationships which would increase its base period supply obligations, or which would have excluded certain volumes from its base period use because of terminations or downward adjustments, would receive an upward or downward adjustment, respectively, to its base period use in an amount equal to the net change to its base period obligations. Certifications of such upward adjustments would be permitted to be made in accordance with the procedures set forth in § 211.13(c) (2) and (3), and certifications of such downward adjustments would have to be so made.

2. UNDERLIFTING

One of the problems with the operation of the current regulations is that the regulations do not account for wholesale purchasers which purchased allocated products from their base period supplier in the base period, but which since that time have consistently underlifted or purchased the same product from different suppliers. Allowing wholesale purchasers to change base period suppliers should reduce somewhat the amount of underlifting, in that such purchasers could establish supplier/purchaser relationships with the suppliers from which they are currently purchasing product. Furthermore, FEA recognizes that the regulations were designed to deal with possible shortages. To the extent that suppliers must include their entire base period obligation in the calculation of allocable supply for a base period quarter, each base period purchaser is protected with regard to such volumes.

However, FEA is proposing an amendment in § 211.85(c) which should facilitate further the distribution of underlifted supplies. Proposed § 211.85(c) would apply only to wholesale purchasers of allocated natural gas liquid products which have failed to purchase at least eighty (80) percent of their allocation entitlement from their base period suppliers in each of two consecutive calendar quarters. Not less than thirty (30) days before the end of the second such calendar quarter, a base period supplier could notify such purchasers that the supplier intends to exclude the supplier's base period obligations to those purchasers from the supplier's allocable supply for the following calendar quarter, except to the extent such purchasers would inform the supplier of the volumes of such products they intend to purchase from such supplier in the following quarter.

Not less than twenty (20) days before the end of the same calendar quarter, each purchaser which has received such notice from its base period supplier would inform its base period supplier of the portion of its allocation entitlement for the following quarter which it intends to purchase from its base period supplier. A supplier could thereafter exclude from

its allocable supply of allocated natural gas liquid products, for the following calendar quarter only, its entire base period obligations to those wholesale purchasers which received timely notification, except for those portions of the base period volumes which such purchasers informed the supplier in a timely manner that they intended to purchase in said calendar quarter.

Under the proposed procedure, an affected purchaser would still be entitled to its entire base period use, but upon request, it would have to inform its supplier in advance as to the amount of product it would purchase. If a wholesale purchaser purchased eighty percent of its base period use from its base period supplier in a subsequent calendar quarter, it would not be subject to the requirements of the underlifting section unless it again failed to purchase eighty percent of its base period use in two consecutive quarters.

To prevent wholesale purchasers from informing their base period suppliers that they will purchase a certain volume for a particular calendar quarter, and thereafter not actually purchasing such volumes, FEA is proposing a mechanism whereby a wholesale purchaser could be permanently excluded from its base period supplier's supply obligations. The proposal would provide that if, in each of two consecutive calendar quarters for which a wholesale purchaser was required to inform its base period supplier of the volumes of allocated natural gas liquid products it would purchase during such quarter from its base period supplier, the wholesale purchaser did not purchase from its base period supplier at least eighty (80) percent of the amount it informed the supplier that it would purchase, the supplier could thereafter permanently exclude from its allocable supply its base period obligations to said purchaser upon notifying both the wholesale purchaser and the appropriate FEA Regional Office. A notification of such possible permanent exclusion would also have to appear in supplier's original notice to purchasers which solicits the amount which will be purchased. Wholesale purchasers which do not inform their supplier that they will purchase particular volumes of product could not be permanently excluded from the supplier's allocable supply, although they could be excluded for the particular quarter for which they did not inform their supplier.

In the event a supplier's base period obligations to a wholesale purchaser would be permanently excluded from the supplier's allocable supply, the purchaser would be deemed to have a base period use without having a base period supplier. That provision would allow such a purchaser to purchase surplus product up to its base period use without exceeding use limitations. An excluded purchaser could apply to FEA pursuant to § 211.12(e) for the assignment of a new supplier, but FEA could consider the circumstances of the exclusion in granting or denying such an application. Examples are provided below to illustrate the operation of the underlifting section.

EXAMPLES

I. Facts: Firm A is the base period supplier to Firm B of propane HD-5. Firm B purchased from Firm A eighty percent of its allocation entitlement of propane HD-5 in the first calendar quarter of 1977, and did not purchase any portion of its allocation entitlement from Firm A in the second quarter of 1977.

Explanation: Firm B would not be subject to the requirements of the underlifting section, proposed § 211.85(c), because it has not failed to purchase at least eighty percent of its allocation entitlement of an allocated natural gas liquid product, propane HD-5, for two consecutive calendar quarters.

II. Facts: Same as in Example I. In addition, in the third quarter of 1977, Firm B purchases fifty percent of its allocation entitlement of propane HD-5 from Firm A.

Explanation: Since Firm B has failed to purchase at least eighty percent of its allocation entitlement of propane for two consecutive calendar quarters, no less than thirty days before the end of the third quarter, no less than thirty days before the end of the third quarter of 1977 Firm A may notify Firm B that it will exclude Firm B's allocation entitlement from its allocable supply supply of propane HD-5 for the fourth quarter of 1977 except to the extent Firm B informs Firm A that it will purchase such product in the fourth quarter.

III. Facts: Same as Example II. In addition, on August 31, 1977 Firm A has notified Firm B of its possible exclusion for the fourth quarter of 1977. On September 10, 1977 Firm B informs Firm A that it will purchase forty percent of its allocation entitlement for propane HD-5 in the fourth quarter. Firm A thereupon excludes sixty percent of its obligations to Firm B in the calculations of its allocable supply of propane HD-5 for the fourth quarter of 1977. From October 1, 1977 to December 1, 1977, Firm B does not purchase and has made no arrangements to purchase propane HD-5 from Firm A in the fourth quarter of 1977.

Explanation: Firm A was permitted to exclude from its allocable supply for the fourth quarter of 1977 only, the sixty percent of Firm B's entitlement which it did not inform Firm A it would purchase. Since it appears that Firm B will not have purchased eighty percent of its allocation entitlement of propane HD-5 from Firm A in the third and fourth calendar quarters of 1977, Firm A may again inform Firm B that it will exclude its obligations to Firm B from its allocable supply of propane HD-5 for the first quarter of 1978 except as to the amount of propane HD-5 Firm B informs Firm A it will purchase in the first quarter of 1978. (However, if Firm B purchases eighty percent of its allocation entitlement for the fourth quarter of 1977 from Firm A during the last thirty days of the fourth quarter, Firm A may not exclude its obligations to Firm B for the first quarter of 1978 because Firm B will not have failed to purchase eighty percent of its allocation entitlement in the immediately two preceding consecutive calendar quarters.) Firm A may not move to exclude permanently its obligations to Firm B from the calculation of its allocable supply of propane HD-5 because Firm B will not have failed in two consecutive quarters to purchase eighty percent of the amount it was required to inform Firm A that it would purchase. Even if Firm B purchased no propane HD-5 for the remainder of the fourth quarter of 1977, the fourth quarter was the only quarter for which it was required to inform Firm A as to the amount of propane HD-5 it would purchase.

IV. Facts: Same as Example III. In addition, Firm B purchases no propane HD-5 from Firm A during the remainder of the fourth quarter of 1977. On December 1, 1977, Firm A informs Firm B of its possible exclusion for the first quarter of 1978. On December 10, 1977, Firm B informs Firm A it will purchase thirty percent of its allocation entitlement of propane HD-5 during the first quarter of 1978. Firm A excludes seventy percent of its obligation to Firm B from the calculation of its allocable supply of propane HD-5 for the first quarter of 1978. Firm B purchases no propane HD-5 from Firm A during the first quater of 1978.

Explanation: Firm A may permanently exclude its obligations to supply propane HD-5 to firm B because Firm B failed in two consecutive calendar quarters to purchase eighty percent of the amount of propane HD-5 from Firm A which it informed Firm A it would purchase. Alternatively, if Firm A should so choose, it could again propose to exclude Firm B for the second quarter of 1978 only (which would provide Firm B a chance to avoid permanent exclusion by purchasing eighty percent of either its allocation entitlement or the amount it states it will purchase in the second quarter of 1978).

3. GAS PROCESSING PLANTS OR FRACTIONATION FACILITIES

FEA believes that the producer rule for propane as currently set forth in § 211.86 (d) has, in certain respects, been unclear in governing supplier/purchaser relationships between producers of allocated natural gas liquid products. Accordingly FEA is attempting to simplify this rule and is proposing to leave a shortened version in proposed § 211.86(d) and to add paragraph § 211.85(d) dealing with allocation entitlements at gas processing plants.

FEA recognizes that the gas processing industry is quite complex. Quite often firms have ownership interests in many gas processing plants; in individual plants, there can be a web of ownership interests in both the natural gas which is processed and in the allocated natural gas liquid products which are extracted from the natural gas and which may or may not be fractionated. FEA further recognizes the industry practice whereby operators of gas processing plants often take as a processing fee a portion of the allocated natural gas liquid products which are extracted at a gas processing plant. FEA is concerned that unless the interest of the processor in the extracted allocated natural gas liquid products is protected, the historical downstream purchasers of such products from the processor could be adversely affected. As distinct from crude oil processing fees at refineries, which, when in kind, are usually a small percentage of the oil processed, it is not unusual for the in kind processing fees at gas processing plants to be a large percentage of the allocated natural gas liquid products produced.

Accordingly, FEA proposes to provide in § 211.85(d) that a firm which acquired allocated natural gas liquid products through its ownership interest in or operation of a gas processing plant or fractionating facility during the base period

would have an allocation entitlement with respect to the volumes of such products acquired during the base period from the firm that supplied the allocated natural gas liquid products in the base period, regardless of whether such products were purchased or acquired under a processing agreement. The historical downstream purchasers of such products would thereby be protected. The regulation would apply to the absolute volumes of such products acquired and not to the percentages of production from a particular natural gas stream. Should available volumes of allocated natural gas liquid products decline in a particular plant, the supplier would remain obligated with respect to its base period volumes subject to an allocation fraction.

By this proposal, FEA is not attempting to allocate natural gas to particular gas processing plants. Owners of natural streams would remain free to send such streams where they choose, in accordance with other applicable law. However, to the extent allocated natural gas liquid products were extracted from a stream in the base period, there remains an obligation to provide to the original processor or purchaser at the processing plant equivalent volumes of allocated natural gas liquid products which were acquired during the base period for the duration of the Mandatory Petroleum Allocation Program.

G. METHOD OF ALLOCATION (§ 211.86)

As currently set forth in §§ 211.86 and 211.96, the allocation of allocated natural gas liquid products under proposed § 211.86 would continue to be as specified in § 211.10 except where otherwise provided and except with respect to the allocation of such products for SNG feedstock use as governed by § 211.29. Adjustments to a wholesale purchaser's base period volume specified in § 211.13 would continue to apply, as would those set forth in §§ 211.84 and 211.85. New wholesale purchasers and end-users would be subject to the requirements of § 211.12, including their mutual arrangements under § 211.12(e)(1) for supplies of butane, which would no longer need FEA approval (as currently required in § 211.96(b)). Also, as currently provided for propane, each supplier or producer which sells allocated natural gas liquid products to a wholesale purchaser-consumer, end-user, or dispensing station would determine the base period volume of those purchasers but would not be required to report that determination to such purchasers except on written request by a purchaser. The state set-aside for propane would also be continued at the three (3) percent level, but there would be separate set asides for commercial propane and propane HD-5. Dispensing stations which sell or fill only bottled propane or butane to end-users would continue to be entitled to receive a volume of propane or butane equal to one hundred (100) percent of the volume necessary to supply the current requirements of all end-users purchasing from them, without being subject to an allocation fraction.

The proposed subpart would not permit suppliers to calculate separate allocation fractions for separate distribution systems without FEA action as is currently allowed in §§ 211.86(f) and 211.96(d). Suppliers wishing to establish multiple allocation fractions would be subject to the provisions of § 211.14, which require FEA approval.

The abbreviated version of the producer rule in proposed § 211.86(d) would be directed solely at preventing upward certification by producers to their suppliers which are producers of excessive amounts of product for purchasers whose allocation level is one hundred percent of current requirements. FEA is proposing in this regard that producers allocate their total supply in accordance with § 211.10, except that, if a producer is the base period supplier to wholesale purchaser-resellers which would have certified amounts of propane to be for ultimate use under an allocation level of one hundred percent of current requirements whether or not subject to an allocation fraction, that producer would not be allowed to recertify such amounts to any other producer which would be its base period supplier. This provision basically already exists as part of the current § 211.86(d).

In proposed § 211.86(e), FEA is proposing a new inventory accumulation rule for allocated natural gas liquid products. Except as provided, producers, suppliers, wholesale purchasers and end-users could accumulate allocated natural gas liquid products in inventory in quantities which are normal and reasonable for seasonal usage in accordance with their normal business practices. Unless authorized by the FEA, gas utilities, gas transmission companies, and synthetic natural gas plants could not accumulate allocated natural gas liquid products in inventory in excess of one hundred (100) percent of the sum total of their base period uses for the four base period quarters. Currently, such accumulation is permitted up to one hundred twenty (120) percent of their allocation entitlement, which is on the basis of a calendar quarter.

Additionally, unless authorized by FEA, industrial users (for uses other than process fuel and plant protection fuel) of propane (including the propane content of fractionated natural gas liquid mixtures), commercial B-P mixture and unfractionated natural gas liquid mixtures could accumulate such products in inventory only up to an amount equal to one hundred (100) percent of the sum total of their base period uses for all industrial uses of each such product for the four base period quarters. For process fuel and plant protection fuel use, the 100 percent limitation would not be applicable. For these uses, the general limitation on inventory being normal and reasonable for seasonable usage would apply. Similarly, allocated natural gas liquid products imported other than from Canada for industrial use under § 211.88 would not be subject to the 100 percent inventory accumulation limitation.

If a firm controls greater than the above mentioned inventories of allocated natural gas liquid products, just as currently provided, it could not acquire or accept an allocation of such products from a supplier or producer until its inventories are reduced to conform to the limitations.

Upon application, FEA would have the authority to waive the restrictions on inventory accumulation. FEA recognizes that pressure on the distribution system for allocated natural gas liquid products, especially for propane, during periods of peak demand could be alleviated if such products were placed during non-peak months in storage facilities near the points of use. FEA intends, therefore, to permit the accumulation of inventory in excess of the limitation by firms with on-site storage capability.

H. SPECIAL LIMITATIONS (§ 211.87)

The limitations on propane and butane currently contained in § 211.10(g)(8) would be removed from that section, and placed in proposed § 211.87. Unless otherwise authorized by the FEA upon application pursuant to Subpart G of Part 205, the limitations on industrial use, refinery fuel use, and gas utility or gas transmission company use would apply to the acquisition and use of allocated natural gas liquid products during each twelve month period commencing October 1 and ending September 30 of the following year. By having the use limitations based on a twelve month period commencing October 1 rather than on individual calendar quarters, greater flexibility will be accorded users which need to use volumes of product to meet heavy seasonal demand. However, such users would remain subject to the volumetric use limitation for the entire twelve month period. Of course, if supplies of allocated natural gas were to become low, at any time FEA could redirect surplus product or take other actions as necessary pursuant to subpart A of Part 211.

