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EXECUTIVE ORDER 11728

Amending Section 104(b)(1) of Executive Order No. 11157, As It Relates to Incentive Pay for Hazardous Duty Involving Aerial Flight

By virtue of the authority vested in me by section 301(a) and (f) of title 37, United States Code, and as President of the United States and Commander in Chief of the Armed Forces of the United States, section 104(b)(1) of Executive Order No. 11157 [1] of June 22, 1964, as amended, is amended to read as follows:

"(1) During one calendar month: 2 hours of aerial flight; however, hours of aerial flight performed during the immediately preceding five calendar months and not already used to qualify for incentive pay may be applied to satisfy the aerial flight requirement for that month."



THE WHITE HOUSE,
July 12, 1973.

[FR Doc.73-14657 Filed 7-13-73;12:21 pm]

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[1] 29 FR 7973; 3 CFR, 1964-1965 Comp., p. 200.

EXECUTIVE ORDER 11729

Amending Executive Order No. 11710 of April 4, 1973, Relative to the National Commission for Industrial Peace

By virtue of the authority vested in me as President of the United States of America and pursuant to the Economic Stabilization Act of 1970, as amended, the Federal Advisory Committee Act (Public Law 92–463; 86 Stat. 770), and section 301 of title 3 of the United States Code, section 4 of Executive Order No. 11710 [1] of April 4, 1973, is amended to read as follows:

"SEC. 4. The Department of Labor, the Department of Commerce, and the Cost of Living Council, to the extent permitted by law, shall provide support and technical assistance for the Commission. The Cost of Living Council shall perform such other functions with respect to the Commission as may be required by the provisions of the Federal Advisory Committee Act (Public Law 92–463; 86 Stat. 770)."

Richard Nixon

THE WHITE HOUSE,
July 12, 1973.

[FR Doc.73–14658 Filed 7–13–73;12:22 pm]

[1] 38 FR 9071; Apr. 10, 1973.

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

PART 945—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

Limitation of Handling

This regulation, designed to promote orderly marketing of Idaho-Eastern Oregon potatoes, imposes minimum quality standards and requires inspection of fresh shipments to keep low quality potatoes from being shipped to consumers.

Notice of rulemaking with respect to a proposed handling regulation, to be made effective under Marketing Agreement No. 98 and Order No. 945, both as amended (7 CFR Part 945) regulating the handling of Irish potatoes grown in designated counties in Idaho and Malheur County, Oregon, was published in the FEDERAL REGISTER June 26, 1973 (38 FR 16782). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

The notice afforded interested persons an opportunity to file written data, views, or arguments pertaining thereto not later than July 3, 1973.

The manager of the Idaho-Eastern Oregon Potato Committee filed an exception stating that the committee unanimously recommended that all 50-pound cartons be U. S. No. 1 grade or better. The proposed regulation as published, inadvertently required only 50-pound containers marked with a count, size or similar designation to be U. S. No. 1 grade or better. Accordingly, the regulation is hereby corrected.

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

The recommendations of the Idaho-Eastern Oregon Potato Committee reflect its appraisal of the crop and prospective market conditions and are consistent with the marketing policy it unanimously adopted. Shipments of new crop potatoes from the production area are expected to begin July 15, however, storage potatoes from last year's crop will be also shipped during July.

Intended planted fall acreage is forecast at 1,067.9 million acres, about 1 percent more than 1972. Prospective plantings in Idaho and Malheur County, Oregon, for 1973 are 337,000 acres, slightly more than the 320,000 acres planted last year.

As usual, yields and timeliness of harvest will have an important influence on potato supplies. However, total supplies in 1973–74 are expected to be at least as large as in 1972–73 when prices for Idaho potatoes averaged approximately $2.47 per hundredweight, which was about 70 percent of parity. Therefore, average prices to Idaho farmers for 1973 crop potatoes are not expected to exceed parity.

The grade, size, cleanliness and maturity requirements provided herein, which are the same as those currently in effect (37 FR 13632) through July 31, 1973, are necessary to prevent potatoes of low quality, undesirable sizes and of lesser maturities from being distributed in the fresh market channels of commerce. They will promote orderly marketing and standardize the quality of the potatoes shipped from the production area, in order to provide the consumer with a more acceptable product.

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

A specified quantity of potatoes may be handled without regard to maturity requirements (1) in order to permit growers to make test diggings without loss of the potatoes so harvested or (2) if, after regrading, a lot meets the grade and size requirements but then fails to meet the maturity requirements, possibly due to further "skinning" as a result of running the potatoes over the grader again.

Shipments may be made to certain special purpose outlets without regard to minimum grade, size, cleanliness, maturity and pack requirements, provided that safeguards are used to prevent such potatoes from reaching unauthorized outlets. Since no purpose would be served by regulating potatoes used for charity purposes such shipments are exempt. Certified seed and seed pieces cut from stock eligible for certification as certified seed are so exempted because requirements for this outlet differ greatly from those for fresh market. Potatoes used for experimentation have special requirements and do not normally enter commercial channels of trade. Exemption of potatoes for most processing uses is mandatory under the legislative authority for this part and therefore shipments to processing outlets are unregulated.

Requirements for export shipments differ from those for domestic markets; while the standard quality requirements are desired in foreign outlets, smaller sizes are more acceptable. In commercial prepeeling, operators can use potatoes with surface defects which would be undesirable for the tablestock market, and smaller sizes are acceptable. For these reasons potatoes for export and prepeeling are provided with different requirements.

It is hereby found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that shipments of 1973–74 crop potatoes grown in the production area will shortly be made and the regulation should become effective at the time herein provided to maximize the benefits to producers. The Idaho-Eastern Oregon Potato Committee held an open meeting on June 8, 1973, to consider recommendations for a handling regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; information regarding the provisions of the recommendation by the committee has been disseminated among the growers and handlers of potatoes in the production area; and compliance with this section will not require any special preparation of potato sorting and packing equipment on the part of handlers subject thereto which cannot be completed on or before the effective time hereof.

§ 945.332 Handling regulation.

During the period July 16, 1973, through July 31, 1974, no person shall handle any lot of potatoes unless such potatoes meet the requirements of paragraphs (a), (b), (c) and (g) of this section, or unless such potatoes are handled in accordance with paragraphs (d), (e), or (f) of this section.

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

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

(ii) *All other varieties*—2 inches minimum diameter, or 4 ounces minimum weight.

(iii) *All varieties*. Size B if U.S. No. 1 or better grade.

(3) *Cleanliness—All varieties*—"generally fairly clean."

(b) *Minimum maturity requirements*.—(1) *White Rose and red skin* varieties: Beginning the effective date hereof through December 31, 1973, "moderately skinned"; thereafter, no maturity requirements.

(2) *All other varieties.* "Slightly skinned."

(3) *Exceptions.* (i) Subject to compliance with paragraph (b) (3) (iii) of this section any lot of potatoes not exceeding a total of 50 hundredweight of each variety may be handled for any producer without regard to the foregoing maturity requirements.

(ii) If an officially inspected lot of potatoes meets the foregoing maturity requirements, but fails to meet the grade and size requirements, the lot may be regraded. If, after regarding, such lot then meets the grade and size requirements but fails to meet the maturity requirements, as indicated by the applicable Federal-State inspection certificate, such lot if not exceeding 100 hundredweight shall be exempt from the foregoing maturity requirements: *Provided*, That the handler complies with paragraph (b) (3) (iii) of this section.