1. INDUSTRIAL USE

As to the specific limitations proposed in new § 211.87, for all industrial use (including petrochemical feedstock use and gasoline blending and manufacturing use), except for process fuel use, plant protection fuel use, refinery fuel use as specifically provided for, and industrial uses accorded an allocation level of 100 percent of current requirements, no supplier could supply and no end-user or wholesale purchaser-consumer could accept or use quantities of propane (including the propane content of fractionated natural gas liquids and refinery gas), commercial B-P mixture, or unfractionated natural gas liquid mixtures in excess of one hundred (100) percent of the sum of the base period use for the four base period quarters, except as provided for non-Canadian imports or except for the purpose of increasing inventories for such industrial uses to permissible levels.

As distinct from the current use limitation, FEA would exempt process fuel

and plant protection fuel use of all allocated natural gas liquid products from the industrial use limitation, as well as all industrial uses of butane. FEA beleves that process fuel use and plant protection fuel uses are priority uses and firms should not be precluded from acquiring domestic surplus propane for such uses. With regard to industrial users of butane, FEA believes that inasmuch as no large residential sector exists for butane which would have to be protected, industrial users of butane should be able to compete for available surplus product.

2 REFINERY FUEL USE

In § 211.87, FEA also proposes to continue the limitation on refinery fuel use and proposes that no supplier supply and no end-user or wholesale purchaser-consumer could accept or use quantities of allocated natural gas liquid products for refinery fuel (excluding the propane and butane content of refinery gas) in excess of one hundred (100) percent of the sum of the base period use for the four base period quarters, except with respect to non-Canadian imports or except for the purpose of increasing inventories for such use to permissible levels.

FEA intends in the future to deal with other issues related to refinery fuel use of allocated natural gas liquid products. For the present, FEA will let stand the "Statement of Policy Regarding Use of Propane and Butane for Refinery Fuel" which currently follows § 211.10(g). The problems discussed therein still remain and FEA remains aware of them.

3. GAS UTILITY OR GAS TRANSMISSION COMPANY USE

For gas utility use or gas transmission company use, under proposed § 211.87(a)(3)(i) no supplier could supply and no end-user or wholesale purchaser-consumer could accept or use quantities of alocated natural gas liquid products (including the propane and butane content of refinery gas) in excess of one hundred (100) percent of the sum of the base period use for the four base period quarters, except for the purpose of increasing inventories for such uses to permissible levels.

Additionally, as modified from the limitation currently contained in §211.-83(c)(2)(v), FEA is proposing in §211.-87(a)(3)(ii) that no wholesale purchaser-consumer could use any quantities of an allocated natural gas liquid product for gas utility use or gas transmission company use as long as gas service would be continued to industrial or commercial customers which have an alternate fuel capability in place which uses a fuel other than allocated natural gas liquid products or natural gas and can be operated on a continuing basis.

Currently, the use limitation prohibits propane or butane from being used for peak shaving whenever gas utilities continue service to "interruptible" industrial customers (other than for process fuel, plant protection fuel, or raw material) or to any non-residential customer which can use a fuel other than natural gas, propane or butane. FEA believes that such a use limitation should properly be directed at customers with installed alternate fuel capability rather than those with interruptible contracts which in some cases (such as hospitals, which may have entered into interruptible contracts to take advantage of lower rates) may be priority customers. This limitation would apply to all gas utility users of allocated natural gas liquid products including historical users, and thus is different in scope from the general limitation of proposed § 211.87(a)(3)(i) which is applicable to all gas utility use in excess of historical levels.

4. SYNTHETIC NATURAL GAS FEEDSTOCK OR ENRICHMENT USE

Paragraph (b) of proposed § 211.87 would contain the use limitation on synthetic natural gas use currently contained in § 211.10(g)(8). It would provide that unless otherwise authorized by FEA upon application pursuant to subpart G of part 205, for synthetic natural gas feedstock use or synthetic natural gas enrichment use, no supplier could supply and no end-user or wholesale purchaser-consumer could accept or use quantities of allocated natural gas liquid products (including the propane and butane content of refinery gas) in excess of one hundred (100) percent of the base period use for a base period quarter, except for the purpose of increasing inventories for such uses to the levels allowed under § 211.86(e).

The use limitation for users of these products for SNG feedstock is more restrictive than the proposed use limitation for industrial or gas utility users. The current use limitation permits FEA to exercise control over SNG feedstock use during each calendar quarter. To assist FEA's SNG task force, which is currently reevaluating FEA's policy with regard to the allocation of SNG feedstocks, FEA solicits comments as to whether the use limitation for SNG feedstocks should equal the sum of the base period use for the four base period quarters, rather than having separate limitations for each quarter.

I. IMPORTERS OF ALLOCATED NATURAL GAS LIQUID PRODUCTS (§ 211.88)

In an effort to consolidate as many of the regulations pertaining to allocated natural gas liquid products as possible, the regulations pertaining to non-Canadian imported propane and butane currently contained in § 211.12(g) would be moved, in their amended form, to proposed § 211.88. Proposed § 211.88 would apply to all importers of allocated natural gas liquid products (other than from Canada). It separately places provisions relating to end user and wholesale purchaser-consumer importers into paragraph (b) and provisions for supplier importers into paragraph (c). Basically it sets forth the method of allocation for non-Canadian imports and imposes restrictions on imports for industrial use, gas utility and gas transmission company use of allocated natural gas liquid products.

Briefly, FEA believes that non-Canadian imports of allocated natural gas liquid products should be available to industrial users of such products without regard to the use limitation set forth in proposed § 211.87. Such imports should also be available in certain cases, with FEA approval, to gas utilities or gas transmission companies. For all these classes of users, FEA believes the costs of such imports in excess of historical use levels should be fully borne by the user. In this manner, other segments of the allocated natural gas liquid product market, such as direct residential users of propane, would not have to share in such costs. Concomitantly, industrial and gas utility (as permitted by FEA) users which desire such products would be able to make the business judgment whether to purchase such imports. The necessary conforming amendments to the Mandatory Petroleum Price Regulations are also being proposed herein.

Paragraph (b) of proposed paragraph § 211.88 provides that except for gas utility and gas transmission company users, end users and wholesale purchaser-consumers of allocated natural gas liquid products could import (other than from Canada) such products for their own use.

Paragraph (b) then provides that wholesale purchaser-consumers and end-users could acquire and use allocated natural gas liquid products imported other than from Canada for industrial use (including petrochemical feedstock use and refinery fuel use) without regard to the limitations imposed by proposed § 211.86(e) and § 211.87, but would be subject to the provisions of § 211.88(c) in purchasing imports of such products from domestic suppliers.

Proposed paragraph (b), continuing the provision currently contained in § 211.12(g), also provides that acquisition of imports of allocated natural gas liquid products other than from Canada for industrial use (including petrochemical feedstock use and refinery fuel use) would not affect a firm's allocation entitlements unless FEA would determine that such imports would be inconsistent with the objectives of the EPAA. Also as currently provided, end-users and wholesale purchaser-consumers importing allocated natural gas liquid products pursuant to proposed § 211.88 would not be considered by reason thereof to be prime suppliers or producers of allocated natural gas liquid products.

As to gas utilities and gas transmission companies, paragraph (b) would also explicitly provide that imports of allocated natural gas liquid products for gas utility use and gas transmission company use would be subject to the limitations set forth in proposed § 211.87 and could not be acquired in excess of those limitations unless expressly waived by FEA. Further, an authorized purchase by a wholesale purchaser-consumer from a domestic supplier of imported allocated natural gas liquid products for gas utility or gas transmission company use would be subject to the requirements of § 211.88(c).

Suppliers could acquire allocated natural gas liquid products imported other

than from Canada for distribution to end-users and wholesale purchasers only in accordance with paragraph (c) of proposed § 211.88. Under paragraph (c), any supplier of allocated natural gas liquid products which would have an allocation fraction less than one (1.0) for a calendar quarter corresponding to a base period could import (or acquire from suppliers which have so imported) such products other than from Canada for the purpose of achieving an allocation fraction of 1.0 during the calendar quarter. Imports used to achieve an allocation fraction of 1.0 would be allocated in accordance with the provisions of § 211.10. However, FEA could in individual situations require separate inventory records to be maintained for such imports sold for gas utility or gas transmission company use to new wholesale purchaser-consumers which would establish a base period use subsequent to October 1, 1977, or to existing wholesale purchaser-consumers with respect to upward adjustments to their base period use received after that date.

Any supplier of allocated natural gas liquid products which would achieve an allocation fraction of 1.0 or greater for a calender quarter could import (or acquire from suppliers which have so imported) such products other than from Canada to increase further its allocation fraction above 1.0 and would also distribute such imports in accordance with the provisions of § 211.10, except that distribution of such products for industrial, gas utility, or gas transmission company use would be in accordance with further restrictions of paragraph (c).

The proposal contains a new requirement that all non-Canadian imported surplus allocated natural gas liquid product distributed for all industrial, gas utility or gas transmission company uses would have to be accounted for by separate inventory records and would be subject to separate cost computation requirements as described herein. Specifically, suppliers with an allocation fraction of one (1.0) or greater could import (or acquire from suppliers which have so imported) allocated natural gas liquid products other than from Canada for distribution to wholesale purchaser-consumers and end-users which would certify in writing that they would use such imported products for industrial (including petrochemical feedstock or refinery fuel), gas utility, or gas transmission company use or for distribution to any wholesale purchaser-reseller which would certify it would distribute such products for such uses. A mandatory certification requirement is also included requiring all wholesale purchaser-consumers and end users which purchase non-Canadian imported allocated natural gas liquid products for industrial, gas utility and gas transmission company uses and all wholesale purchaser-resellers which purchase such products for distribution for such uses to certify in writing to the suppliers of such products the intended end use of such products.

All suppliers receiving such certifications would have to maintain inventory records for such allocated natural gas liquid products separate from their inventory records for allocated natural gas liquid products distributed under the provisions of § 211.10. Suppliers which do not receive such certifications would also be required to determine to the maximum extent practicable whether their non-Canadian imported allocated natural gas liquid products would be distributed for industrial, gas utility or gas transmission company use. To the extent their products were intended to be so distributed, separate inventory records would also have to be maintained.

As currently provided in § 211.12(g), in any situation, should circumstances warrant, FEA could require that imported allocated natural gas liquid products other than from Canada obtained by a firm pursuant to proposed paragraph 211.88 (c) be allocated to other wholesale purchasers, end-users, producers or suppliers, in accordance with the provisions of § 211.14.

J. Proposed Pricing Amendments

FEA is proposing amendments to Subparts E and F of part 212 to incorporate the requirements of proposed § 211.88 pertaining to imported allocated natural gas liquid products into the special price rules relating to imported propane and butane currently contained in § 211.83 (h)(2)(iii) and § 212.93(f)(2). Corresponding changes to subpart K are being proposed separately from the proposed general amendments to subpart K of part 212 issued on June 3, 1977 (42 FR 29490, June 9, 1977). The purpose of these amendments is to separate the cost computation for non-Canadian imported allocated natural gas liquid products utilized by industrial, gas utility or gas transmission company users so as to insulate and protect other historical users of such products from the higher costs generally associated with such imports. FEA realizes that there may be differences in treatment between the allocation amendments being proposed herein and the amendments proposed on June 3. Upon final adoption of these amendments, FEA expects to resolve possible inconsistencies.

In § 212.83(h)(2)(iii), currently it is optional for refiners to apply unequal amounts of increased costs to the weighted average May 15, 1973 selling prices of any imported propane or butane other than from Canada designated for industrial use pursuant to the present § 211.12 (g)(2)(ii) if such imported propane or butane other than from Canada is maintained in a separate inventory or inventories and never commingled with other inventories of propane or butane. Under the proposed change to § 212.83(h)(2)(iii), a refiner would be required to apply amounts of increased costs unequally to the weighted average May 15, 1973 selling prices of any imported propane, butane, natural gasoline or natural gas liquids other than from Canada, if separate inventory records for such products are kept as would be required pursuant to proposed § 211.88(c). No longer would there be a requirement that there could not be a physical commingling of such products.

The current § 212.93(f)(2) pertaining to resellers of non-Canadian imported propane and butane for industrial use would be extended to all non-Canadian imported propane, butane, natural gasoline or natural gas liquids designated for industrial, gas utility or gas transmission company use. Proposed §212.93(f)(2) provides that any seller of imported propane, butane, natural gasoline or natural gas liquids other than from Canada would determine the price permitted to be charged for such products pursuant to paragraph (a) of § 212.93 by calculating increased product costs as follows:

With respect to the imported propane, butane, natural gasoline and natural gas liquids for which separate inventory records are required to be maintained pursuant to § 211.88 (c), for each such separate inventory the seller would make a separate calculation of increased product costs as defined in § 212.92 to be used in determining its selling price for such products pursuant to paragraphs (a) and (b) of § 212.93, with the selling prices for propane included in such products not, however, subject to paragraph (f)(1) of § 212.93.

With respect to quantities of imported propane, butane, natural gasoline and natural gas liquids for which a separate inventory record would not be required to be maintained pursuant to § 211.88(c), the seller would add the cost of such quantities to the cost of all other quantities of the same product for which separate inventory records would not be maintained pursuant to § 211.88 (c). In making a separate calculation of increased product costs as defined in § 212.92 to be used in determining its selling price for all sales of products other than those maintained in a separate inventory pursuant to § 211.88(c), subject to all other provisions of § 212.93, including paragraph (f)(1).

In subpart K or part 212, a new paragraph (g) would be added to correspond to the proposed changes to subparts E and F for refiners and resellers. Under proposed paragraph (g), separate calculations of increased costs would be required for each volume of non-Canadian imported propane, butane, natural gasoline or natural gas liquids which are subject to subpart K and for which separate inventory records would be required under § 211.88(c).

Increased costs so calculated in each of subparts E, F, and K would not be available for recovery in the prices charged for other propane, butane, natural gasoline or natural gas liquids.

K. Procedures and Reporting Requirements (§ 211.89)

Reporting requirements and filing procedures which currently are contained in § 211.88 would be included in proposed § 211.89.

L. Proposed Subpart A Amendments

As already stated in earlier portions of this preamble, FEA is proposing amendments to Subpart A to part 211 to conform that subpart to proposed Subpart D, and a number of other amendments to provide more flexibility to users and suppliers of allocated natural gas liquid products. The substantive changes are briefly described here.

FEA is proposing to amend § 211.10(g)(5) to allow a freer flow of surplus allocated natural gas liquid products during times when it is not necessary to redirect surplus. Specifically with respect to the distribution of surplus allocated natural gas liquid products, suppliers which distribute such product pursuant to § 211.10(g), unless otherwise notified by FEA, may distribute such product upon submission by certified mail of the notification required under subparagraph (3) of § 211.10(g) without waiting ten (10) days for a subsequent FEA notification.

If FEA were to determine that a shortage or other situation exists whereby it could be necessary to redirect surplus allocated natural gas liquid products, FEA may by FEDERAL REGISTER notice notify all suppliers that the ten day waiting period would be reinstated. The FEDERAL REGISTER notice would be deemed sufficient by FEA to serve notice upon all suppliers of the requirement to retain the surplus until released by FEA or until the ten days would expire.

Section 211.10(g)(8) would no longer contain the special limitations on propane and butane which would be moved to proposed § 211.87. Section 211.12 would be amended in paragraph (g) by removing from it the specific regulations dealing with imported propane and butane, which would be moved to proposed § 211.88. Section 211.13 would be amended to account for the new adjustments which would be provided in § 211.84 and § 211.85. The definitions in section 211.51 would be amended as previously discussed.