(iii) Prior to each shipment of potatoes exempt from the foregoing maturity requirements, the handler thereof shall report to the committee the name and address of the producer of such potatoes, and each such shipment shall be handled as an identifiable entity.

(c) *Pack.* (1) When 50 pound containers (except master containers) of long varieties of potatoes are marked with a count, size or similar designation they must meet the count, average count and weight ranges for the count designation listed below.

	Range		
	Count	Average Count*	Weight
	10 percent over or under	5 percent over or under	15 oz. or larger
Larger than 50 count			
50 "	45-55	48-53	12-19
60 "	54-66	57-63	10-16
70 "	63-77	67-74	9-15
80 "	72-88	76-84	8-13
90 "	81-99	86-95	7-12
100 "	90-110	95-105	6-10
110 "	99-121	105-116	5-9
120 "	108-132	114-126	4-8
130 "	117-143	124-137	4-8
140 "	126-154	133-147	4-8
Smaller than 140 "	10 percent over or under	5 percent over or under	4-8

*Applicable to lots.

The following tolerances by weight, are provided for potatoes in any lot which fail to meet the weight range for the designated count:

(*a*) Not to exceed 5 percent for undersize; and

(*b*) Not to exceed 10 percent for oversize.

(2) Potatoes packed in 50-pound cartons shall be U.S. No. 1 or better grade.

(d) *Special purpose shipments.* (1) The minimum grade, size, cleanliness, maturity and pack requirements set forth in paragraphs (a), (b) and (c) of this section shall not be applicable to shipments of potatoes for any of the following purposes:

(i) Charity;

(ii) Certified seed;

(iii) Seed pieces cut from stock eligible for certification as certified seed;

(iv) Experimentation; and

(v) Canning, freezing and "other processing" as hereinafter defined: *Provided*, That shipments of potatoes for the purpose specified in paragraph (d) (1) (v) of this section shall be exempt from inspection requirements specified in § 945.65 and paragraph (g) of this section and from assessment requirements specified in § 945.42.

(2) The minimum grade, size, cleanliness, maturity and pack requirements set forth in paragraphs (a), (b) and (c) of this section shall be applicable to shipments of potatoes for each of the following purposes:

(i) *Export. Provided*, That potatoes of a size not smaller than 1½ inches in diameter may be shipped if the potatoes grade not less than U.S. No. 2; and

(ii) *Prepeeling. Provided*, That potatoes of a size not smaller than 1½ inches in diameter may be shipped if the potatoes grade not less than Idaho Utility or Oregon Utility grade.

(e) *Safeguards.* (1) Each handler making shipments of potatoes for charity, certified seed, seed pieces cut from stock eligible for certification, experimentation, export, or for prepeeling pursuant to paragraph (d) of this section shall:

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

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

(iii) At the time of applying to the committee for a Certificate of Privilege, or promptly thereafter furnish the committee with a receiver's or buyer's certification that the potatoes so handled are to be used only for the purpose stated in the application and that such receiver will complete and return to the committee such periodic receiver's reports that the committee may require;

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

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

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

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

(ii) Make shipments only to those firms whose names appears on the committee's current list of approved manufacturers of potato products;

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

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

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

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

(i) Complete and return an application form for listing as a manufacturer of potato products;

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

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

(f) *Minimum quantity exception.* Each handler may ship up to, but not to exceed, 5 hundredweight of potatoes any day without regard to the inspection and assessment requirements of this part, but this exception shall not apply to any shipment that exceeds 5 hundredweight of potatoes.

(g) *Inspection.* (1) During the period beginning the effective date hereof through July 31, 1974, no handler shall handle potatoes unless such potatoes are inspected by either the Idaho Federal-State Inspection Service or Oregon Federal-State Inspection Service and are covered by a valid inspection certificate except when relieved of such requirement pursuant to paragraphs (d), (e), or (f) of this section.

(2) Each lot moving by truck shall be accompanied by a copy of a valid inspection certificate.

(h) *Definitions.* The terms "U.S. No. 1," "U.S. No. 2," "Size B," "fairly clean," "moderately skinned," and "slightly skinned," shall have the same meaning as when used in the United States Standards for Potatoes (§§ 51.1540–51.1566 of this title effective September 1, 1971, as amended February 5, 1972, 37 FR 2745), including the tolerances set forth therein. The term "prepeeling" means potatoes which are clean, sound, fresh tubers prepared commercially in a prepeeling plant by washing, removal of the outer skin or peel, trimming, and sorting preparatory to sale in one or more of the styles of peeled potatoes described in § 52.2422 of this title (United States Standards for Grades of Peeled Potatoes §§ 52.2421–52.2433 of this title). The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural

form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, or dicing, or the application of material to prevent oxidation does not constitute "other processing." The terms "Idaho Utility grade" and "Oregon Utility grade" shall have the same meaning as when used in the respective standards for potatoes for the respective States. Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 98 and Order No. 945, both as amended.

(i) *Applicability to imports.* Pursuant to section 8e of the act and § 980.1 *Import regulations* (7 CFR 980.1), Irish potatoes of the long varieties imported during the effective period of this section shall meet the grade, size, cleanliness and maturity requirements specified in paragraphs (a) and (b) of this section.

§ 945.331 [Superseded]

This new § 945.332 supersedes § 945.331 which is hereby terminated.

Effective date. This regulation will become effective July 16, 1973.

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

Dated: July 10, 1973.

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

[FR Doc.73–14316 Filed 7–13–73;8:45 am]

PART 958—ONIONS GROWN IN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

Limitation of Handling

This regulation, designed to promote orderly marketing of Idaho-Eastern Oregon onions, imposes minimum quality standards and requires inspection of fresh market shipments to keep low quality onions from being shipped to consumers.

Notice of rule making with respect to a proposed handling regulation to be effective under Marketing Agreement No. 130 and Order No. 958, both as amended (7 CFR Part 958), regulating the handling of onions grown in the production area defined therein, was published in the June 29, 1973, issue of the FEDERAL REGISTER (38 FR 17238). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.). The notice afforded interested persons an opportunty to file data, views, or arguments pertaining thereto not later than July 6, 1973. None was filed.

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

The recommendations of the committee reflect its appraisal of the composition of the 1973 crop of Idaho-Eastern Oregon onions and the marketing prospects for this season. Harvesting of onions is expected to begin about mid-July.

The grade, size and quality requirements provided herein are necessary to prevent onions of poor quality or undesirable sizes from being distributed in fresh market channels. They will also provide consumers with good quality onions consistent with the overall quality of the crop.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable. Shipments may be made to certain special purpose outlets without regard to the grade, size, quality, pack and inspection requirements, provided that safeguards are met to prevent such onions from reaching unauthorized outlets.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after its publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of onions grown in the production area will begin on or about the effective date specified herein, (2) to maximize benefits to producers, this regulation should apply to as many shipments as possible during the marketing season, (3) information regarding the provisions of this regulation, which are similar to those which were in effect during the previous season, has been made available to producers and handlers in the production area, (4) compliance with this regulation will not require any special preparation by handlers which cannot be completed by the effective date, and (5) notice of the proposed regulation was published in the FEDERAL REGISTER of June 29, 1973.

§ 958.318 Handling regulation.

During the period July 16, 1973, through April 30, 1974, no person may handle any lot of yellow or white varieties of onions unless such onions are at least "moderately cured," as defined in paragraph (f) of this section, and meet the requirements of paragraphs (a) and (b) of this section, or unless such onions are handled in accordance with paragraphs (c), (d), or (e) of this section.

(a) *Grade, size, and pack requirements*—(1) *Yellow varieties.* U.S. No. 1, 2¼ inches minimum diameter; or U.S. No. 1, 1½ inches minimum to 2¼ inches maximum diameter, if packed separately; or U.S. No. 2 grade, 3 inches minimum diameter, if not more than 30 percent of the lot is comprised of onions of U.S. No. 1 quality.

(2) *White varieties.* U.S. No. 1, 1½ inches minimum diameter; or U.S. No. 2, if not more than 30 percent of the lot is comprised of onions of U.S. No. 1 quality, 1½ inches minimum diameter; or U.S. No. 2, 1 inch minimum to 2 inches maximum diameter if packed separately.

(b) *Inspection.* No handler may handle any onions regulated hereunder unless such onions are inspected by the Federal-State Inspection Service and are covered by a valid applicable inspection certificate, except when relieved of such requirement pursuant to paragraphs (c) and (e) of this section.

(c) *Special purpose shipments.* The minimum grade, size, quality, pack and inspection requirements of this section shall not be applicable to shipments of onions for any of the following purposes:

(1) Planting;
(2) Livestock feed;
(3) Charity;
(4) Dehydration;
(5) Canning; and
(6) Freezing.

(d) *Safeguards.* Each handler making shipments of onions for dehydration, canning, or freezing pursuant to paragraph (c) of this section shall:

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

(2) Prepare, on forms furnished by the committee, a report in quadruplicate on each individual shipment to such outlets authorized in paragraph (c) of this section;

(3) Bill or consign each shipment directly to the applicable processor; and

(4) Forward one copy of such report to the committee office, and two copies to the processor for signing and returning one copy to the committee office. Failure of the handler or processor to report such shipments by promptly signing and returning the applicable report to the committee office shall be cause for cancellation of such handler's Certificate of Privilege and/or the processor's eligibility to receive further shipments pursuant to such Certificate of Privilege. Upon cancellation of any such Certificate of Privilege the handler may appeal to the committee for reconsideration.

(e) *Minimum quantity exception.* Each handler may ship up to, but not to exceed, 1 ton of onions each day without regard to the inspection and assessment requirements of this part, if such onions meet minimum grade, size, and quality requirements of this section. This exception shall not apply to any portion of a shipment that exceeds 1 ton of onions.

(f) *Definitions.* The terms "U.S. No. 1" and "U.S. No. 2" have the same meaning except for sizes of grades regulated as when used in the "United States Standards for Grades of Onions," as amended (§§ 51.2830–51.2854 of this title; 36 F.R. 19243). The term "moderately cured" means the onions are mature and are more nearly well cured than fairly well cured. Other terms used in this section have the same meaning as when used in Marketing Agreement No. 130 and this part.

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

Dated July 11, 1973, to become effective July 16, 1973.

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

[FR Doc.73–14488 Filed 7–13–73;8:45 am]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

Nonimmigrant Documentary Waivers

In recognition of the forthcoming independence of the Bahama Islands on July 10, 1973, the Administrator of the Bureau of Security and Consular Affairs, Department of State, in an order dated June 28, 1973, with the concurrence of the Acting Commissioner, Immigration and Naturalization, amended 22 CFR 41.6(a) to clarify that the waiver of visa privilege provided by that section will apply to nationals of the Bahamas after it becomes an independent country. A minor technical amendment was made in 22 CFR 41.6(e)(1) to delete the words "Soviet Zone of Germany" formerly used in referring to the German Democratic Republic. In the light of the aforementioned order of the Department of State, corresponding amendments to §§ 212.1(a) and 212.1(e)(1) in Part 212, Chapter I, Title 8 of the Code of Federal Regulations, are hereby prescribed:

Section 212.1 is amended in the following respects: In paragraph (a), the heading is amended and the third sentence is amended to clarify that the waiver of visa privilege is applicable to nationals of the Bahamas upon the independence of the country; and in paragraph (e)(1), the last sentence is amended by deleting the words "Soviet Zone of Germany" formerly used in referring to the German Democratic Republic. As amended, §§ 212.1(a) and 212.1(e)(1) read as follows:

§ 212.1 Documentary requirements for nonimmigrants.

* * * * *

(a) *Canadian nationals, and aliens having a common nationality with nationals of Canada or with British subjects in Bermuda, Bahamian nationals or British subjects resident in Bahamas, Cayman Islands, and Turks and Caicos Islands.* A visa is not required of a Canadian national, and a passport is not required of such a national except after a visit outside of the Western Hemisphere. A visa is not required of an alien having a common nationality with Canadian nationals or with British subjects in Bermuda, who has his residence in Canada or Bermuda, and a passport is not required of such an alien except after a visit outside of the Western Hemisphere. A visa and a passport are required of a Bahamian national or a British subject who has his residence in the Bahamas except that a visa is not required of such an alien who, prior to or at the time of embarkation for the United States on a vessel or aircraft, satisfies the examining United States immigration officer at Nassau, Bahamas, that he is clearly and beyond a doubt entitled to admission in all other respects. A visa is not required of a British subject who has his residence in, and arrives directly from, the Cayman Islands or the Turks and Caicos Islands and who presents a current certificate from the Clerk of Court of the Cayman Islands or the Turks and Caicos Islands indicating no criminal record.

* * * * *

(e)(1) *Direct transits*—(1) *Transit without visa.* A passport and visa are not required of an alien who is being transported in immediate and continuous transit through the United States in accordance with the terms of an agreement entered into between the transportation line and the Service under the provisions of section 238(d) of the Act on Form I–426 to insure such immediate and continuous transit through, and departure from, the United States en route to a specifically designated foreign country: *Provided,* That such alien is in possession of a travel document or documents establishing his identity and nationality and ability to enter some country other than the United States. This waiver of visa and passport requirements is not available to an alien who is a citizen of Cuba. This waiver of visa and passport requirements is not available to an alien who is a citizen of North Korea ("Democratic Peoples' Republic of Korea"), North Vietnam ("Democratic Republic of Vietnam"), or the German Democratic Republic and is a resident of one of said countries, and is, on a basis of reciprocity, available to a national of Albania, Bulgaria, Czechoslovakia, Estonia, Hungary, Latvia, Lithuania, Outer Mongolia ("Mongolian People's Republic"), People's Republic of China, Poland, Romania, or the Union of Soviet Socialist Republics resident in one of said countries, only if he is transiting the United States by aircraft of a transportation line signatory to an agreement with the Service on Form I–426 on a direct through flight which will depart directly to a foreign place from the port of arrival.

* * * * *

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

Compliance with the provisions of section 553 of Title 5 of the United States Code (80 Stat. 383) as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the amendments to §§ 212.1(a) and 212.1(e)(1) conform Service regulations to corresponding regulations promulgated by the Department of State.

Effective date. This order shall become effective July 10, 1973.

Dated: July 10, 1973.

JAMES F. GREENE,
Acting Commissioner of Immigration and Naturalization.