Section 211.25 would be amended in paragraph (c) to permit borrow-payback of future allocations of allocated natural gas liquid products within total allocations for any twelve month period beginning October 1 and ending September 30 of the following year. The twelve month period for such transactions relating to allocated natural gas liquid products is being changed from a calendar year basis to allow borrowing during the entire winter season of heavy temperature-related demand with paybacks in the following summer when demand should be slackened.

Finally, 10 CFR 205.13 would be amended to (1) remove the requirement that all matters pertaining to the allocation of butane and natural gasoline be handled by the FEA National Office rather than a Regional Office and (2) reflect that requests pertaining to pricing of propane, as well as butane and natural gasoline will be handled by FEA's National Office.

M. COMMENT PROCEDURE

1. WRITTEN COMMENTS

Interested persons are invited to submit written comments with respect to the proposed regulations to Executive Communications, FEA, Room 3317, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, Box Number NL. Comments should be identified on the outside of the envelope and on the documents submitted to FEA with the designation "Comments on Proposed Allocated Natural Gas Liquid Products Regulations." Fifteen (15) copies should be submitted. All comments and related information should be received by FEA by September 8, 1977, in order to ensure consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only, in accordance with the procedures set forth in 10 CFR 205.9(f). Any material not accompanied by a statement of confidentiality will be considered to be non-confidential. FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

2. PUBLIC HEARING

a. *Request procedures.* A public hearing on the proposed regulations will be held at 9:30 a.m., e.d.t., on September 12, 1977, in the Auditorium, Room 2105, 2000 M Street, N.W., Washington, D.C. to receive oral presentations from interested persons, and if necessary will be continued at the same time at the same location on September 13, 1977.

Any person who has an interest in the proposed regulations or who is a representative of a group or class of persons which has an interest in them may make a written request for an opportunity to make oral presentation. Such a request should be directed to Executive Communications, FEA, Box NL, Room 3317, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, and must be received before 4:30 p.m., e.d.t. September 2, 1977. Such a request may be hand-delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. The person making the request should be prepared to describe the interest concerned; if appropriate, to state why he or she is a proper representative of a group or class of persons which has such an interest; and to give concise summary of the proposed oral presentation and a phone number where he or she may be reached through September 7, 1977. Each person selected to be heard will be notified by FEA before 4:30 p.m., e.d.t., September 7, 1977, and must submit 100 copies of his or her proposed statement to Allocations Regulations Development Office, FEA, Room 2214, 2000 M Street NW., Washington, D.C. 20461 before 4:30 p.m., e.d.t., on September 9, 1977.

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

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

Any interestd person may submit questions to be asked of any person making a statement at the hearing to Executive Communications, FEA, before 4:30 p.m., e.d.t., September 8, 1977. FEA will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any person who makes an oral statement and who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

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

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by FEA and made available for inspection at the FEA Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

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

In accordance with Executive Order 11821 and OMB Circular A-107, FEA is considering the inflationary impact of this proposal.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332 and Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; E.O. 11933, 41 FR 36641.)

In consideration of the foregoing, parts 205, 211 and 212 of Chapter II, Title 10 of the Code of Federal Regulations, are proposed to be amended as set forth below.

Issued in Washington, D.C., August 9, 1977.

ERIC J. FYGI,
Acting General Counsel.

1. Section 205.13 is amended by revising subparagraph (3) of paragraph (a) to read as follows:

§ 205.13 Where to file.

(a) Except as otherwise specifically provided in other subparts of this part, all documents to be filed with the FEA pursuant to this part shall be filed with the appropriate FEA Regional Office, except that all documents shall be filed with the FEA National Office that relate to: * * *

(3) The pricing of propane, butane and natural gasoline pursuant to Part 212 of this chapter;

* * * * *

2. Section 211.10 is amended by revising subparagraph (1) of paragraph (b), by revising subparagraph (1) of paragraph (g), by adding a sentence at the end of subparagraph (5) of paragraph (g) and by revising subparagraph (8) of paragraph (g) to read as follows:

§ 211.10 Supplier's method of allocation.

* * * * *

(b) *Allocation fraction.* * * *

(1) *Allocable supply.* Each supplier's allocable supply of an allocated product for a period which corresponds to a base period shall be equal to its total supply for that period, which is the sum of its estimated production, including amounts received under processing and exchange agreements, imports (except to the extent imports are excluded pursuant to § 211.88), purchases and any reduction in inventory of that allocated product made pursuant to § 211.22 except as otherwise ordered by FEA; less (i) any amounts designated as a state set-aside for a prime supplier pursuant to § 211.17, (ii) any amounts of allocation requirements supplied directly to end-users or wholesale purchaser-consumers under an allocation level not subject to an allocation fraction, (iii) any amounts supplied to wholesale purchaser-resellers which have certified these amounts to be for ultimate use under an allocation level not subject to an allocation fraction, (iv) any amounts supplied to customers through exchange agreements. Any existing inventory, production, importation or purchase of an allocated product used to increase that inventory consistent with the provisions of § 211.22 shall not be included in the allocable supply of that product.

* * * * *

(g) *Allocation fractions greater than one*—(1) *General.* In allocating allocable supplies of any allocated product among wholesale purchasers and end-users, no supplier may use an allocation fraction greater than one (1.0) except as provided herein. Allocated natural gas liquid products imported and distributed by suppliers pursuant to § 211.88 shall be subject only to the provisions of that section, except as provided therein.

* * * * *

(5) *Distribution of surplus product.* * * *

With respect to the distribution of surplus allocated natural gas liquid products, suppliers which distribute such product pursuant to this paragraph, unless otherwise notified by FEA, may distribute such product upon submission by certified mail of the notification required under subparagraph (3) of this paragraph (g) without waiting ten (10) days for an FEA notification.

* * * * *

(8) *Limitations on purchaser's rights.* No supplier shall supply and no end-use or wholesale purchaser-consumer shall accept quantities of an allocated product which exceed one hundred (100) percent of the end-user's or wholesale purchaser-consumer's current requirements, except as provided for purchasers of allocated natural gas liquid products in § 211.87.

* * * * *

3. Section 211.2 is amended in paragraph (g) by revising subparagraphs (g)(1) and (g)(2) to read as follows:

§ 211.12 Purchasers allocation entitlement.

* * * * *

(g) *End-user and wholesale purchaser consumer importers.* (1) Except with respect to allocated natural gas liquid products as provided in § 211.88, end-users and wholesale purchaser-consumers which import an allocated product in excess of volumes which they imported in the base period, and end-users and wholesale purchaser-consumers which have not previously imported an allocated product may import that product for their own use, provided that should circumstances warrant, FEA may order suppliers of a firm which imports or purchases an imported allocated product to limit or terminate the allocation entitlement of such firm for any period corresponding to a base period or FEA may order that imports made pursuant to this paragraph (g) be allocated to other end-users, wholesale purchasers, producers or suppliers.

(2) End-users and wholesale purchaser-consumers who import allocated products are required to report to both the FEA National and appropriate Regional offices puursuant to § 211.225.

4. Section 211.13 is amended by revising subparagraph (1) of paragraph (a) and paragraph (c) to read as follows:

§ 211.13 Adjustments to base period volume.

(a) *Scope.* (1) The adjustment procedures under this section are applicable to the allocation of allocated natural gas likuid products, motor gasoline, middle distillate, aviation fuels (except allocations to civil air carriers), and residual fuel oil (except allocations to utilities) and other products subject to Subpart K of this part. Except as provided in §§ 211.84 and 211.85, this section describes the means by which wholesale purchasers and end-users may receive adjustments to their base period volumes. All adjustments made pursuant to this section are subject to vertification by FEA audit.

* * * * *

(c) *Adjustments to a wholesale purchaser-reseller's base period use for new and increased allocation entitlements of purchasers.* (1) A wholesale purchaser-reseller shall be entitled to receive an adjustment to its base period use whenever (i) it is notified pursuant to § 205.36(d) of an assignment to supply a new wholesale purchaser; or (ii) it is notified pursuant to § 205.26(c) of an adjustment granted pursuant to § 211.12(h), § 211.13 (e), § 211.84, § 211.125(b) or § 211.145 (b) to the base period use of a wholesale purchaser entitled to receive an allocation from that wholesale purchaser-reseller in an amount equal to the increases in the allocation entitlements or new allocation entitlements which the wholesale purchaser-reseller is to supply.

(2) A wholesale purchaser-reseller which is entitled to receive an adjustment to its base period use pursuant to subparagraph (1) above or § 211.85 may certify to and shall receive an upward or downward adjustment to its base period use from its supplier or suppliers in proportion to that part of its base period use received from each supplier.

(3) All suppliers which receive a certification of an adjustment to base period use made pursuant to this paragraph or § 211.85, or which receive a certification from any other supplier of an adjustment to base period use under this paragraph or § 211.85 which has been certified to that other supplier, may in turn certify to their suppliers the amount of the adjustment and shall receive an adjustment in proportion to that part of their base period use received from each supplier to cover the certified increases granted under this paragraph or § 211.85, or the decreases mandated under § 211.85.

5. Section 211.25 is amended by revising subsection (c) to read as follows:

§ 211.25 Supplier substitution.

* * * * *

(c) To accommodate seasonal and other fluctuations in both supply and demand, such as requirements for agricultural production, suppliers and wholesale purchasers may agree between and among themselves either to borrow on future allocations or to defer current allocations or both on a volume-for-volume basis within the total allocations for one calendar year as long as such arrangements do not result in an involuntary reduction in allocations to other whole purchasers. With respect to allocated natural gas liquid products, such transactions are permitted within the total allocations for any 12 month period beginning October 1 and ending September 30 of the following year.

6. Section 211.51 is amended by deleting the definition of "modified allocation level," and by inserting in the proper alphabetical order the following revised definitions of "butane" and "propane," and the new definitions of "allocated natural gas liquid products," "gas utility use," "gas transmission company use," and "synthetic natural gas enrichment use" to read as follows:

§ 211.51 General definitions.

"Allocated natural gas liquid products" means (regardless of origin) commercial

propane, propane HD-5, commercial butane, normal butane, isobutane, commercial B-P mixture, commercial grade natural gasoline, unfractionated natural gas liquid mixtures and, if greater than 10 percent by weight, the propane, butane, or natural gasoline content of all fractionated mixtures of natural gas liquids.

* * * * *

"Butane" means a normally gaseous paraffinic compound whose chemical composition is predominantly C_4H_{10}, including normal and isobutanes and mixtures of these two isomers, and all products which meet Gas Processors Association (GPA) specifications for commercial butane as revised in 1975 and listed in GPA Publication 2140(75), "GPA LPG Specifications and Test Methods."

* * * * *

"Gas transmission company use" means usage, by firms primarily engaged in the pipeline transmission and sale of natural gas for resale, for the purpose of supplementing, replacing, or displacing pipeline natural gas, other than by the manufacture of synthetic natural gas.

* * * * *

"Gas utility use" means usage, by firms primarily engaged in the distribution of natural gas to ultimate consumers, for the purpose of supplementing, replacing, or displacing pipeline natural gas, other than by the manufacture of synthetic natural gas.

* * * * *

"Propane" means a normally gaseous paraffinic compound whose chemical composition is predominantly C_3H_8, including all products which meet Gas Processors Association (GPA) specifications for commercial propane and propane HD-5 as revised in 1975 and listed in GPA Publication 2140(75), "GPA LPG Specifications and Test Methods."

* * * * *

"Synthetic natural gas enrichment use" means usage by a synthetic natural gas producer to enrich or adjust the Btu value of synthetic natural gas so that the resulting mixture will approximate the Btu value, flame characteristics, and other physical properties of the pipeline natural gas with which it is to be mixed.

* * * * *

7. Subparts D and E of Part 211 are deleted in their entirety and replaced with a new Subpart D to read as follows:

Subpart D—Natural Gas Liquids (NGLs)

§ 211.81 Scope.

(a) This subpart is applicable to all suppliers, including producers, and purchasers of allocated natural gas liquid products, derived from any source.

(b) This subpart provides for the mandatory allocation as separate products with separate allocation entitlements of all commercial propane, propane HD-5, commercial butane, normal butane, isobutane, commercial B-P mixture, commercial grade natural gasoline, all unfractionated NGL mixtures, and (if greater than 10 percent by weight) the propane, butane, and natural gasoline content of all fractionated NGL mixtures produced in or imported into the United States. Excluded are (1) bottled propane or butane; and (2) the propane or butane content of refinery gas used for refinery fuel purposes.

(c) This subpart provides for state set-asides for commercial propane and propane HD-5 only.

§ 211.82 Definitions.

For purposes of this subpart—

"Base period" means each calendar quarter during the period April 1, 1972, through March 31, 1973, which corresponds to the present calendar quarter.

"Bottled propane or butane" means propane or butane or mixtures of propane and butane bottled in cylinders with a capacity of one hundred (100) pounds or less provided that the cylinders are not manifolded at the time of sale.

"Commercial B-P mixture" means any product which meets Gas Processors Association (GPA) specifications for commercial B-P mixture as revised in 1975 and listed in GPA Publication 2140 (75), "GPA LPA Specifications and Test Methods."

"Commercial butane" means all products which meet GPA specifications for commercial butane as revised in 1975 and listed in GPA Publication 2140 (75), "GPA LPG specifications and Test Methods."

"Commercial grade natural gasoline" means any product which meets Gas Processors Association (GPA) specifications for any of the twenty-four (24) grades of natural gasoline as revised in 1974 and listed in GPA Publication 3132 (74), "GPA Natural Gasoline Specifications and Test Methods."

"Commercial propane" means all products which meet Gas Processors Association (GPA) specifications for commercial propane as revised in 1975 and listed in GPA Publication 2140 (75), "GPA LPG Specifications and Test Methods."

"Dispensing station" means those retail sales outlets which sell less than 15,000 gallons per year and sell or fill only bottled propane or butane.

"Fractionated" means separated into components by partial or complete fractional distillation of natural gas liquids mixtures. Once having been so separated each component shall be considered fractionated regardless of subsequent mixing or commingling.

"Gas service for essential human needs and property protection" means distribution of natural gas to residential and small commercial users with no alternate fuel capability which use less than 50,000 cubic feet of natural gas on a peak day, to industrial plants for plant protection fuel, and to apartment buildings and medical and nursing buildings with no alternate fuel capability.

"Isobutane" means butane which contains 95 percent or more by volume of the saturated branch chain hydrocarbon isomer known as isobutane.

"Merchant storage facility" means any facility which is utilized to store allocated natural gas liquid products for firms other than the owner or operator of such a facility.

"Normal butane" means butane which contains 95 percent or more by volume of the saturated straight-chain hydrocarbon isomer known as normal butane.

"Plant protection fuel" means the use of allocated natural gas liquid products in the minimum volume required to prevent physical harm to the plant facilities or danger to plant personnel. This includes the protection of such material and equipment which would otherwise be damaged, but does not include sufficient quantities of allocated natural gas liquid products required to maintain plant production. Allocated natural gas liquid products may not be considered plant protection fuel if an alternate fuel capability is in place which uses a fuel other than allocated natural gas liquid products or natural gas and can be operated on a continuing basis.

"Process fuel" means allocated natural gas liquid products used to convert a substance from one form to another such as in applications requiring precise temperature controls or precise flame characteristics. Allocated natural gas liquid products may not be considered process fuel if an alternate fuel is available and technically feasible for substitution.

"Producer" means a firm which (1) produces an allocated natural gas liquid product in a refinery, (2) maintains an ownership interest in any allocated natural gas liquid product extracted from natural gas in a gas processing plant or separated from an unfractioned natural gas liquid mixture at a fractionating facility or (3) imported into the United States more than 5,000,000 gallons of allocated natural gas liquid products during the immediately preceding four calendar quarters.