[FR Doc.73-14442 Filed 7-13-73;8:45 am]

Title 9—Animals and Animal Products

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE (MEAT AND POULTRY PRODUCTS INSPECTION), DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—MANDATORY MEAT INSPECTION

PART 322—EXPORTS

Clearance of Vessels and Exceptions to Prohibition of Transportation Without Certificate

On April 1, 1972, there was published in the FEDERAL REGISTER (37 FR 6694), in accordance with the administrative procedure provisions in 5 U.S.C. 553, a notice of proposed rulemaking under the Federal Meat Inspection Act, as amended (21 U.S.C. 601 et seq.), to amend the regulations governing Federal meat inspection (9 CFR, Chapter III, Subchapter A) for the purpose of limiting the amount of federally inspected meat and meat food products that may be exported without an official export certificate, and clarifying the requirements with respect to exports of inedible product. Interested persons were given 30 days in which to submit written data, views, or arguments concerning the proposed amendment. No response was received.

Therefore, on the basis of all relevant information before the Department, the proposed amendment to the regulations is hereby adopted as set forth below.

(Sec. 21, 34 Stat. 1260, as amended, 21 U.S.C. 621; 37 FR 28464, 28477)

This amendment shall become effective August 20, 1973.

Done at Washington, D.C., on: May 24, 1973.

CLAYTON YEUTTER,
Assistant Secretary, Marketing and Consumer Service.

§ 322.4 Clearance of vessels and transportation without certificate prohibited; exceptions.

No clearance shall be given to any vessel having on board any product destined to any foreign country, and no person operating any vessel, and no railroad or other carrier, shall receive for transportation or transport from the United States to any foreign country, any products, unless and until an official export certificate covering the same has been issued and delivered as provided in this part; except in the case of inspected and passed ship stores and not more than 50 pounds of inspected and passed product for the exclusive personal use of the consignee and not for sale or distribution, and except for exempted product eligible for exportation under the provisions of the Act and the regulations in this subchapter and inedible product that is not capable of use as human food and is eligible for exportation under other provisions of said regulations.

[FR Doc.73-14490 Filed 7-13-73;8:45 am]

PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES; AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

SUBCHAPTER C—MANDATORY POULTRY PRODUCTS INSPECTION

PART 381—POULTRY PRODUCT REGULATIONS

Clarification of Date When Federal Provisions Apply in Any Designated State or Territory

Statement of considerations. Section 301(c) of the Federal Meat Inspection Act (FMIA) and section 5(c) of the Poultry Products Inspection Act (PPIA) set forth the provisions for designating any State as being subject to the provisions of titles I and IV, FMIA, or sections 1–4, 6–10, and 12–22, PPIA. Section 301(c), FMIA, and section 5(c), PPIA, provide that the Secretary shall publish such a designation in the FEDERAL REGISTER, and upon the expiration of 30 days after such publication, said provisions shall apply to operations and transactions and to persons, firms, and corporations engaged therein in the State to the same extent and in the same manner as if such operations and transactions were conducted in or for commerce.

Upon promulgation of 9 CFR Part 331, of the Federal meat inspection regulations, and 9 CFR Part 381, of the poultry products inspection regulations, the heading over the column of calendar dates used is "Effective date of designation" in §§ 331.2 and 381.221. However, these dates are the dates on which the provisions of the FMIA and PPIA, referred to above, became applicable in the specified States. In order to avoid confusion and clarify the meaning of the headings over the column of calendar dates in §§ 331.2 and 381.221, those headings are changed to read "Effective date of application of Federal provisions."

This amendment is made to clarify the regulations. It does not appear that other information could be brought to the Department's attention which would substantially affect this matter. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure concerning the amendment are impracticable and unnecessary, and good cause is found for making the amendment effective less than 30 days after publication hereof in the FEDERAL REGISTER.

This amendment shall become effective July 13, 1973.

Done at Washington, D.C., on July 10, 1973.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.73-14401 Filed 7-13-73;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. D]

PART 204—RESERVES OF MEMBER BANKS

Reserve Requirements

The Board of Governors has increased reserve requirements on all but the first $2 million of net demand deposits at member banks by one-half of one percentage point. This action was taken in an effort to restrain continuing excessive expansion in money and credit.

There is no notice, public participation, or deferred effective date with respect to this amendment since such procedure would result in delay that would be contrary to the public interest and serve no useful purpose. See § 262.2(e) of the Board's rules of procedure, 12 CFR 262.2(e).

Effective July 19, 1973, § 204.5(a)(1)(iii) and (2)(iii) of the Board's Regulation D is amended to read as follows:

§ 204.5 Reserve requirements.

(a) *Reserve percentages.* Pursuant to the provisions of section 19 of the Federal Reserve Act and § 204.2(a) and subject to paragraph (c) of this section, the Board of Governors of the Federal Reserve System hereby prescribes the following reserve balances that each member bank of the Federal Reserve System is required to maintain on deposit with the Federal Reserve Bank of its district:

(1) If not in a reserve city—

* * * * *

(iii) (*a*) 8 per cent of its net demand deposits if its aggregate net demand deposits are $2 million or less, (*b*) $160,000 plus 10½ per cent of its net demand deposits in excess of $2 million if its aggregate net demand deposits are in excess of $2 million but less than $10 million, (*c*) $1 million plus 12½ per cent of its net demand deposits in excess of $10 million if its aggregate net demand deposits are in excess of $10 million but less than $100 million, or (*d*) $12,250,000 plus 13½ per cent of its net demand deposits in excess of $100 million.

* * * * *

(2) If in a reserve city (except as to any bank located in such a city that is permitted by the Board of Governors of the Federal Reserve System, pursuant to § 204.2(a)(2), to maintain the reserves specified in subparagraph (1) of this paragraph)—

* * * * *

(iii) $52,750,000 plus 18 per cent of its net demand deposits in excess of $400 million.

* * * * *

By order of the Board of Governors, June 29, 1973.

[SEAL] CHESTER B. FELDBERG,
Assistant Secretary of the Board.

[FR Doc.73-14416 Filed 7-13-73;8:45 am]

Title 13—Business Credit and Assistance

CHAPTER III—ECONOMIC DEVELOPMENT ADMINISTRATION, DEPARTMENT OF COMMERCE

PUBLIC WORKS, BUSINESS DEVELOPMENT, AND FINANCIAL ASSISTANCE PROGRAMS

Miscellaneous Amendments

On January 23, 1973, the Economic Development Administration completely revised Title 13, Chapter III of the Code of Federal Regulations. That revision expanded, reorganized, and brought current the rules and regulations of the Economic Development Administration.

The purpose of these amendments is to correct certain omissions in the revised regulations as they pertain to the Economic Development Administration's public works and development facilities program; business development program; general requirements for financial assistance; in programs funded by the Economic Development Administration.

Therefore, Parts 305, 306, and 309 of Title 13 of the Code of Federal Regulations are amended as follows:

PART 305—PUBLIC WORKS AND DEVELOPMENT FACILITIES PROGRAMS

1. Section 305.5(b)(3)(v), (vi) and (vii) is revised to read as follows:

§ 305.5 Supplementary grants.

* * * * *

(b) * * *

(3) * * *

(v) Projects located in areas designated under Title I or Title IV of the Act in which the median annual family income is $3,743 or below or the annual unemployment rate is 12 percent or higher	80
(vi) Projects located in areas designated under Title I or Title IV of the Act in which the median annual family income is $3,744 to $4,094 or the annual average unemployment rate is 10 percent to 11.9 percent	70
(vii) Projects located in areas designated under Title I or Title IV of the Act in which the median annual family income is $4,095 to $4,445 or the annual average unemployment rate is 8 percent to 9.9 percent	60

* * * * *

PART 306—BUSINESS DEVELOPMENT PROGRAM

2. Section 306.8(a) is revised to read as follows:

§ 306.8 Financing.