"Propane HD-5" means all products which meet Gas Processors Association (GPA) specifications for propane HD-5 as revised in 1975 and listed in GPA Publication 2140 (75), "GPA LPG Specifications and Test Methods."

§ 211.83 Allocation levels.

(a) *General.* The allocation levels in this paragraph apply only to allocations made by suppliers or producers to wholesale purchaser-consumers and end-users. Except as otherwise provided in this subpart, suppliers shall allocate to all purchasers to which the allocation levels apply in accordance with the provisions of § 211.10. End-users and wholesale purchaser-consumers which are entitled to purchase allocated natural gas liquid products under an allocation level not subject to an allocation fraction shall receive first priority and be supplied sufficient amounts to meet 100 percent of their allocation requirements. End-users and wholesale purchase consumers which are entitled to purchase allocated natural gas liquid products under an allocation level subject to reduction by application of an allocation fraction shall receive second priority.

(b) *Allocation levels not subject to an allocation fraction.* One hundred (100) percent of current requirements for the following uses:

(1) Agricultural production;
(2) Department of Defense use as specified in § 211.26.

(c) *Allocation levels subject to an allocation fraction.* (1) One hundred (100) percent of current requirements (as reduced by the application of an allocation fraction) for the following uses:
(i) Emergency services;
(ii) Energy production (excluding boiler fuel uses);
(iii) Sanitation services;
(iv) Telecommunications services;
(v) Passenger transportation services;
(vi) Medical and nursing buildings;
(vii) Aviation ground support vehicles and equipment;
(viii) Start-up, testing, and flame stability of electric utility plants;
(ix) Residential use;
(x) Plant protection fuel use; and
(xi) Petrochemical feedstock use of allocated natural gas liquid products other than propane, commercial B–P mixture and the propane content of fractionated natural gas liquid mixtures.

(2) One hundred (100) percent of base period use for:
(i) Petrochemical feedstock use of propane (including the propane content of fractionated natural gas liquid mixtures) and commercial B–P mixture.
(ii) Synthetic natural gas plant feedstock use;
(iii) Synthetic natural gas enrichment use;
(iv) Other industrial use;
(v) Gasoline blending and manufacturing use of allocated natural gas liquid products other than propane;
(vi) Governmental use;
(vii) Gas utility use;
(viii) Refinery fuel use;
(ix) Commercial use;
(x) Transportation service other than passenger transportation service or aviation ground support vehicles, for vehicles equipped to use allocated natural gas liquid products as of December 27, 1973; and
(xi) Schools.

§ 211.84 Adjustments and assignments.

(a) *Specified industrial use.* Notwithstanding the provisions of § 211.13(e), a wholesale purchaser-consumer may apply (1) to the FEA National Office for adjustments to its base period use, in accordance with the provisions of Subpart B of Part 205 of this chapter, for petrochemical feedstock use of propane (including the propane content of fractionated natural gas liquid mixtures), commercial B–P mixture, or unfractionated natural gas liquid mixtures, and for gasoline blending and manufacturing use of any allocated natural gas liquid product, except propane, and (2) to the appropriate FEA Regional Office for adjustments to base period use of any allocated natural gas liquid product for process fuel.

(b) *Gas utility use and gas transmission company use.* Applications for assignments, adjustments and waivers will be evaluated in a manner consistent with the criteria set forth in Subparts B and C of Part 205 and other regulations or guidelines which FEA may promulgate.

(1) *Adjustments and assignments.* Wholesale purchaser-consumers shall apply to the FEA National Office for all assignments of a base period use of allocated natural gas liquid products for gas utility use, and, notwithstanding the provisions of § 211.13(e), may apply to the FEA National Office for an adjustment to base period use, in accordance with Subparts B and C, respectively, of Part 205 of this chapter.

(2) *Waivers.* Applications for waivers of the limitations on gas utility use or gas transmission company use of allocated natural gas liquid products set forth in § 211.87(d) shall be filed with the FEA National Office in accordance with the provisions of Subpart G of Part 205 of this chapter.

(3) *Gas utilities as agents for end-users or wholesale purchaser-consumers.* Gas utilities may act as agents in acquiring and delivering allocated natural gas liquid products through natural gas pipelines to end-users or wholesale purchaser-consumers separately authorized to purchase such products pursuant to this part. Unless otherwise authorized by FEA, such actions are permitted only in those cases (i) where the wholesale purchaser-consumer or end-user owns the product and bears the entire cost of its storage, gasification, and transmission; (ii) where there will be no adverse effects on the gas utility's other customers; (iii) where the user has no facilities for using a fuel other than pipeline gas; and (iv) where this procedure is consistent with all applicable Federal and State laws, regulations, and orders.

§ 211.85 Supplier/purchaser relationships.

(a) *General.* Supplier/purchaser relationships shall be as set forth in §§ 211.9–211.13 unless otherwise specified in this subpart.

(b) *Changes in relationships.* (1) Notwithstanding the provisions of subpart A of this part, any wholesale purchaser of any allocated natural gas liquid product may terminate a supplier/purchaser relationship or adjust downward its base period use by providing written notice to its base period supplier of its intent to do so, provided that the affected supply obligation will be assumed by another supplier pursuant to subparagraph (b)(2) of this section. Wholesale purchasers shall specify in the notice the volume of the supply obligation which shall be reduced or terminated, and shall include the effective date of termination or downward adjustment. Such dates shall correspond to the first day of a base period. Upon receipt of such notification a supplier shall subtract the volumes so terminated or adjusted downward from its base period supply obligations, and shall not include such volumes in its base period use from its supplier, unless by the exclusion of such volumes its base period use, as adjusted by this section, would fall below its original unadjusted base period use.

(2) Any supplier of allocated natural gas liquid products may establish a supplier/purchaser relationship with a wholesale purchaser to the extent such purchaser has terminated a supplier/purchaser relationship or has adjusted downward its base period use pursuant to paragraph (b)(1) of this section, provided that (i) the supplier's net new obligations for a particular calendar quarter corresponding to a base period would not have reduced the supplier's allocation fraction below one (1.0) in the immediately preceding corresponding calendar quarter, or (ii) the supplier can clearly demonstrate that its net adjustments to its base period supply obligations for a particular calendar quarter will not reduce its allocation fraction below 1.0 for that quarter. The mere ability to certify upward such adjustments to its supplier will not be sufficient to constitute a clear demonstration by a wholesale purchaser-reseller that its allocation fraction will not be reduced below 1.0. The supplier and wholesale purchaser must notify FEA and obtain approval from the appropriate FEA Regional Office before a new supplier/purchaser relationship and base period use can be established under this section.

(3) A wholesale purchaser-reseller, which in its capacity as a supplier establishes new supplier/purchaser relationships under subparagraph (b)(2) of this section which increase its base period supply obligations, or which has excluded certain volumes from its base period use pursuant to subparagraph (b)(1) of this section, shall receive an upward or downward adjustment, respectively, to its base period use in an amount equal to the net change to its base period obligations. Certifications of such adjustments shall be made in accordance with the procedures set forth in § 211.13(c)(2) and (3).

(c) *Underlifting.* (1) This paragraph (c) applies only to wholesale purchasers of allocated natural gas liquid products whenever such purchasers fails to purchase at least eighty (80) percent of their allocation entitlement of any such product from their base period suppliers in each of two consecutive calendar quarters. If a wholesale purchaser purchases eighty percent of its base period use of such product from its base period supplier in a subsequent calendar quarter, it would not be subject to the requirements of this paragraph (c) unless it again fails to purchase eighty percent of its base period use in two consecutive quarters.

(2) Not less than thirty (30) days before the end of the second such calendar quarter, a base period supplier may notify purchasers which have failed to purchase at least eighty percent of their allocation entitlement in two consecutive quatrers that the supplier intends to exclude the supplier's base period obligations to those purchasers from the supplier's allocable supply for the following calendar quarter, except to the extent such purchasers inform the supplier of the volumes of such products it intends to purchase from such supplier in the following quarter. Such notification shall state that subsequent failure by the purchaser to purchase in two consecutive calendar quarters eighty percent of the amount it informs the supplier that it will purchase for such quarters could result in the purchaser's per-

manent exclusion of its entitlement from the supplier's allocable supply. Not less than twenty (20) days before the end of the same calendar quarter, each purchaser which has received such notification from its base period supplier shall inform its base period supplier of the portion of its allocation entitlement for the following quarter which it intends to purchase from its base period supplier. A supplier may thereupon exclude from its allocable supply of allocated natural gas liquid products, for the following calendar quarter only, its entire base period obligations to those wholesale purchasers which received timely notification, except for those portions of the base period volumes which such purchasers informed the supplier in a timely manner that they intend to purchase in said calendar quarter.

(3) If, in each of two consecutive calendar quarters for which notifications by wholesale purchasers are necessary under subparagraph (c)(2) above, a wholesale purchaser does not purchase from its base period supplier at least eighty (80) percent of the amount it informed the supplier that it would purchase pursuant to subparagraph (c)(2) above, the supplier may thereafter permanently exclude from its allocable supply its base period obligations to said purchaser upon notifying both the wholesale purchaser and the appropriate FEA Regional Office.

(4) In the event a supplier's base period obligations to a wholesale purchaser are excluded from the supplier's allocable supply pursuant to subparagraph (3) of this paragraph, the purchaser shall be deemed to have a base period use without having a base period supplier. Such a purchaser may apply to FEA pursuant to § 211.12(e) for the assignment of a new supplier, but FEA may consider the circumstances of the exclusion in granting or denying such application.

(d) *Gas processing plants or fractionation facilities.* A firm which acquired allocated natural gas liquid products from through its ownership interest in or operation of a gas processing plant or fractionating facility during the base period shall have an allocation entitlement with respect to the volumes of such products acquired during the base period from the firm that supplied the allocated natural gas liquid products in the base period, regardless of whether such products were purchased or acquired under a processing agreement.

§ 211.86 Method of allocation.

(a) *General.* Except as specifically otherwise provided in this subpart and except with respect to the allocation of such products for synthetic natural gas feedstock use as provided in § 211.29, the allocation of allocated natural gas liquid products shall be as specified in § 211.10. Adjustments to a wholesale purchaser's base period volume specified in §§211.13, 211.84, and 211.85 shall apply to this subpart. New wholesale purchasers and end-users are subject to the requirements of § 211.12. Notwithstanding the provisions of § 211.12(c), each supplier or producer which sells allocated natural gas liquid products to a wholesale purchaser-consumer, end-user, or dispensing station shall determine the base period volume of those purchasers but is not required to report that determination to such purchasers except on written request by a purchaser.

(b) *State set-aside.* The initial separate state set-aside levels for commercial propane and propane HD–5 are three (3) percent of a prime supplier's estimated portion of its total supply for that month which will be sold into the State's distribution system for consumption within the State. Section 211.17 shall control the distribution of propane from the State set-aside.

(c) *Dispensing stations.* Notwithstanding the provisions of § 211.10, dispensing stations which sell or fill only bottled propane or butane to end-users shall be entitled to receive a volume of propane or butane equal to one hundred (100) percent of the volume necessary to supply the current requirements of all end-users purchasing from them, without being subject to an allocation fraction.

(d) *Producers.* Producers shall allocate their total supply in accordance with § 211.10 except that if a producer is the base period supplier to wholesale purchaser-resellers which have certified amounts of propane to be for ultimate use under an allocation level of one hundred (100) percent of current requirements whether or not subject to an allocation fraction, that producer may not recertify such amounts to any other producer which may be its base period supplier.

(e) *Inventory accumulation.* (1) Except as otherwise provided in this paragraph (e), producers, suppliers, wholesale purchasers and end-users may accumulate allocated natural gas liquid products in inventory in quantities which are normal and reasonable for seasonal usage in accordance with their normal business practices.

(2) Unless authorized by the FEA, gas utilities, gas transmission companies, and synthetic natural gas plants shall not accumulate allocated natural gas liquid products in inventory in excess of one hundred (100) percent of the sum total of their base period uses for the four base period quarters.

(3) Unless authorized by FEA, industrial users (for uses other than process fuel and plant protection fuel) of propane (including the propane content of fractionated natural gas liquid mixtures), commercial B–P mixture and unfractionated natural gas liquid mixtures may accumulate such products in inventory pursuant to paragraph (e)(1) of this section, but only up to an amount equal to one hundred (100) percent of the sum total of their base period uses for all industrial uses of each such product for the four base period quarters. However, allocated natural gas liquid products imported other than from Canada for industrial use under § 211.88 shall not be subject to the limitations of this subparagraph (e)(3).

(4) If a firm controls greater than the above mentioned inventories of allocated natural gas liquid products, it shall not acquire or accept an allocation of such products from a supplier or producer until its inventories are reduced to conform to the limitations imposed by this subsection (e).

(f) *Separate facilities.* Notwithstanding the provisions of § 211.11(b), in considering applications for adjustments to or assignments of base period use of an allocated natural gas liquid product filed pursuant to §§ 211.12(h) or 211.84, FEA may consider the requirements for a particular facility separate from the remainder of the firm, and may designate the facility for which such assignments or adjustments may be made.

§ 211.87 Special limitations.

(a) Unless otherwise authorized by the FEA upon application pursuant to subpart G of Part 205 of this chapter, the following limitations shall apply to the acquisition and use of allocated natural gas liquid products during each twelve month period commencing October 1 and ending September 30 of the following year:

(1) *Industrial use.* For all industrial use (including petrochemical feedstock use and gasoline blending and manufacturing use), except for process fuel use, plant protection fuel use and industrial uses accorded allocation levels of 100 percent of current requirements (and refinery fuel use separately provided for in subparagraph (2) of this paragraph (a)), no supplier shall supply and no end-user or wholesale purchaser-consumer shall accept or use quantities of propane (including the propane content of fractionated natural gas liquids and refinery gas), commercial B–P mixture, or unfractionated natural gas liquid mixtures in excess of one hundred (100) percent of the sum of the base period use for the four base period quarters, except as provided in § 211.88 or except for the purpose of increasing inventories for such industrial uses to the levels allowed under § 211.86(e).

(2) *Refinery fuel use.* For refinery fuel use, no supplier shall supply and no end-user or wholesale purchaser-consumer shall accept or use quantities of allocated natural gas liquid products (excluding the propane and butane content of refinery gas) in excess of one hundred (100) percent of the sum of the base period use for the four base period quarters except as provided in § 211.88 or except for the purpose of increasing inventories for such refinery fuel use to the levels allowed under § 211.86(e).

(3) Gas utility and gas transmission company use. (i) For gas utility use or gas transmission company use, no supplier shall supply and no end-user or wholesale purchaser-consumer shall accept or use quantities of allocated natural gas liquid products (including the propane and butane content of refinery gas) in excess of one hundred (100) percent of the sum of the base period use for the four base period quarters except for the purpose of increasing inventories for

such use to the levels allowed under § 211.86(e).

(ii) No wholesale purchaser-consumer shall use any quantities of an allocated natural gas liquid product for gas utility use as long as gas service is continued to industrial or commercial customers which have an alternate fuel capability in place which uses a fuel other than allocated natural gas liquid products or natural gas and can be operated on a continuing basis.

(b) *Synthetic gas use.* Unless otherwise authorized by FEA upon application pursuant to subpart G of part 205, for synthetic natural gas feedstock use or synthetic natural gas enrichment use, no supplier shall supply and no end-user or wholesale purchaser-consumer shall accept or use quantities of allocated natural gas liquid products (including the propane and butane content of refinery gas) in excess of one hundred (100) percent of the base period use for a base period quarter, except for the purpose of increasing inventories for such uses to the levels allowed under § 211.86(e).

§ 211.88 Importers of allocated natural gas liquid products.

(a) *General.* This section shall apply to all imports (other than from Canada) of allocated natural gas liquid products by end-users, wholesale purchaser-consumers, or by suppliers of such products.

(b) *End-user and wholesale purchaser-consumer importers of allocated natural gas liquid products*—(1) *Applicability.* Except as specified in subparagraphs (2) and (3) of this paragraph (b), the provisions of § 211.12(g) shall be applicable to all end-users and wholesale purchaser-consumers of imported allocated natural gas liquid products.

(2) *Industrial use.* (i) Wholesale purchaser-consumers and end-users may acquire and use allocated natural gas liquid products imported other than from Canada for industrial use (including petrochemical feedstock use and refinery fuel use) without regard to the limitations imposed by §§ 211.86(e) and 211.87. Such users shall be subject to the provisions of paragraph (c) of this section in acquiring imports of such products from domestic suppliers.

(ii) Acquisition of imports of allocated natural gas liquid products other than from Canada for industrial use (including petrochemical feedstock use and refinery fuel use) will not affect a firm's allocation entitlements unless FEA determines that such imports are inconsistent with the objectives of the Emergency Petroleum Allocation Act of 1973 and pursuant to § 211.12(g)(1) orders a firm's supplier to limit or terminate the firm's allocation entitlement.

(3) *Gas utility and gas transmission company use.* Imports of allocated natural gas liquid products other than from Canada for gas utility use and gas transmission company use are subject to the limitations set forth in § 211.87 and may not be acquired under this section in excess of those limitations unless such limitations are expressly waived by FEA. An authorized purchase by a wholesale purchaser-consumer from a domestic supplier of imported allocated natural gas liquid products for gas utility or gas transmission company use shall be subject to paragraph (c) of this section.

(4) End-users and wholesale purchaser-consumers importing allocated natural gas liquid products pursuant to the provisions of this paragraph (b) shall not be considered by reason thereof to be prime suppliers or producers of allocated natural gas liquid products.

(c) *Supplier importers of allocated natural gas liquid products*—(1) *General.* Suppliers may acquire allocated natural gas liquid products imported other than from Canada for distribution to end-users and wholesale purchasers only in accordance with this paragraph. Should circumstances warrant, FEA may require that imported allocated natural gas liquid products other than from Canada obtained by a firm pursuant to this paragraph (c) be allocated to other wholesale purchasers, end users, producers or suppliers, in accordance with the provisions of § 211.14(d).

(2) *Suppliers with allocation fractions less than 1.0.* Any supplier of allocated natural gas liquid products which has an allocation fraction less than one (1.0) for a calendar quarter corresponding to a base period may import (or acquire from suppliers which have so imported) such products other than from Canada for the purpose of achieving an allocation fraction of 1.0 during the calendar quarter. Imports used to achieve an allocation fraction of 1.0 shall be allocated in accordance with the provisions of § 211.10. However, effective October 1, 1977, FEA may by order require separate inventory records to be maintained for such imports sold for gas utility or gas transmission company use to new wholesale purchaser-consumers which establish a base period use subsequent to that date, or to existing wholesale purchaser-consumers with respect to upward adjustments to their base period use received after that date.

(3) *Suppliers with allocation fractions of 1.0 or greater.* (i) Any supplier of allocated natural gas liquid products which has achieved an allocation fraction of 1.0 or greater for a calendar quarter may import (or acquire from suppliers which have so imported) such products other than from Canada to increase further its allocation fraction above 1.0 and shall distribute such imports in accordance with the provisions of § 211.10, except that distribution of such products for industrial, gas utility, or gas transmission company use shall be in accordance with subparagraph (c)(3)(ii) of this section.

(ii) *Industrial use, gas utility use, and gas transmission company use.* Suppliers with an allocation fraction equal to or greater than 1.0 may import (or acquire from suppliers which have so imported) allocated natural gas liquid products other than from Canada for distribution to wholesale purchaser-consumers and end users which certify in writing that they will use such imported products for industrial (including petrochemical feedstock or refinery fuel), gas utility, or gas transmission company use or for distribution to any wholesale purchaser-reseller which certifies it will distribute such products for such uses under this subparagraph (c)(3)(ii). All wholesale purchaser-consumers and end users which purchase non-Canadian imported allocaed natural gas liquid products for industrial, gas utility or gas transmission company use and all wholesale purchaser-resellers which purchase such products for distribution for such users shall certify in writing to the suppliers of such products the intended end use of such products. The certifications for gas utility or gas transmission use must also provide that FEA has expressly waived the § 211.87 use limitations with respect to such volumes. A supplier which has allocated natural gas liquid products to be distributed under a certification received pursuant to this subparagraph shall maintain inventory records for such allocated natural gas liquid products separate from its inventory records for allocated natural gas liquid products distributed under the provisions of § 211.10. In the event no certification is received by a supplier pursuant to this subparagraph (c)(3)(ii), a supplier remains obligated to determine to the maximum extent practicable whether its non-Canadian imported allocated natural gas liquid products are to be distributed for industrial, gas utility or gas transmission company use. If the supplier determines that such products are to be so distributed, the supplier shall maintain separate inventory records as if it had received a certification.

§ 211.89 Procedures and reporting requirements.

(a) All owners of storage facilities (or operators thereof) which store allocated natural gas liquid products shall report to the FEA National Office on Form FEA 103B or its successor forms in accordance with the instructions accompanying such form or forms. All owners of allocated natural gas liquid products in a merchant storage facility shall, in accordance with the instructions thereto, file Form FEA 101A with the operator of a merchant storage facility. These reports shall be kept on file by the merchant storage facility operator, and are subject to FEA audit.

(b) Except as provided in § 211.84, all applications for adjustment or assignment of allocated natural gas liquid products shall be filed with the appropriate FEA Regional Office in accordance with the procedures specified in Subparts B and C, respectively, of Part 205 of this chapter.

(c) The general reporting and recordkeeping requirements contained in Subpart L of this part apply to this subpart except that the requirements of § 211.224 shall not apply and the information required to be kept on FEA forms in § 211.223 may be kept by suppliers or producers in accordance with that firm's customary recordkeeping practices.

(d) An application for an assignment of propane from the state set-aside system, as provided in § 211.17, based on hardship or emergency requirements is to be filed with the appropriate State Office in accordance with the procedures stated in Subpart Q of Part 205 of this chapter.

(e) Producers and specified wholesale purchaser-resellers of allocated natural gas liquid products shall report on Form FEA 100–A.

8. Subparagraph (2) of paragraph (h) of § 212.83 is amended by revising subparagraph (2) (iii) to read as follows:

§ 212.83 Price Rule.

* * * * *

(h) *Equal application among classes of purchaser.* * * *

(2) *Special Rules.* * * *

(iii) *Certain imports of propane, butane, natural gasoline and natural gas liquids other than from Canada maintained in a separate inventory.* Notwithstanding the provisions of paragraph (1) above with respect to equal application of costs, a refiner shall apply amounts of increased costs unequally to the weighted average May 15, 1973 selling prices of any imported propane, butane, natural gasoline or natural gas liquids other than from Canada, if separate inventory records for such products are maintained pursuant to § 211.88(c) and provided that the increased costs for such imports are computed pursuant to the following formula and further provided that the increased costs so computed are subtracted from the amount computed in § 212.83(c) (2) (iii) (D) for B_i when $i=4$:

$$I_i{}^a = B_i$$

Where:

I^a = The total dollar amount that may be applied in the period "a" (the current month) to the May 15, 1973 selling prices of products "i" to compute maximum allowable prices for these products.

B = The "B" factor as defined in § 212.83(c) (2) (iii) (D).

i = Imported propane, butane, natural gasoline or natural gas liquids other than from Canada maintained in a separate inventory pursuant to § 211.88(c).

Increased costs so calculated shall not be available for recovery in the prices of other natural gas liquids or other propane, butane or natural gasoline. * * *

* * * * *

9. Paragraph (f) of § 212.93 is amended by changing its title and revising subparagraph (2) to read as follows:

§ 212.93 Price Rule.

* * * * *

(f) *Special rules for natural gas liquid products.* * * *

(2) *Separate cost of product in inventory for certain imported propane, butane, natural gasoline or natural gas liquids.* Any seller of imported propane, butane, natural gasoline or natural gas liquids other than from Canada, shall determine the price permitted to be charged for such products pursuant to paragraph (a) of this section by calculating increased product costs as follows:

(i) With respect to imported propane, butane, natural gasoline and natural gas liquids for which separate inventory records are required to be maintained pursuant to § 211.88(c), for each such separate inventory the seller shall make a separate calculation of increased product costs as defined in § 212.92 to be used in determining its selling price for such imports pursuant to paragraphs (a) and (b) of this section, with the selling prices for propane included in such products not, however, subject to paragraph (f) (1) of this section. Increased costs so calculated shall not be available for recovery in the prices of other natural gas liquids or other propane, butane or natural gasoline.

(ii) With respect to any quantity of imported propane, butane, natural gasoline and natural gas liquids for which a separate inventory record is not required to be maintained pursuant to § 211.88(c), the seller shall add the cost of such quantities to the cost of all other quantities of the same product for which separate inventory records are not maintained pursuant to § 211.88(c) or pursuant to § 212.92, in making a separate calculation of increased product costs as defined in § 212.92 to be used in determining its selling price for all sales of products other than those maintained in a separate inventory pursuant to § 211.88(c), subject to all other provisions of this section, including paragraph (f) (1).

* * * * *

10. A new paragraph (g) is added to § 212.167, to read as follows:

§ 212.167 Allocation of increased product costs.

* * * * *

(g) *Separate aggregation and allocation of increased costs of certain imported natural gas liquids and certain imported propane, butane or natural gasoline.* Anything in this subpart to the contrary notwithstanding, if purchased natural gas liquids, or purchased propane, butane or natural gasoline are or have been imported other than from Canada and for which separate inventory records are required to be maintained under § 211.88(c), increased costs of such purchased natural gas liquids or such purchased propane, butane or natural gasoline shall be separately calculated for each such separate inventory and shall be allocated to the natural gas liquids or the propane, butane or natural gasoline in such inventory. Increased costs so calculated shall not be available for recovery in the prices of other natural gas liquids or other propane, butane or natural gasoline.

[FR Doc.77-23432 Filed 8-12-77;8:45 am]

[10 CFR Part 212]

RESALE OF CRUDE OIL

Amendments to Mandatory Petroleum Price Regulations

AGENCY: Federal Energy Administration.

ACTION: Further notice of proposed rulemaking and public hearing.

SUMMARY: The Federal Energy Administration ("FEA") hereby gives notice of a proposal to amend the Mandatory Petroleum Price Regulations regarding the pricing of crude oil by resellers. Written comments will be received and a public hearing will be held with respect to this proposal. The purpose of this rulemaking proceeding is to develop a regulatory system that is well suited to the particular operations of crude oil resellers. In this regard, FEA will consider the issuance of a Ruling addressed to the proper application of the existing provisions of 10 CFR Part 212, Subpart F to crude oil resellers, as well as prospective and/or retroactive amendments to the price regulations with respect to crude oil resellers.

DATES: Comments by Thursday, September 15, 1977, 4:30 p.m.,; Requests to speak by Friday, September 9, 1977, 4:30 p.m.; Hearing dates: *Dallas Hearing:* Thursday, September 15, 1977, 9:30 a.m.; *Washington Hearing:* Tuesday, September 20, 1977, 9:30 a.m.

ADDRESSES: All comments to: Executive Communications, Room 3317, Federal Energy Administration, Box NV, Washington, D.C. 20461; Requests to speak:

Dallas Hearing: Federal Energy Administration, Attn. S. Dickey, P.O. Box 3528, 2626 West Mockingbird Lane, Dallas, Texas 75235;

Washington Hearing: Attn. Executive Communications, 12th and Pennsylvania Avenue NW., Room 3317, Box NV, Washington, D.C. 20461;

Hearing locations:

Dallas Hearing: Federal Energy Training Room 2501, 2626 West Mockingbird Lane, Dallas, Texas 75235;

Washington Hearing: Room 2105, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), Federal Energy Administration, Room 2214B, 2000 M Street NW., Washington, D.C., 20461, 202–254–5201.

Ed Vilade (Media Relations), Federal Energy Administration, Room 3104, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202–566–9833.

Daniel J. Thomas (Office of Regulatory Programs), Federal Energy Administration, Room 2310, 2000 M Street NW., Washington, D.C. 20461, 202–254–7477.

Everard A. Marseglia, Jr. (Office of General Counsel), Federal Energy Administration, Room 5138, 12th and Pennsylvania Avenue NW., Washington D.C. 20461, 202–566–9567.

SUPPLEMENTARY INFORMATION:

I. *Background.*
II. *This Proceeding.*
III. *The Nature of Crude Oil Reselling Operations.*
IV. *Proposed Amendments:*
A. *Cost of "Gathered Crude Oil":* 1. *Acquisition cost;*
2. *Gathering expenses:* (a) *Historic practice,* (b) *Specific proposals.*

B. *May 1973 Margins.*
C. *Transportation Allowance.*
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I. Background

On October 14, 1976, FEA issued a Notice entitled "Clarifications to Mandatory Petroleum Price Regulations Applicable to the Resale of Crude Oil" (41 FR 47077, October 27, 1976). In the October 14 Notice, FEA recognized that while 10 CFR Part 212, Subpart F is, by its own terms, applicable to

> Each sale of a covered product (other than the first sale of crude oil) by resellers, reseller-retailers, and retailers, to each sale of crude oil (other than the first sale) by a refiner its application to crude oil resellers has raised interpretive questions because of certain significant respects in which the historic business methods of crude oil resellers differ from those generally employed by resellers of other covered products.

Moreover, other questions had arisen because the price regulations applicable to first sales of domestic crude oil (10 CFR Part 212, Subpart D) are significantly different than the regulations applicable to covered products other than crude oil. These factors led FEA to consider whether some modification and/or clarification of Subpart F might be appropriate to recognize the unique aspects of crude oil reselling.

FEA did not in the October 14 Notice propose specific regulatory amendments. Rather FEA set forth in as much detail as possible the issues that have faced crude oil resellers with respect to the proper application of Subpart F to crude oil resales, as well as FEA's tentative conclusions with respect to those issues, indicating that primary consideration would be given to interpretive rulings and regulatory amendments that are both administratively feasible and consistent with the objectives of section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 ("EPAA").

More than forty comments were received in response to the October 14 Notice, and a public hearing was held on November 19, 1976, at which oral statements were received from eighteen interested persons. After consideration of all the comments received, as well as other information available to FEA at this time, FEA has concluded that, before any final action is taken with respect to resolution of the issues set forth in the October 14 Notice, additional written and oral comments will be requested. For this purpose, FEA has proposed specific regulatory amendments. If adopted, these amendments will become effective prospectively from the date of their adoption. Additionally, at the conclusion of this proceeding, FEA proposes to issue a formal Ruling addressed to the interpretive questions contained in the October 14 Notice. The Ruling would apply the provisions of Subpart F, which were in effect prior to the adoption of any regulatory amendments proposed in this Notice, to resales of crude oil. Alternatively, FEA also solicits comments as to whether all or a part of the proposals set forth herein should be adopted on a retroactive basis.