* * * * *

(a) Letters from at least two lending institutions declining to lend to the applicant on terms which, in the opinion of the Assistant Secretary, would permit accomplishment of the project. Letter(s) from the lending institution providing loan(s) secured by a lien senior to EDA's security interest declining to lend the EDA share or to participate with EDA will satisfy this requirement.

* * * * *

PART 309—GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE

3. Section 309.10(a) is revised to read as follows:

§ 309.10 Assurance of job opportunities for the unemployed.

(a) Applicants for business development loans under section 202 of the Act and direct and substantial beneficiaries of EDA assisted public works projects must submit to EDA assurances of compliance with the EDA policy of assuring job oportunities for the unemployed and underemployed, unless in the case of business development loans under section 202 of the Act, EDA determines that the applicant shall obtain for EDA such assurances from other parties. The assurances shall indicate the intention of the applicant to give preferential consideration for employment, wherever possible, to the long term unemployed and underemployed residing in the project area, in connection with the project assisted by EDA.

* * * * *

4. A new § 309.25 is added to read as follows:

§ 309.25 Procedures in disaster areas.

In disaster areas the Assistant Secretary may waive or modify those EDA administrative procedural conditions which are non-statutory in character relating to grants, loans, or contracts which would otherwise prevent the giving of assistance if the inability to meet such procedures is a result of the disaster.

WILLIAM W. BLUNT, Jr.,
Acting Assistant Secretary for Economic Development

[FR Doc.73-14476 Filed 7-13-73;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 12173; Amdt. 39-1688]

PART 39—AIRWORTHINESS DIRECTIVES

Avions Marcel Dassault Fan Jet Falcon Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD), applicable to Avions Marcel Dassault Fan Jet Falcon airplanes, was published in the FEDERAL REGISTER on September 1, 1972 (37 FR 17856). It was proposed to require repetitive inspections of—(1) the studs which retain the SEMCA coupling on pipe, P/N MY20-721-28-1 for scoring or bending, (2) the holes receiving those studs for stretching or elongation, and (3) the weld beads and adjoining areas at the junction of the pipes, P/N's MY20-721-28-1 and MY20-721-61-1, for cracks. In addition, it was also proposed to require the replacement of aluminum alloy pipes, P/N's MY20-721-28-1 and MY20-721-61-1, if defects are found during an inspection, and either the repetitive replacement of those pipes with pipes of the same part number or replacement with pipes made from stainless steel.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No objections were received; however, based upon further review by the FAA the proposed AD has been revised as follows:

(1) Proposed paragraph (a) has been clarified by referencing the applicable manufacturer's service bulletins; and

(2) Proposed paragraph (d) has been revised by deleting the requirement that subparagraph (a)(2) be complied with for replacement pipes and to require the initial inspection in accordance with subparagraph (a)(1) within 200 hours' time in service after installation.

Since these changes impose no additional burden on any person, further notice and public procedure hereon is unnecessary.

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

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

AVIONS MARCEL DASSAULT. Applies to Fan Jet Falcon airplanes, Serial Numbers 1 through 111, which have aluminum alloy air conditioning pipes, P/N's MY20-721-28-1 and MY 20-721-61-1, installed.

Compliance is required as indicated.

To prevent the leakage of very hot air into the rear compartment, accomplish the following, unless already accomplished:

(a) Within the next 100 hours' time in service after the effective date of this AD, comply with subparagraphs (1) and (2), and thereafter comply with subparagraph (1) at intervals not to exceed 200 hours' time in service from the last inspection.

(1) Visually inspect the studs which retain the SEMCA coupling on pipe, P/N MY20-721-28-1, for scoring or bending, and inspect the holes receiving those studs for stretching or elongation, in accordance with Dassault Service Bulletin No. 430 (21-30) dated February 16, 1972, or an FAA-approved equivalent.

(2) Inspect the weld beads and adjoining areas at the junction of the pipes, P/N's MY20-721-28-1 and MY20-721-61-1, for cracks using a magnifying glass of 5 power or greater and a dye penetrant, in accordance with Dassault Service Bulletin No. 430 (21-30) dated February 16, 1972, or an FAA-approved equivalent.

(b) Within the next 100 hours' time in service after the effective date of this AD or before the accumulation of 600 hours' time in service on an aluminum alloy air conditioning pipe, P/N MY20-721-28-1 or MY20-721-61-1, whichever occurs later—

(1) Replace the pipes, P/N's MY20-721-28-1 and MY20-721-61-1, with pipes of the same part number and thereafter continue to replace aluminum alloy pipes before the accumulation of 600 hours' time in service thereon and comply with paragraph (d); or

(2) Replace the pipes, P/N's MY20-721-28-1 and MY20-721-61-1, with stainless steel pipes, P/N's MY20-721-28-2 and MY20-721-61-2, in accordance with Dassault Service Bulletin No. 442 (21-31) dated February 16, 1972, or an FAA-approved equivalent.

(c) If scoring or bending of the studs or stretching or elongation of the holes are found during an inspection specified in paragraph (a)(1) or cracks are found during an inspection specified in paragraph (a)(2) before further flight comply with subparagraph (1) or (2) of paragraph (b).

(d) For aluminum alloy pipes installed as replacement in accordance with subparagraph (1) of paragraph (b)—

(1) Before the accumulation of 200 hours' time in service thereon, inspect in accordance with subparagraph (1) of paragraph (a); and

(2) Thereafter, inspect in accordance with subparagraph (1) of paragraph (a) at intervals not to exceed 200 hours' time in service from the last inspection.

(e) Operators who have not kept records of hours' time in service on pipes, P/N's MY20-721-28-1 and MY20-721-61-1, shall substitute airplane hours' time in service in lieu thereof.

(f) The inspections required by paragraphs (a) and (d) and the replacements specified in subparagraph (1) of paragraph (b) may be discontinued when the aluminum alloy air conditioning pipes, P/N's MY20-721-28-1 and MY20-721-61-1, are replaced with stainless steel pipes, P/N's MY20-721-28-2 and MY20-721-61-2, in accordance with Dassault Service Bulletin No. 442 (21-31), dated February 16, 1972, or an FAA-approved equivalent.

This amendment becomes effective August 15, 1973.

Issued in Washington, D.C., on July 5, 1973.

C. R. MELUGIN, Jr.,
Acting Director, Flight Standards Service.

[FR Doc.73-14404 Filed 7-13-73;8:45 am]

[Airspace Docket No. 73-EA-32]

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

Alteration of Control Zone and Transition Area

On page 13566 of the FEDERAL REGISTER for May 23, 1973, the Federal Aviation Administration published proposed regulations which would alter the Philadelphia, Pa., control zone (38 FR 411) and Philadelphia, Pa., (38 FR 555) and Pitman, N.J., transition areas (38 FR 557).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted, effective 0901 G.m.t. September 13, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on July 2, 1973.

ROBERT H. STANTON,
Acting Director, Eastern Region.

1. Amend § 71.171 of part 71 of the Federal Aviation regulations by deleting the description of the Philadelphia, Pa. control zone and by substituting the following in lieu thereof:

Within a 5-mile radius of the center, 39°52'31" N., 75°14'20" W. of Philadelphia International Airport, Philadelphia, Pa.; within a 6-mile radius of the center of the airport extending clockwise from a 264° bearing to a 011° bearing from the airport; within

2 miles each side of the New Castle, Del., VORTAC 055° radial extending from 18.5 miles northeast to 22.5 miles northeast of the VORTAC; within 1.5 miles each side of the Philadelphia International Airport Runway 9L ILS localizer course, extending from the 5-mile-radius zone to 1.5 miles each of the Chester OM.

2. Amend § 71.181 of part 71 of the Federal Aviation regulations by deleting the description of the Philadelphia, Pa. transition area and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within an 11-mile radius of the center, 39°52'31" N., 75°14'20" W. of Philadelphia International Airport, Philadelphia, Pa., extending clockwise from a 256° bearing to a 016° bearing from the airport; within a 10-mile radius of the center of the airport, extending clockwise from a 016° bearing to a 045° bearing from the airport; within an 8.5-mile radius of the center of the airport, extending clockwise from a 045° bearing to a 136° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 136° bearing to a 256° bearing from the airport; within 4.5 miles north and 6.5 miles south of the Philadelphia International Airport Runway 9R ILS localizer course, extending from 5.5 miles east of the Claymont OM to 11.5 miles west of the OM; within 4.5 miles each side of the Modena, Pa., VORTAC 097° radial, extending from 24 miles east to 33 miles east of the VORTAC; within a 5.5-mile radius of the center, 39°47'50" N., 75°20'35" W. of Bridgeport Airport, Bridgeport, N.J.; within 2 miles each side of the Woodstown, N.J., VORTAC 350° radial extending from the 5.5-mile-radius area to the Woodstown, N.J., VORTAC, excluding the portion which coincides with the Wilmington, Del., transition area.

3. Amend § 71.181 of part 71 of the Federal Aviation regulations by deleting the description of the Pitman, N.J., transition area and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center, 39°45'15" N., 75°08'30" W. of Pitman Airport, Pitman, N.J.; and within 2 miles each side of the Woodstown, N.J., VORTAC 047° radial, extending from the 5.5-mile-radius area to 1 mile northeast of the VORTAC, excluding the portion within the Philadelphia, Pa., transition area. This transition area is effective from sunrise to sunset, daily.

[FR Doc.73-14406 Filed 7-13-73;8:45 am]

[Airspace Docket No. 73-CE-2]

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

Designation of Transition Area

On pages 10461 and 10462 of the FEDERAL REGISTER dated April 27, 1973, the Federal Aviation Administration published a notice of proposed rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Iowa Falls, Iowa.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., September 13, 1973.

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

Issued in Kansas City, Missouri, on June 26, 1973.

JOHN M. CYROCKI,
Director, Central Region.

In § 71.181 (38 FR 435) the following transition area is added:

IOWA FALLS, IOWA

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Iowa Falls Municipal Airport (lat. 42°28'10" N.; long. 93°16'00" W.); and within 3 miles on each side of the 154 degree bearing from the airport reference point extending from the 6.5 mile radius 8.5 miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface bounded on the west by V13, on the north by V100, on the east by the Waterloo 29 DME arc and on the south by a 20 mile arc of the Iowa Falls Airport.

[FR Doc.73-14408 Filed 7-13-73;8:45 am]

[Airspace Docket No. 73-EA-30]

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

Alteration of Transition Area

On page 13657 of the FEDERAL REGISTER for May 24, 1973, the Federal Aviation Administration published a proposed rule which would alter the Sidney, NY, transition area (38 FR 579).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t. September 13, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655 (c))

Issued in Jamaica, N.Y., on July 2, 1973.

ROBERT H. STANTON,
Acting Director,
Eastern Region.

1. Amend § 71.181 of part 71, Federal Aviation regulations by deleting the text of the Sidney, N.Y. 700-foot floor transition area and substituting the following in lieu thereof:

SIDNEY, N.Y.

That airspace extending upward from 700 ft above the surface within a 12.5-mile radius of the center, lat. 42°18'22" N., long. 75°-24'57" W. of Sidney Municipal Airport, Sidney, N.Y.; within a 16-mile radius arc from the center of the airport extending clockwise from a 080° bearing to a 215° bearing from the airport excluding the airspace within a 2-mile radius area of the Harmony Crest Airpark (lat. 42°13'56" N., long. 75°38'00" W.).

[FR Doc.73-14407 Filed 7-13-73;8:45 am]

[Airspace Docket No. 73-EA-33]

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

Alteration of Transition Area

On page 13566 of the FEDERAL REGISTER for May 23, 1973, the Federal Aviation Administration published a proposed rule which would alter the Cambridge, Md., transition area (38 FR 457).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t. September 13, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749; 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on July 2, 1973.

ROBERT H. STANTON,
Acting Director,
Eastern Region.

1. Amend § 71.181 of part 71 of the Federal Aviation Regulations by deleting the description of the Cambridge, Md., transition area and by substituting the following in lieu thereof:

That airspace extending upward from 700 ft above the surface within a 6.5-mile radius of the center, 38°32'16" N., 76°01'47" W. of Cambridge Municipal Airport, Cambridge, Md.; and within 3 miles each side of the 145° bearing from the Cambridge, Md., RBN, 38°32'17" N., 76°01'56" W., extending from the 6.5-mile-radius area to 8.5 miles southeast of the RBN.

[FR Doc.73-14405 Filed 7-13-73;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

[Docket No. R-456; Order 486]

UNIFORM SYSTEM OF ACCOUNTS

Specialized Training Costs

JULY 3, 1973.

On October 2, 1972, the Commission issued a notice of proposed rulemaking in this proceeding (37 FR 21181, October 6, 1972) proposing to amend:

(A) Uniform System of Accounts for Class A and Class B Public Utilities and Licensees, prescribed by Part 101, Chapter I, Title 18, CFR.

(B) Uniform System of Accounts for Class C Public Utilities and Licensees, prescribed by Part 104, Chapter I, Title 18, CFR.

(C) Uniform System of Accounts for Class A and Class B Natural Gas Companies, prescribed by Part 201, Chapter I, Title 18, CFR.

(D) Uniform System of Accounts for Class C Natural Gas Companies, prescribed by Part 204, Chapter I, Title 18, CFR.

The purpose of this rulemaking is to establish uniform accounting procedures for the costs of training employees to operate or maintain new and unique facilities. We recognize that training costs

of this type are becoming increasingly significant in amount and the existing Uniform Systems of Accounts do not clearly specify whether such costs are to be capitalized or charged to expense currently. The new facilities referred to are those which are constructed under a non-conventional technology where new training is required for their operation and maintenance, and include nuclear power generating plants and other new type generating facilities.

The Commission recognizes that during the construction of such facilities it is necessary that company employees be trained to a degree of competence so as to be able to operate and maintain the facilities when they are ready for service. It is also recognized that the training required under such circumstances usually involves the investment of a considerable amount of time and money.

We proposed to clarify the accounting by one of two methods referred to hereinafter as Proposal A and Proposal B. Proposal A would expense all training costs as a current operational expense item, with the exception of those large significant amounts associated with unique type facilities that are not now conventional in nature which would be capitalized. This capitalized expense would be amortized over the period of its expected benefit, not to exceed five years. Proposal B would treat all training costs, regardless of their relationship to new type facilities as current operational expense items.