II. This Proceeding

In this proceeding, FEA sets forth in detail its understanding of the basic nature of crude oil reselling operations, in order to afford interested persons as much of an opportunity as possible to comment on the proposals set forth in this Notice. Inasmuch as the accuracy of the factual basis for these proposals is vital to the ability of resellers generally to adapt to any final amendments that may emerge from this rulemaking proceeding, interested persons are urged to comment to the greatest extent possible on FEA's understanding—as set forth in this Notice—of the nature of crude oil reselling operations. Where the commander believes that FEA's understanding of the nature of this aspect of the industry is not clear, comments should be as specific as possible. In this way, FEA will be able better to develop the most practical regulatory scheme for crude oil resellers.

Also, in this proceeding FEA solicits additional comments addressed to the interpretive questions contained in the October 14 Notice, that will aid FEA in its interpretation of the proper application to crude oil resellers of the provisions of Subpart F in effect prior to the adoption of any of the regulatory amendments proposed in this Notice. Comments addressed to the historical application of Subpart F to crude oil resellers should be clearly identified and separated from comments addressed to the proposed amendments discussed below.

III. The Nature of Crude Oil Reselling Operations

With respect to domestic crude oil, crude oil resellers search for new sources of crude oil production, then gather, collect, and transport the crude oil they find to its ultimate destination, the refinery. The crude oil reseller generally takes title to crude oil at one or more leases from the producer or royalty owner in the "first sale" as that term is defined in 10 CFR 212.72. Crude oil of a particular type is thus "gathered" by the reseller in relatively small volumes from several properties within a geographical area known as a "field" and transported by the reseller in its trucks or through its owned and operated pipelines ("gathering lines") to a "reception station," which acts as a collection and distribution point for crude oil of a similar type gathered from a single field. The reception station is basically comprised of relatively low-volume crude oil holding tanks located at or very near a larger pipeline ("trunk line"). Although a particular crude oil reseller may gather as much as 100,000 barrels of crude oil in a single month to a single reception station, the storage capacity of that station may only be capable of holding 1,000 barrels at any one time. The nature of crude oil reselling is such that the basic purpose is to move the crude oil from the production site to the refinery, rather than to hold it "in inventory" at any particular location.

To a lesser extent the reseller may transport the crude oil from the lease by truck directly to a nearby refinery, or to a still lesser extent may transport crude oil from the lease by truck to a reception station owned by a second reseller for sale or exchange with the second reseller. The latter situation might arise where the first reseller has been successful in obtaining the right to purchase a new source of crude oil in an existing field which is already served by a gathering system owned and operated by the second reseller. Where the crude oil is gathered to a reception station not owned by the reseller who gathered the crude oil, it may be sold, in some cases, to the reseller who owns the reception station. However, inasmuch as control of the crude oil is important to resellers typically the gathering reseller exchanges the crude oil for crude oil owned by the second reseller and located elsewhere.

A reseller may own and operate several different "gathering systems," each with its own gathering lines and reception station serving a particular field. The same reseller may also own and operate a number of trucks for gathering crude oil in other locations. At any particular reception station, the reseller may maintain separate tanks for different grades of crude oil. For example, a station may have one tank for "sweet" crude oil and another tank for "sour" crude oil.

Once the crude oil has been gathered at a reception station it passes into a trunk line. Whereas the gathering lines are small pipelines used to collect crude oil in relatively small volumes from several production sites for collection at a central station, trunk lines are generally larger pipelines which are used to transport the gathered crude oil to the refinery. Trunk lines are owned and operated privately by resellers and refiners, or are owned and operated as common carriers by firms which do not take title to the crude oil. Thus, once the crude oil has been gathered to a reception station, it may be transported to a refinery in one of the following ways:

(1) where the trunk line is owned and operated by the reseller, the reseller retains title to the crude oil and incurs the expenses associated with transporting the crude oil through the pipeline until it reaches the refinery where title passes to a refiner;

(2) where the trunk line is owned and operated by a refiner, title passes to the refiner when the crude oil enters the pipeline, and the refiner incurs the expenses associated with transporting the

crude oil through the pipeline until it reaches the refinery;

(3) where the pipeline is operated as a common carrier, title normally passes to the refiner when the crude oil enters the pipeline, and the refiner pays the common carrier pipeline tariff from that point to the refinery; or

(4) where the pipeline is owned and operated by another reseller of crude oil, title to the crude oil normally passes to the second reseller, who incurs the expenses associated with transporting the crude oil through the pipeline until it reaches the refinery where title passes to a refiner.

Three variations of (3) may also occur: (a) title to the crude oil may be retained by the reseller, who pays the common carrier pipeline tariff from the reception station to the refinery, in which event the refiner is invoiced by the reseller separately for transportation; (b) the reseller may exchange the crude oil with a different reseller for crude oil located elsewhere; or (c) the refiner may take title to the crude oil and exchange it with a different refiner for crude oil located elsewhere. While FEA believes that other variations are also possible, those outlined above are understood to represent the majority of crude oil transactions at the trunk line level.

FEA understands the acquisition, sale, and exchange operations of resellers of imported crude oil to be generally parallel to the operations of resellers of domestic crude oil after the imported crude oil has been landed in the United States. Duties and import fees are paid and adjusted to calculate, as set forth in 10 CFR 212.83 and 212.84, the landed cost of the crude oil. Imported crude oil sales by resellers which occur after the first sale of the imported crude oil into U.S. commerce would be subject to the proposed regulations in the same manner as resales of domestic crude oil.

The foregoing discussion of the operations of crude oil resellers outlines the predominant methods of operation used by crude oil resellers, as currently understood by FEA. FEA welcomes comments addressed to errors or omissions in the foregoing discussion.

IV. Proposed Amendments

Even from the brief discussion set forth above, it is clear that the operations of crude oil resellers generally differ significantly from the operations of resellers of other covered products to the extent that there is sufficient justification for developing a unique regulatory scheme to be applied to this sector of the petroleum industry. Because crude oil resellers provide basically a gathering and transportation service (that of moving the crude oil from its production source to the refinery), it is difficult for the crude oil reseller to calculate its increased costs by reference to a "product in inventory" in the same way as resellers of other covered products. The proposals set forth below are designed to provide resellers with a method for determining maximum permissible prices which is both consistent with the purposes and requirements of the EPAA, and which FEA believes would be adaptable to most resellers of crude oil.

The amendments proposed today represent a significant departure from the regulatory scheme under which resellers and retailers determine maximum permissible selling prices. Subpart F provides generally for maximum lawful prices in sales of covered products by resellers to be determined with reference to lawful prices charged in transactions with each class of purchaser by that seller on May 15, 1973. Under Subpart F increases in the seller's product costs above May 15, 1973 levels may be passed through equally among all classes of purchaser on a dollar-for-dollar basis; increases in certain of the seller's nonproduct costs may be passed through only to the extent permitted by 10 CFR 212.93(b). Increases in a seller's product costs are measured by the difference between the current weighted average unit costs of the product in inventory, and the weighted average unit cost of the same product in inventory on May 15, 1973.

However, the weighted average unit cost of a particular "product in inventory" concept appears to be unnecessarily burdensome to crude oil resellers because "crude oil" is not a product generally held for resale in "inventories" of significant volumes. Accordingly, FEA believes that the "product in inventory" concept is not particularly well suited for determining maximum permissible selling prices for crude oil resellers, either on a firm-wide basis, or on a regional or location-by-location basis. Moreover, FEA believes that in determining a maximum permissible price for any particular resale of crude oil, certain cost elements of that price are appropriately determined on a periodic basis with respect to all crude oil transactions at a particular station, while other cost elements of that price are likely to vary so disparately from transaction to transaction as to make periodic calculations inappropriate. For example, with respect to the price paid for crude oil, FEA believes, as more fully discussed below, that a reseller is able to determine each month the weighted average acquisition cost for all crude oil gathered to a particular station. Likewise, FEA believes that an average per-barrel gathering expense at each station is also easily determined for most crude oil resellers for each month. Further, FEA believes that resellers have customarily used these average costs in the management of each station. The use of such average costs for establishing the current acquisition cost for all crude oil gathered to each station would appear to be equitable, practical, and result in the identification of those costs which may appropriately be passed on to the purchasers of that crude oil. The expense involved in transporting the crude oil from a particular gathering station to the reseller's purchaser, however, is more likely to vary considerably among transactions depending upon the distance that the crude oil must be transported, so that the use of a single monthly average transportation cost for a station would not be appropriate.

Thus, FEA proposes that in any resale of crude oil, the reseller determine its maximum permissible price according to the following three factors:

(1) For each reception station the reseller would determine a per-barrel "cost of gathered crude oil." This cost would be comprised of two elements: the weighted average per-barrel acquisition cost of all crude oil of a similar type purchased and gathered to that reception station in that month, and the weighted average per-barrel expense associated with gathering all of the crude oil acquisitions to that station in that month.

(2) The reseller would determine its "permissible margin" to be the weighted average per-barrel margin applicable to all sales of crude oil by the particular reseller in the month of May 1973.

(3) In each sale, the reseller would be permitted to determine a "transportation allowance" to represent the cost of transportation, if any, associated with moving the "gathered crude oil" to the point of sale.

In any sale, the maximum permissible price would be the sum of the "cost of gathered crude oil" in that particular month, plus the reseller's "permissible margin," plus a "transportation allowance" for any transportation expenses incurred by the reseller after the crude oil is gathered.

Where a sale involves crude oil purchased in the first sale from the producer and transported by truck directly to the point of sale by the reseller, without having passed through any reception station, the maximum permissible price would be the "cost of gathered crude oil" for that month, plus the reseller's "permissible margin," but would not include any "transportation allowance." In such transactions, the reseller would determine a weighted average "cost of gathered crude oil" for all crude oil of a similar grade, purchased and gathered by truck in that month, and delivered directly to the purchaser.

A. "Cost of Gathered Crude Oil"

As indicated above, FEA believes that this element of a reseller's maximum permissible price can be reduced to a single per-barrel cost applicable to all resales of crude oil of a similar type from a particular reception station each month. The two elements of this cost are acquisition cost and gathering expense.

1. *Acquisition cost.* FEA understands that resellers have generally structured gathering systems so that each system is designed to serve a single field. Accordingly, all crude oil purchased for gathering to a particular station is generally of a single grade (e.g., West Texas Intermediate). The exception to this practice is, as noted above, where both "sweet" crude oil and "sour" crude oil are gathered to a single reception station and maintained in separate tanks.

Inasmuch as the reseller typically purchases crude oil in the first sale from the producer or royalty owner, the purchaed price (except for exempt crude oil or crude oil purchased from another reseller) will be no higher than the applicable ceiling price for lower or upper

tier crude oil. Furthermore, the cost of crude oil purchased in a first sale from the producer or royalty owner of a single field typically has a constant value, i.e., a single field-wide ceiling price (with appropriate gravity price differential adjustments as discussed below) applicable to all transactions within any particular month.

In the case of stripper well crude oil, FEA understands that mid-month first sale price changes are not prevalent, so that its price in general should also be constant in any month. Inasmuch as crude oil is gathered from a single field over the course of a month, and a single price is paid for that crude oil, the reseller should be able readily to determine an average acquisition cost for that crude oil each month.

The cost of crude oil from a field will vary with the quality of the crude oil and the ceiling price which is applicable to sales of the crude oil. Where a reseller stores a grade of crude oil separate from other crude oil stored at the reception station, the acquisition cost for that type of crude oil would be determined by averaging the costs of gathering all crude oil of that type to the reception station. However, as discussed below, the reseller would compute a single weighted average gathering cost for all crude oil of both types gathered to the reception station each month.

Since all lower tier, upper tier, and exempt crude oil must be "tracked" from the point of acquisition until its ultimate destination, it is necessary for crude oil resellers to determine, with respect to each reception station, per-barrel weighted average acquisition costs each month for lower tier, upper tier, and exempt crude oil purchases.

FEA also understands that it has been, and continues to be the practice of some resellers (as an additional service to the producer) to pay severance or production taxes, and then to make appropriate deductions for such payments in the monthly payment to the producer. Where such a service is rendered, it would be appropriate for the reseller, in determining its crude oil acquisition cost, to include any direct payments to state or local authorities for severance or production taxes as long as such tax payments, combined with the adjusted payments to the producers, do not reflect a price paid in excess ofthe ceiling prices applicable to such crude oil.

To the extent that resellers for any reason cannot determine single per-barrel weighted average acquisition costs at each reception station for the three categories (lower tier, upper tier, and exempt crude oil), FEA solicits comments addressed to alternative methods for determining acquisition costs. The preceding discussion is premised upon the assumption that most resellers have structured their individual gathering systems so as to handle only crude oil of a particular type. If this is not the case, FEA will consider alternative methods for determining crude oil acquisition costs. It might be necessary, for example, to determine a different weighted average acquisition cost for each grade of crude oil (if a single reception station is the collection point for more than a single grade).

FEA also solicits comments addressed to whether, within a particular gathering system, separate cost determinations need to be made with respect to each grade and quality of crude oil. Under the proposal as set forth above, a reseller would weight-average all purchases of crude oil gathered to a particular reception station each month, without regard to gravity price differentials. For example, assume that a reseller made the following purchases of crude oil in a particular month to be gathered to Reception Station A:

LOWER TIER

500 barrels 34° API at $5.34=$2,670
1,500 barrels 36° API at $5.38=$8,070
1,300 barrels 38° API at $5.42=$7,046

UPPER TIER

1,750 barrels 34° API at $11.30=$19,775
2,000 barrels 36° API at $11.34=$22,680
500 barrels 38° API at $11.38= $5,690

STRIPPER

500 barrels 34° API at $13.00=$6,500
300 barrels 36° API at $13.04=$3,912
600 barrels 38° API at $13.08=$7,848

Under the proposal issued today, the reseller's per-barrel weighted average acquisition costs for each category at the particular reception station that month would be as follows:

LOWER TIER

$5.39

UPPER TIER

$11.33

STRIPPER

$13.04

While FEA believes that the weight averaging of acquisition costs as shown above is consistent with the practice of most crude oil resellers, comments are solicited on whether more flexibility is needed with respect to determining acquisition costs.

For example, in cases where different quantities of crude oil of various grades and qualities are all stored in the same tank, the resulting crude oil will be of a grade and quality which is an average of the types of crude oil which were mixed together in the storage tank. This average quality may not remain the same over the course of a month, however, due to the differing qualities of the crude oil which enters the storage mix. Where the average quality of the mix varies substantially from day to day or from transaction to transaction, more flexibility may be needed in determining acquisition costs which more accurately reflect the value of the mix at any particular time. Thus, FEA solicits comments on the extent to which such mixing occurs, and whether the additional flexibility discussed above is needed by resellers in general.

As an alternative method of determining the acquisition cost of crude oil, FEA solicits comments on a method which would permit acquisition costs to be determined on a transaction basis. Where a reseller operates a single station through which it gathers and resells "sweet" crude oil for the first half of a month and "sour" crude oil for the second half of a month, such a reseller might be unable to determine a per-barrel weighted average acquisition cost for all crude oil gathered to that station during the month because of the disparate price paid for the two grades of crude oil. To require such a reseller to compute a single weighted average acquisition cost for both types of crude oil grade and the undervaluing of the second would result in the overvaluing of one grade. While FEA does not believe that many crude oil resellers would need the flexibility afforded by this method of computing acquisition costs—but would find it unnecessarily cumbersome—FEA solicits comments on whether this alternative might be an appropriate option for certain resellers.