Proposal A envisioned that the cost invested in employee training associated with non-conventional facilities which is new to the companies operations is similar to other costs invested in plant which are subject to recovery after the plant is placed in service. To match the recovery of the training costs, under Proposal A, the costs would be spread over the period during which the benefits from such training will be realized. This proposal was based on the belief that such training costs should be capitalized as an intangible asset includible in the rate base just like any other element of plant in service, and amortized to expense over the period of expected benefit from the training received by the related employees. We noted, further, that unlike other plant elements, training costs are related to human resources and trained personnel are subject to reassignment or replacement during the service life of a new type facility. Therefore, training costs capitalized under Proposal A would be recovered by amortization charges to operating expenses over a reasonable period not to exceed five years.

Proposal B envisioned expensing all training costs as a current operational expense. This proposal was based on the premise that such training costs will be common in companies' operations hereafter and that for the foreseeable future there will be increasing changes in technology that will cause continued training for new type plants. Under this premise, therefore, such costs should be expensed currently since they cannot be deemed to be nonrecurring or unusual.

All data, views, comments or suggestions concerning the rulemaking proposals were to be submitted not later than November 16, 1972. An extension of time was requested on October 12, 1972, by the American Gas Association, and an extension to February 14, 1973, was granted on October 27, 1972. A total of forty-one comments and suggestions were received. (Appendix A) A conference was not requested by any respondent.

We found in our review of the comments that all the respondents were in favor of the general purpose of the proposed rulemaking to recognize and make provision for training costs associated with non-conventional facilities. There was also general agreement among the majority that Proposal A was far more reasonable than Proposal B if one or the other was to be imposed, but an overwhelming majority registered disapproval and advocated modification of Proposal A for various reasons. A few of the respondents were actually opposed to the implementation of either proposal as stated.

The major criticisms of Proposal A went to the vague definitions of "normal," "excess," and "non-conventional," and to the selection of a 5-year amortization period as arbitrary. Many respondents expressed the opinion that training costs are an integral part of the operation of new facilities, and should therefore be capitalizable as plant cost to be depreciated over the life of the plant. It was pointed out that in the case of nuclear units some employees are trained and licensed for a specific unit.

Those respondents who advocated capitalization and depreciation of specialized training costs over the life of the plant suggested this treatment only for the original personnel. Costs of training future personnel would be expensed. They commented that the arbitrary 5-year period ignored the permanency of training efforts in that some trained personnel remain available to train new employees, and therefore the original training benefits the life of the plant. It was also suggested that any treatment of specialized training costs not be limited to non-conventional facilities.

Proposal B, although not presenting the definitional problems of Proposal A, was rejected by all but a few of the respondents. The main objection was that charging all or most training costs to current expenses would inevitably result in a distortion of earnings. One respondent, Public Service Commission of New York, did suggest the adoption of Proposal B, albeit with an important modification. It urged that distorting amounts be deferred in a specific account and then amortized over a period determined by the Commission. This would allow the Commission to decide whether the costs were really unusual and nonrecurring.

We think that it is reasonable and desirable to implement the general purpose of the proposed rulemaking. We agree, however, with the majority of respondents who expressed the belief that neither of the two proposals adequately treat the problem of specialized training costs. It appears to us that those training costs associated with new or non-conventional facilities are in the nature of a pre-operating cost, and are therefore properly capitalizable as an integral cost of the facility (includable in rate base). This cost would be recoverable through depreciation over the useful life of the facility, and therefore not subject to an artificial amortization period.

Obviously, newly-trained personnel are subject to the same attrition factors as all employees. However, we think that the benefits of the original training in operation and maintenance of the facility provide an input that lasts throughout the life of the project. The original training is as essential to the first year of operation as any other element of the physical plant. This concept incorporates the cost of replacement training being charged to current operations.

In implementing this accounting for specialized training costs, we also adopt the suggestion that this treatment not be restricted to non-conventional facilities, i.e., nuclear generating plants, but expanded to include any conventional facilities that are altogether new to the utility's operations.

The Commission finds:

(1) The notice and opportunity to participate in this rulemaking proceeding with respect to the matters presently before this Commission through the submission, in writing, or views, comments, and suggestions in the manner described above, are consistent and in accordance with the procedural requirements prescribed by 5 U.S.C. 553.

(2) The amendments to Parts 101 and 104 of the Commission's Uniform Systems of Accounts for Public Utilities and Licensees, prescribed by Chapter I, Title 18 of the Code of Federal Regulations, are necessary and appropriate for the administration of the Federal Power Act.

(3) The amendments to Parts 201 and 204 of the Commission's Uniform System of Accounts for Natural Gas Companies, prescribed by Chapter I, Title 18 of the Code of Federal Regulations, are necessary and appropriate for the administration of the Natural Gas Act.

The Commission, acting pursuant to the provisions of the Federal Power Act, as amended, particularly sections 301, 302, 303, 304, and 309 thereof (49 Stat. 854, 855, 858; 16 U.S.C. 825, 825a, 825b, 825c, 825h), and of the Natural Gas Act, as amended, particularly sections 8, 9, 10, and 16 thereof (52 Stat. 825, 826, 830; 15 U.S.C. 717g, 717h, 717i, 717o), orders:

(A) The Commission's Uniform Systems of Accounts for Class A, B, and C Public Utilities and Licensees prescribed by Parts 101 and 104, and for Natural Gas Companies prescribed by Parts 201 and 204, Chapter I, Title 18 of the Code of Federal Regulations, are revised and amended as follows:

PART 101—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR CLASS A AND CLASS B PUBLIC UTILITIES AND LICENSEES

1. The Electric Plant Instructions are amended by:

a. Adding a new item (19) entitled, (19) Training to instruction "3. *Components of Construction Cost.*"

b. Adding a new instruction 17 entitled, "17. Training Costs," immediately following "16. Nuclear Fuel Records Required."

As amended, this portion of the Electric Plant Instructions reads:

Electric Plant Instructions

* * * * *

3. *Components of construction cost.*

* * * * *

(19) "Training." (See Electric Plant Instruction 17).

* * * * *

17. *Training costs.*

When it is necessary that employees be trained to operate or maintain plant facilities that are being constructed and such facilities are not conventional in nature, or are new to the company's operations, these costs may be capitalized as an item of intangible plant and recorded in account 303, Miscellaneous Intangible Plant. The amount so capitalized shall be amortized over the estimated useful life of the related plant from the time the related plant is placed in or ready for service. Once plant is placed in service, the capitalization of training costs shall cease and subsequent training costs shall be expensed. (See Operating Expense Instruction 4.)

2. The Operating Expense Instructions are amended by:

a. Amending item 7 of the instruction "1. Supervision and Engineering."

b. Adding a new instruction 4. *Training Costs* to the instructions.

As amended, this portion of the Operating Expense Instructions reads:

Operating Expense Instructions

1. *Supervision and engineering.*

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ITEMS

Labor

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7. * * * (See Electric Plant Instruction 17.)

* * * * *

4. *Training costs.*

When it is necessary that employees be trained to specifically operate or maintain plant facilities that are being constructed, the related costs shall be accounted for as a current operating and maintenance expense. These expenses shall be charged to the appropriate functional accounts currently as they are incurred. However, when the training costs involved relate to facilities which are not conventional in nature, or are new to the company's operations, then see Electric Plant Instruction 17, for accounting.