2. *Gathering expenses.* Under today's proposal, gathering expenses are the expenses associated with moving the crude oil from the production site to the reseller's reception station, or, where the crude oil does not enter a reception station, the expenses associated with moving the crude oil from the production site to the purchaser ("direct sales" as discussed below). Gathering expenses would include the expenses associated with owning and operating the trucks and pipelines used to move the crude oil, but would not include any expenses associated with other producer "services," such as the maintenance of lease tanks, and would not include expenses associated with locating or acquiring sources of crude oil, such as the purchase of options to buy lease production.

(a) *Historical practice.* FEA is aware that price bulletins in effect on May 15, 1973 (and on September 30, 1975 for new, released and stripper well crude oil at that time) often specified that services such as the delivery of crude oil to facilities owned and operated by the purchaser were to be borne by the producer. Two examples of such conditions of price bulletins are as follows:

> subject to change without notice and subject to the terms and conditions of its division orders and other contracts, (purchaser) will pay the posted prices on the following page per 42-gallon barrel of *marketable crude oil and condensate* not to exceed 7.5 Reid Vapor Pressure of the following types and grades purchased by it and *delivered for its account into the custody of its authorized carrier or receiving agency.* (Emphasis added.)

> Subject to change without notice and subject to the terms and conditions of its division orders and other contracts, (purchaser) will pay the following posted prices per barrel of 42 United States gallons for *marketable crude oil and condensate,* not exceeding 7.5 Reid Vapor Pressure * * * *delivered into the facilities designated by (purchaser); provided, however, that any transportation charges from the lease tanks into the facilities designated shall be borne by the seller.* (Emphasis added.)

Where such transportation charges were nevertheless incurred by the purchaser, a corresponding downward adjustment in the posted price was required. For example:

As to crude oil and condensate transported in media other than common carrier pipeline, these (posted) prices may be reduced by an amount not exceeding the per barrel cost of such transportation.

Accordingly, in the interest of uniformity, and in order to ensure against the reduction of services traditionally charged to or performed by the producer as a means to obtain a price in excess of that permitted under the price regulations, FEA has made it clear that

in establishing (ceiling prices) by reference to (May 15, 1973 and September 30, 1975 posted prices), *the price currently charged shall include all services that were included in the reference posted price* * * *. (Emphasis added, 41 FR 4931 at 4935, February 3, 1976.)

Based upon comments received by FEA in response to the October 14 Notice, however, FEA believes that there is no uniform historic practice with respect to the amounts of these deductions from posted prices or the manner in which they have been made where such services have been performed by the purchaser (reseller). According to comments submitted in response to the October 14 Notice, one large crude oil reseller has employed several different practices with respect to deductions from posted prices to reflect transportation, or for a "marketing allowance" as it is sometimes referred to by this particular reseller:

In some cases, the producer was paid the full posted price for the crude oil, and a marketing allowance was deducted, resulting in a net payment to the producer below the posted price. In other cases, the crude oil was purchased * * * at a price below the posted price, and no marketing allowance was separately stated. Of course, in those cases the price to the producer may well have been based upon a deduction from the posted price for a marketing allowance, even though the deduction is not separately stated. In addition, there are cases in which it appears that no marketing allowance deduction, stated or unstated, was made.

FEA understands that the practice of deducting a marketing allowance (whether stated or unstated) from the posted price, which seems to be the most prevalent historic practice, was adopted by most resellers so that sales by the reseller into a major pipeline could be made at the posted price. In this way, posted prices historically reflected a generally understood price for crude oil delivered into the trunk line, and resellers could make various downward adjustments for prices paid in the first sale to reflect transportation and service fees which were likely to vary from property to property, depending primarily upon the accessibility of the particular crude oil in relation to the trunk line. Since many purchases by resellers seem to have been made at the posted price less transportation, with resales made at the posted price, FEA assumes for purposes of the proposals set forth in this Notice that the "marketing allowance" deduction has historically represented the total of the reseller's gross margin, consisting of all expenses associated with gathering and reselling the crude oil (including administrative expenses) and also providing the reseller a margin of profit. FEA solicits comments as to whether this conclusion is accurate, and if not, as to the extent to which it is at variance with actual practice, either generally (if known) or with respect to specific firms.

With the advent of Cost of Living Council ("CLC") Subpart L regulations in August 1973, in which ceiling prices for first sales of domestic crude oil were based upon the highest posted price in the field, a deduction is required to be made from the highest posted price in the event that the reference posting called for such a deduction. (*See Jack W. Grigsby d.b.a. Grigsby Oil and Gas*, 5 FEA ¶ 80,829.) Thus, for example, where on May 15, 1973 a reseller was paying its own posted price of $3.70 per barrel less a "marketing allowance" deduction of $0.25 per barrel as specified in its price bulletin, for a net first sale price of $3.45 per barrel, and where that particular reseller's May 15, 1973, posted price was the highest in the field according to the price regulations, the ceiling price for that grade of crude oil originally permitted under CLC regulations would have been determined as follows, so long as the reseller continued to provide transportation according to the terms of the price bulletin:

Gross bulletin price	$3.70
Less marketing allowance	.25
Highest May 15, 1973 posted price	3.45
Increase permitted by CLC	.35
Ceiling price	3.80

In the event that the producer began to provide the transportation, the marketing allowance deduction would no longer have been appropriate, and the ceiling price would have become $4.05 per barrel.

However, the price paid by a particular reseller may not have been the highest posted price in the field on May 15, 1973. In the example above, a different reseller may have been posting a price of $3.55, where the reseller was to provide the transportation, with no deduction for a marketing allowance. In that case, for crude oil produced and sold from that particular field, the ceiling price originally permitted under CLC regulations would have been determined as follows, where the original reseller continued to provide transportation:

Highest posted price	$3.55
Increase permitted by CLC	.35
Ceiling price	3.90

In the event the producer began to provide transportation, the producer could charge a reasonable amount for such transportation.

(b) *Specific proposals.* The foregoing discussion is necessary to an understanding of the amendments proposed in this Notice. Under these amendments, a reseller would be permitted to pass through in the price charged in each sale in any month, the weighted average per-barrel expense associated with gathering all crude oil to a particular reception station. In determining that weighted average unit cost, FEA seeks to ensure that only those expenses which are attributable to gathering the crude oil to the reception station are included, and that those expenses are not recovered twice: once as a deduction from the posted price and again as a separately invoiced charge to the purchaser. Accordingly, "acquisition costs" as described above are to be based upon actual first sale prices, rather than upon ceiling prices. However, comments should address whether this or any other method most effectively accomplishes this objective.

With respect to the specific elements of "gathering expense" FEA proposes the following:

(1) *Trucks.*—All expenses associated with the operation and maintenance of trucks used by the reseller to transport crude oil from the point of purchase to the point of sale. Such expenses would include fuel, repairs and maintenance, interest, and drivers salaries, but would exclude depreciation and amortization of capital expenditures.

(2) *Gathering lines.*—All expenses associated with the operation and maintenance of pipelines used by the reseller to transport crude oil from the point of purchase to the reseller's reception station. Such expenses would include fuel (if any), interest, operators' salaries (if any), and repairs and maintenance, but would exclude depreciation and amortization of capital expenditures.

(3) *Reception stations.*—All expenses associated with the operation and maintenance of reception stations. Such expenses would include interest, fuel (if any), operators' salaries, and repairs and maintenance, but would exclude depreciation and amortization of capital expenditures.

Comments are solicited as to whether other expenses associated with trucking, gathering line and reception station operation and maintenance are also appropriate. FEA also solicits comments on any other factors which the commenter believes to be relevant, such as the time sequence for associating costs and expenses with permissible prices. For example, FEA solicits comments as to whether costs of crude oil acquired in one month may be used to determine prices in that month, or whether such costs are more appropriately passed through in a later month.

B. MAY 1973 MARGINS

FEA proposes that a single firm-wide margin for May 1973 be determined and applied to current resales of crude oil. However, FEA understands that some resellers have traditionally operated on margins which vary from transaction to transaction or from station to station depending upon different levels of service. Accordingly, comments are solicited addressed to the manner for determining whether a firm-wide margin, as discussed below, should be used, or whether individual margins would more appropriately be determined and applied on a station-by-station, or other, basis, and whether FEA should permit resellers the option to select a firm-wide or a station-by-station margin.

In calculating May 1973 margins and their application in determining current selling prices under today's proposals, FEA believes that the same elements of

expenses permitted under the proposals should be used in determining those margins. Accordingly, a firm's May 1973 margin would be determined as the total revenues in all sales of crude oil by the firm in May 1973, less the total May 1973 expenses (as allowed under the proposed amendments), divided by the total number of barrels of crude oil sold in May 1973, less the weighted average unit price paid for all crude oil purchased by the firm in May 1973 for resale.

FEA also solicits comments regarding the manner in which margins might be calculated for application by resellers who had no resales on or before May 15, 1973. One alternative might be for FEA to tabulate a median of all margins for all resellers operating on May 15, 1973, and to permit all resellers, including those that made no sales of crude oil on or before May 15, 1973, to charge a margin not to exceed the FEA-tabulated median.

FEA also solicits comments addressed to an alternative to the single firm-wide or single station-by-station margin. Such an alternative might be to establish a firm-wide average margin for all transactions in each month. Under such an alternative resellers would be permitted to charge margins above the average in individual transactions provided that the firm-wide average margin did not exceed the limit. Should a reseller exceed his allowed average margin in a particular month, a lower margin would have to be used in the following month to return the reseller to, or below, its allowed average margin for the two-month period.

C. TRANSPORTATION ALLOWANCE

FEA understands that in most crude oil resale transactions, title to the crude oil passes from the reseller to its purchaser (usually a refiner) as the crude oil passes from the reception station into the trunk line. However, there are two types of transactions in which the reseller may retain title to the crude oil as it is transported through the pipeline: (1) where the trunk line is owned and operated by the reseller, or (2) where the trunk line is owned and operated by a common carrier, and the reseller pays the common carrier tariff. In such cases, under today's proposals, the reseller would be permitted to include in the maximum permissible price in any particular transaction, a "transportation allowance" to reflect the expense associated with transporting the crude oil from its reception station to the point of sale.

Where such transportation is provided by a common carrier, the reseller would be permitted to include a transportation allowance equal to the tariff actually charged by the common carrier. Where the crude oil is transported through the reseller's pipeline, the transportation allowance would not be permitted to exceed a comparable common carrier tariff. In this regard, FEA recognizes that "comparability" admits of several factors. Therefore, comments are solicited as to the feasibility and manner of determining such "comparable" tariffs. Moreover, FEA understands that common carrier tariffs have been established on a rate of return basis. Accordingly, comments should address whether, when a comparable tariff is used, a deduction should be made so as to permit only the passthrough of operating expenses, without the margin of profit permitted for the common carrier. In such cases the reseller concerned would have the burden of establishing not only that it actually incurred the operating expenses concerned, but also that the operating expenses computed as attributable to the cost of transportation do not exceed the tariff for comparable services.

D. "DIRECT" SALES

As indicated above, FEA understands that resellers are involved in some transactions in which the crude oil that they purchase and resell does not pass through a reception station owned and operated by that reseller. Moreover, FEA understands that some resellers own and operate no reception stations at all. In both cases, crude oil is transported by truck from the lease "directly" to the point of sale.

For the reseller that operates only in the fashion described above, and therefore is unable to determine a "cost of gathered crude oil" on a station-by-station basis for "direct sales," FEA solicits comments as to the most appropriate method for determining maximum permissible selling prices. In this regard FEA will consider all reasonable proposals, including, but not limited to, determining acquisition costs and gathering expenses on a firm-wide or on a field-by-field basis. FEA has preliminarily determined that May 1973 margins in direct sales should, as for all other resellers, be determined on a firm-wide basis.

With respect to resellers who own and operate reception stations and who also make "direct" sales, FEA proposes that a single firm-wide "cost of gathered crude oil" be determined each month for all such sales separately from the station-by-station determinations for all other sales. The reseller's single firm-wide May 1973 margin would apply to all sales, whether made from stations or directly from the lease.

E. RESALES OF IMPORTED CRUDE OIL

FEA believes that although most foreign crude oil is imported into the United States by domestic firms for use in their own refineries, a substantial volume of foreign crude oil is purchased and resold by resellers. While such firms do not provide "gathering" functions in the same manner as other resellers, they do take title to the crude oil and in many cases provide transportation to the refinery. Moreover, FEA understands that such resellers maintain terminal facilities which perform the same functions as the reception stations of other resellers as described above.

Accordingly, with respect to such operations, the general rule proposed for crude oil resellers should operate well for resales of imported crude oil. Resellers would consider each terminal as a reception station and would, at each terminal, determine a weighted average acquisition cost for all crude oil purchased each month for sale from that terminal. Any expense associated with transporting the crude oil to the terminal would be permitted to be passed through in the same manner as gathering expenses by resellers of domestic crude oil, and the same method for determining a firm-wide May 1973 margin would be used. However, comments are solicited as to whether this segment of the crude oil reselling industry is so specialized, or presents problems not encountered by crude oil resellers generally, so as to warrant the adoption of special price rules. FEA specifically solicits comments on the manner in and extent to which acquisition costs and expenses associated with reception stations are similar to acquisition costs and expenses associated with terminals. Comments are also solicited on the need to permit additional flexibility in the determination of margins for such resellers.

F. RESALES OF CRUDE OIL BY REFINERS

In the October 14 Notice FEA indicated its understanding that to the extent that refiners resell crude oil in sales other than those required under the Mandatory Crude Oil Allocation Program, (1) such sales merely divest the refiner of surplus crude oil or accommodate other refiners in return for past or future accommodations, and (2) such sales are commonly made at a price reflecting the weighted average cost of crude oil in inventory when the crude oil is sold. Accordingly, FEA preliminarily determined that a refiner engaged in the resale of crude oil should establish its selling prices to reflect such a weighted average cost of crude oil in inventory.

Comments received by FEA from refiners in response to the preliminary determinations expressed in the October 14 Notice were uniformly opposed to those determinations. Rather, those comments reflect that while some refiners do engage in crude oil gathering and reselling operations, most resales of crude oil by refiners have traditionally and historically been accomplished on an acquisition cost basis, without the addition of a markup or margin to recover administrative costs or for a profit. That is, according to refiners' comments, the prices charged in such sales reflect only the actual acquisition cost of the crude oil involved, plus the cost, if any, involved in transporting the crude oil to the point of sale, and such prices reflect no more than the costs and expenses that would have been incurred by the purchaser had the purchaser acquired the crude oil directly.

However, some refiners have entities that are resellers which gather and transport crude oil in the same manner as independent crude oil resellers. FEA proposes that such entities of refiners that gather and transport crude oil should be treated in the same manner as other crude oil resellers, but that with

respect to the occasional accommodation sale by a refiner, qua refiner, such sales should be permitted to be made on a transaction-by-transaction basis only, and priced accordingly. Crude oil resales by refiners would be priced according to a separate price rule, which would permit the refiner in each sale to determine a maximum permissible selling price to be the sum of the actual price paid for the crude oil involved in the sale, plus any gathering and transportation expenses actually incurred with respect to the crude oil involved in that sale, without regard to any other crude oil resales made by the refiner in that month. Comments are requested to address whether the price treatment described above is the most appropriate for crude oil resales by refiners.

G. CRUDE OIL EXCHANGES

In the October 14 Notice, FEA expressed its understanding that substantial volumes of crude oil are exchanged among crude oil resellers in order to accommodate the needs of resellers and their purchasers. Accordingly, FEA tentatively concluded that such exchanges should be treated in the same manner as is currently provided for in the operation of the Entitlements Program. (Section 211.67(g) of 10 CFR declares in essence that, with respect to exchanges of crude oil as to which only quality and location differentials are given effect in calculating the exchange ratio, or with respect to any matching purchase and sale transactions having the same effect as such an exchange, no volumes of domestic crude oil will be deemed to have been transferred.)

Most of the comments received in response to this aspect of the October 14 Notice expressed general approval of such treatment. Before a final determination is made with respect to this issue, however, FEA solicits comments addressed to the manner in which exchange, or "in place," differentials are calculated and charged, and whether corresponding adjustments in permissible selling prices should be made to reflect such differentials.

H. NON-PRODUCT COST ALLOWANCES

Although FEA requested comments in the October 14 Notice as to the appropriateness of some passthrough of non-product costs for crude oil resellers, FEA believes that under the proposals set forth in this Notice it has provided for a dollar-for-dollar passthrough of all costs and expenses incurred by crude oil resellers, without regard to a "product"/"non-product" distinction. However, comments are solicited as to whether any additional provisions should be provided regarding any expenses not discussed above.

I. BROKERS

The service performed by a broker consists, in general, of finding a seller of and a buyer for crude oil and negotiating a price that is acceptable to both. Additional services (for example, arranging for transportation, or for financing terms of the sale) may also be performed. The fee received by the broker is paid by either the seller or the buyer, or is shared by both parties.

To the extent that a broker does not take title to the crude oil, such activities would not fall within the scope of the proposals set forth in this notice. However, additional comments are solicited as to whether FEA should permit the payment of increased brokerage fees by a refiner to be passed through as a non-product cost increase.

J. "LAYERING"

FEA seeks to ensure that the price regulations do not permit abuses by crude oil resellers. Of particular concern to FEA is the practice commonly known as "layering": the insertion of one or more "resellers" between the producer and refiner and the charging of one or more markups, where the "layering" firm performs no service or other function traditionally and historically associated with the resale of crude oil. To this extent, FEA will consider the adoption of regulatory amendments and interpretive rulings to make it clear that such practices are not permitted under the Mandatory Petroleum Allocation and Price Regulations.

K. RECORDKEEPING AND CERTIFICATIONS

1. *Crude Oil Resellers Worksheet.* In order to ease the administrative burden associated with the implementation and enforcement of the regulations proposed in this notice, FEA proposes to require resellers to complete the two worksheets contained in the form set forth below. The form is designed to collect cost and revenue data used by crude oil resellers to calculate allowable selling prices under the mandatory petroleum price regulations. FEA specifically invites comment upon the suitability of the proposed form to accomplish the desired monitoring of resales of crude oil and the burden which completion of the proposed form might impose on crude oil resellers. Before FEA makes a final determination as to whether to require crude oil resellers to complete this form, FEA will undertake to determine the extent, if any, to which such data is presently available to FEA through other means.

CRUDE OIL RESELLERS WORKSHEET

I. Purpose. This form is designed to document the revenue and cost data used by the crude oil reseller in the calculation of its allowable selling prices under the mandatory petroleum price regulations applicable to the resale of crude oil (10 CFR, Part 212). The form must be completed monthly and maintained at the crude oil reseller's place of business. If the crude oil reseller is selected for audit, all worksheets must be made available to the FEA auditor. This worksheet will assist the crude oil reseller to comply with the regulations by requiring the systematic collection and compilation of data for reporting and record maintenance.

II. Who must complete. This form must be completed by all crude oil resellers.

III. Maintenance. This form must be maintained at the place of business of the crude oil reseller.

IV. Frequency. Monthly.

V. Instructions. Part A must be completed for each gathering line reception station. Part B or a computerized tab run in similar format must be completed for each crude oil sales transaction.

PART A—MONTHLY CRUDE OIL SELLING PRICE WORKSHEET

(Complete a separate worksheet for each reception station and crude oil type)

Firm name _____
Gathering system A _____
Reception station A _____
Crude type _____
Month _____
Number of transactions in reporting period _____, for which a part B is completed.

A. CRUDE OIL ACQUISITION COSTS

1. Total volume of upper-tier crude oil purchased		_____
2. Total volume of lower-tier crude oil purchased		_____
3. Total volume of exempt crude oil purchased		_____
4. Total volume of imported crude oil purchased or landed		_____
5. Total volume of crude oil purchased/landed (1+2+3+4)		_____
6. Total cost of upper-tire crude oil [1]	$	_____
7. Total cost of lower-tier crude oil [1]	$	_____
8. Total cost of exempt crude oil [1]	$	_____
9. Total cost of imported crude oil purchased/landed [1]	$	_____
10. Total cost of crude oil (6+7+8+9) [1]	$	_____
11. Weighted average upper-tier crude oil acquisition cost (6÷1)	$	/bbl.
12. Weighted average lower-tier crude oil acquisition cost (7÷2)	$	/bbl.
13. Weighted average exempt crude oil acquisition cost (8÷3)	$	/bbl.
14. Weighted average imported crude oil acquisition cost (9÷4)	$	/bbl.
15. Weighted average total crude oil acquisition cost (10÷5)	$	/bbl.

[1] Include direct payments to state or local authorities for severance or production taxes.

B. GATHERING EXPENSES

16. Total truck gathering expenses	$	/bbl.
17. Total gathering line expenses	$	/bbl.
18. Total reception station expenses	$	/bbl.
19. Total gathering expenses (16+17+18)	$	/bbl.
20. Weighted average gathering expense (19÷5)	$	/bbl.

C. SALES MARGIN

21. Total crude oil sales revenue, May 1973		_____
22. Total crude oil gathering expenses, May 1973		_____
23. Total volume of crude resold, May 1973		_____
24. Total acquisition cost of crude oil purchased/landed, May 1973		_____
25. Total volume of crude oil purchased/landed, May 1973		_____
26. Weighted average margin (21-22÷23)-(24÷25)	$	/bbl.

D. CALCULATION OF IMPUTED TRANSPORTATION COSTS

27. Total volume of crude oil transported to purchaser by common carrier pipeline		_____
28. Total common carrier tariff costs		_____

D. CALCULATION OF IMPUTED TRANSPORTATION COSTS—continued

29. Weighted average common carrier transportation costs (28÷27)	$	/bbl.
30. Totol volume of crude oil transported to purcahser by reseller's gathering line		
31. Total reseller gathering line transportation expenses		
32. Weighted average reseller grathering line transportation costs	$	/bbl.

If an alternative method is used for calculating imputed transportation costs, show method below:

PART B—CRUDE OIL RESALE TRANSACTION WORKSHEET

(Complete a separate worksheet for each crude oil sales transaction. Computerized tab runs in similar format are acceptable.)

Reseller firm name
Crude purchaser
Gathering system
Reception station
Type of crude oil sold
Date of sale

1. Volume sold		
2. Crude oil sales revenue		
3. Actual weighted selling price (2÷1)	$	/bbl.
4. Reception station weighted average acquisition cost for ———— oil	$	/bbl.
5. Reception station weighter average gathering expense	$	/bbl.
6. Weighted average sales margin	$	/bbl.
7. Transportation costs applied check if:		
a. Imputed		
b. Actual Rate (attach copies of all bills supporting transportation costs)	$	/bbl.
8. Maximum lawful selling price (4+5+6+7)	$	/bbl.

2. *Certifications.* FEA regulations currently require crude oil resellers in 10 CFR 212.131(b)(1) to:

> Certify in writing to the purchaser the respective volumes of and respective per barrel prices for the old crude oil, new crude oil, stripper well crude oil, and other domestic crude oils the first sale of which is exempt from the provisions of this part included in the volume of domestic crude oil so sold. The certification shall also contain a statement that the price charged for the domestic crude oil is no greater than the maximum price permitted pursuant to this part.

The certifications required under § 212.131(b)(1) are required to be made "with respect to each sale of domestic crude oil * * *."

In this proceeding FEA solicits comments on the feasibility of, as well as the need for, requiring crude oil resellers in each sale to certify to the purchaser the detailed information contained in the Crude Oil Resellers Worksheet as set forth above. FEA believes that there may be a need for refiners to be able to determine, with respect to each purchase of crude oil, the origin of that crude oil as well as to trace the crude oil from the production site through each resale. Accordingly, FEA will consider the adoption of amendments to the certification provisions of § 212.131 so as to require each reseller to certify to the purchaser the detailed information contained in the Crude Oil Resellers Worksheet and to forward to the purchaser copies of any certifications received by the reseller.

V. ADDITIONAL COMMENTS REQUESTED

In addition to requesting comments on the provisions of the proposed rules as discussed above and as set forth below, FEA also requests comments as to whether or to what extent FEA might consider proposing to exempt crude oil resellers from the Mandatory Petroleum Price Regulations. Such an action would, of course, pursuant to the provisions of Section 12 of the EPAA require submission to the Congress for its approval in accordance with the provisions of Section 551 of the EPCA. Therefore, FEA hereby requests only preliminary comments as to whether such an exemption should be studied for possible implementation. Among the considerations in this regard are the extent to which competition, the crude oil price controls, and the entitlements program operate as an effective constraint on crude oil reseller margins.

VI. COMMENT PROCEDURES

A. WRITTEN COMMENTS

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposals set forth in this notice to Executive Communications, Federal Energy Administration. Comments should be identified on the outside envelope and on documents submitted to FEA Executive Communications with the designation "Clarifications to Mandatory Petroleum Price Regulations Applicable to the Resale of Crude Oil," Box NV. Fifteen copies should be submitted. All comments received by FEA will be available for public inspection in the FEA Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

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

B. PUBLIC HEARINGS

1. *Request Procedure.* The times and places for the hearings are indicated in the dates section of this preamble. If necessary to present all testimony, the hearing will be continued to 9:30 a.m. of the next business day following the date of the hearing.

Any person who has an interest in the proposed amendments issued today, or who is a representative of a group or class of persons that has an interest in today's proposed amendments, may make a written request for an opportunity to make oral presentation. The person making the request should be prepared to describe the interest concerned, if appropriate, to state why he or she is a proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through the last working day preceding the date of the hearing.

Each person selected to be heard will be so notified by the FEA before 4:30 p.m., Tuesday, August 9, 1977 and must submit 100 copies of his or her statement to Regulations Management, Room 2214, 2000 M Street NW., Washington, D.C. before 4:30 p.m., on Friday, August 12, 1977.

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

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

Any interested person may submit questions to be asked of any person making a statement at the hearings. Such questions must be submitted to the address indicated above for requests to speak, for the location concerned, before 4:30 p.m., Thursday, August 11, 1977. Any person who wishes to ask a question at the hearings may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearings, will determine whether the question is relevant, and whether the time limitations permit to be presented for answer.

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

A transcript of the hearings will be made and the entire record of the hearings, including the transcripts, will be retained by the FEA and made available for inspection at the Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In the event that it becomes necessary for the FEA to cancel a hearing, FEA will make every effort to publish advance notice in the FEDERAL REGISTER of such cancellation. Moreover, FEA will notify all persons scheduled to testify at the hearings. However, it is not possible for FEA to give actual notice of cancellations or changes to persons not identified to FEA as participants. Accordingly, per-

sons desiring to attend a hearing are advised to contact FEA on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

VII. OTHER MATTERS

The FEA has determined that this document contains a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107. An Inflation Impact Statement is in preparation and will be available shortly.

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

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790; 39 FR 23185.)

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

Issued in Washington, D.C., August 9, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

1. Section 212.91 is amended to read as follows:

§ 212.91 Applicability.

This subpart applies to each sale of a covered product (other than crude oil) by resellers, reseller-retailers, and retailers. For purposes of this subpart, "reseller" includes any entity of a refiner (other than an entity that operates in Puerto Rico) that is engaged in the business of purchasing and reselling covered products, provided that the entity does not purchase more than 5 percent of such covered products from the refiner including any entities that it directly or indirectly controls and provided further that the entity has consistently and historically exercised the exclusive price authority with respect to sales by the entity.

2. A new Subpart L is added to read as follows:

Subpart L—Sales of Crude Oil

Sec.
212.181 Applicability.
212.182 Definitions.
212.183 Price rule.
212.184 Record keeping.

Subpart L—Sales of Crude Oil

§ 212.181 Applicability.

This subpart applies to each sale of crude oil, other than the first sale.

§ 212.182 Definitions.

"Acquisition cost" means, (a) with respect to sales made from a particular reception station in a particular month, the weighted average unit price (not in excess of the applicable price permitted under this part) actually paid in all purchases of crude oil gathered by the seller to that reception station in that month; or (b) with respect to sales of all other crude oil in that month, the weighted average unit price (not in excess of the applicable price permitted under this part) actually paid in all purchases of crude oil in that month and not gathered to a reception station owned and operated by the seller.

"Cost of gathered crude oil" means the acquisition cost of the crude oil, plus the gathering cost of the crude oil.

"Gathering cost" means, (a) with respect to sales made from a particular reception station in a particular month, the weighted average unit expense associated with the operation and maintenance of trucks used by the seller to transport the crude oil from the point of purchase to the reception station, plus the weighted average unit expense associated with the operation and maintenance of pipelines used by the seller to transport the crude oil from the point of purchase to the seller's reception station, plus the weighted average unit expense associated with the operation and maintenance of the reception station; or (b) with respect to all other crude oil sales in a particular month, the weighted average unit expense associated with the operation and maintenance of trucks used by the seller to transport the crude oil from the point of purchase to the point of sale, plus the weighted average unit expense associated with the operation and maintenance of pipelines used by the seller to transport the crude oil from the point of purchase to the point of sale.

"May 1973 margin" means the total lawful revenues in all sales of crude oil (other than the first sale) by the seller in the month of May 1973, less the total expenses associated with sales of crude oil (other than the first sale) in May 1973, divided by the total number of barrels of crude oil sold by the seller (other than in the first sale) in the month of May 1973, less the lawful weighted average unit price actually paid for all crude oil purchased by the seller for resale in the month of May 1973.

"Reception station" means a facility to which crude oil is gathered for resale, generally consisting of storage tanks and associated equipment.

"Transportation allowance" means any common carrier tariff actually paid by the seller to transport the crude oil from the reception station to the point of sale, or any actual expense associated with the transportation of the crude oil from the seller's reception station to the point of sale, but not to exceed any comparable common carrier tariff for comparable services.

§ 212.183 Price rule.

(a) *Sales made from a reception station.* With respect to each sale of crude oil in a particular month which is made from a reception station owned and operated by the seller, a seller may not charge a price which exceeds the cost of gathered crude oil for that station in that month, plus the seller's May 1973 margin, plus a transportation allowance.

(b) *Other sales.* With respect to each sale of crude oil in a particular month in which the crude oil has not been gathered to a reception station owned and operated by the seller, a seller may not charge a price which exceeds the cost of gathered crude oil for that month, plus the seller's May 1973 margin.

(c) *Sales by a refiner.* Notwithstanding the provisions of paragraphs (a) and (b) of this section, a refiner (other than an entity of a refiner whose function is the acquisition of crude oil for the refiner, or whose function is the resale of crude oil to third parties) may determine a price in each sale of crude oil other than the first sale) in accordance with the refiner's consistent and historical accounting practice, provided that the price charged in any sale of crude oil subject to this subpart does not exceed the cost of gathered crude oil, determined on a transaction-by-transaction basis.

§ 212.184 Recordkeeping.

Each firm engaged in the resale of crude oil shall prepare and maintain at its principal place of business periodic reports in accordance with forms and instructions issued by the FEA.

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