3. Account "303, Miscellaneous Intangible Plant," of the Electric Plant Accounts is amended by amending the text of paragraph "B", by adding a new paragraph "C", and by recodifying the present paragraph "C" as "D". As amended account 303 reads:

Electric Plant Accounts

1. INTANGIBLE PLANT

* * * * *

303 Miscellaneous intangible plant.

* * * * *

B. When any item included in paragraph A above of this account is retired or expires, the book cost thereof shall be credited hereto and charged to account 426.5, Other Deductions, or account 111, Accumulated Provision for Amortization of Electric Utility Plant, as appropriate.

C. This account shall also include the cost of training employees who will be directly responsible for the operation or maintenance of plant facilities constructed under a new technology where new special type training is required. Amortization from this account shall be debited to account 404, Amortization of Limited-term Electric Plant, and account 111, Accumulated Provision for Amortization of Electric Utility Plant, shall be credited. (See Electric Plant Instruction 17.)

D. [Recodified from "C" without change in text.]

* * * * *

4. Account "404, Amortization of Limited-term Electric Plant," of the Income Accounts is amended by revising the first sentence. As amended, this portion of account 404 reads:

Income Accounts

1. UTILITY OPERATING INCOME

* * * * *

404 Amortization of limited-term electric plant.

This account shall include amortization charges applicable to amounts included in the electric plant accounts for limited-term franchises, licenses, patent rights, limited-term interests in land, expenditures on leased property where the service life of the improvements is terminable by action of the lease, and training costs. * * *

PART 104—UNIFORM SYSTEM OF ACCOUNTS FOR CLASS C PUBLIC UTILITIES AND LICENSEES

* * * * *

B. The Uniform System of Accounts for Class C and Class D Public Utilities and Licensees prescribed by Part 104, Chapter I, Title 18 of the Code of Federal Regulations is amended as follows:

1. The Electric Plant Instructions are amended by adding a new plant instruction entitled "14. Training costs." As amended, this portion of the Electric Plant Instructions reads:

Electric Plant Instructions

* * * * *

14. *Training costs.*

When it is necessary that employees be trained to operate or maintain plant facilities that are being constructed and such facilities are not conventional in nature or are new to the company's operations, these costs may be capitalized as an item of intangible plant and recorded in account 303, Miscellaneous Intangible Plant. The amount so capitalized shall be amortized over the estimated useful life of the related plant from the time the related plant is placed in or ready for service. Once plant is placed in service, the capitalization of training costs shall cease, and subsequent training costs shall be expensed. (See Operating Expense Instruction 3.)

2. The Operating Expense Instructions are amended by adding a new instruction 3 entitled "3. Training costs." As amended, the Operating Expense Instructions read:

Operating Expense Instructions

* * * * *

3. *Training costs.*

When it is necessary that employees be trained to specifically operate or maintain plant facilities that are being constructed, the related costs shall be accounted for as a current operating and maintenance expense. These expenses shall be charged to the appropriate functional accounts currently as they are incurred. However, when the training costs involved relate to facilities which are not conventional in nature, or are new to the company's operations, then see Electric Plant Instruction 14, for accounting.

3. Account "303, Miscellaneous Intangible Plant," of the Electric Plant Accounts is amended by amending the text of paragraph "B", by adding a new paragraph "C", and by recodifying the present paragraph "C" as "D". As amended account 303 reads:

Electric Plant Accounts

1. INTANGIBLE PLANT

* * * * *

303 Miscellaneous intangible plant.

* * * * *

B. When any item included in paragraph A above in this account is retired or expires, the book cost thereof shall be credited hereto and charged to account 426.5, Other Deductions, or account 110, Accumulated Provision for Depreciation and Amortization of Electric Utility Plant, as appropriate.

C. This account shall also include the cost of training employees who will be directly responsible for the operation or maintenance of plant facilities constructed under a new technology where new special type training is required. Amortization from this account shall be debited to account 404, Amortization of Limited-term Electric Plant, and account 110, Accumulated Provision for Depreciation and Amortization of Electric Utility Plant, shall be credited. (See Electric Plant Instruction 14.)

D. [Recodified from "C" without change in text].

* * * * *

4. Account "404, Amortization of Limited-term Electric Plant," of the Income Accounts is amended by revising the first

sentence. As amended, this portion of account 404 reads:

Income Accounts

1. UTILITY OPERATING INCOME

* * * * *

404 Amortization of limited-term electric plant.

This account shall include amortization charges applicable to amounts included in the electric plant accounts for limited-term franchises, licenses, patent rights, limited-term interest in land, expenditures on leased property where the service life of the improvements is terminable by action of the lease, and training costs. * * *

* * * * *

PART 201—UNIFORM SYSTEM OF ACCOUNTS FOR NATURAL GAS COMPANIES

C. The Uniform System of Accounts for Class A and Class B Natural Gas Companies prescribed by Part 201, Chapter I, Title 18 of the Code of Federal Regulations is amended as follows:

1. The Gas Plant Instructions are amended by:

a. Adding a new item (19) entitled "(19) Training" to instruction "3. Components of construction cost."

b. Adding a new instruction 16 entitled, "16. Training costs," immediately following "15. Fees for applications filed with the Commission." As so amended, this portion of the Gas Plant Instructions reads:

Gas Plant Instructions

* * * * *

3. *Components of construction cost.*

* * * * *

(19) "Training." (See Gas Plant Instruction 16).

* * * * *

16. *Training costs.*

When it is necessary that employees be trained to operate or maintain plant facilities that are being constructed and such facilities are not conventional in nature or are new to the company's operations, these costs may be capitalized as an item of intangible plant and recorded in account 303, Miscellaneous Intangible Plant. The amount so capitalized shall be amortized over the estimated useful life of the related plant from the time the related plant is placed in or ready for service. Once plant is placed in service, the capitalization of training costs shall cease, and subsequent training costs shall be expensed. (See Operating Expense Instruction 4.)

2. The Operating Expense Instructions are amended by:

a. Amending item 7 of the instruction "1. Supervision and engineering."

b. Adding a new instruction 4. "Training costs." As amended, this portion of the Operating Expense Instructions reads:

Operating Expense Instructions

1. *Supervision and engineering.*

* * * * *

ITEMS

Labor:

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7. * * * (See Gas Plant Instruction 16.)

* * * * *

4. *Training costs.*

When it is necessary that employees be trained to specifically operate or maintain plant facilities that are being constructed, the related costs shall be accounted for as a current operating and maintenance expense. These expenses shall be charged to the appropriate functional accounts currently as they are incurred. However, when the training costs involved relate to facilities which are not conventional in nature, or are new to the company's operations, then see Gas Plant Instruction 16, for accounting.

3. Account "303, Miscellaneous intangible plant" of the Gas Plant Accounts is amended by amending the text of paragraph "B", by adding a new paragraph "C", and by recodifying the present paragraph "C" as "D". As amended account 303 reads:

Gas Plant Accounts

1. INTANGIBLE PLANT

* * * * *

303 Miscellaneous intangible plant.

* * * * *

B. When any item included in paragraph A above of this account is retired or expires, the book cost thereof shall be credited hereto and charged to account 426.5, Other Deductions, or account 111, Accumulated Provisions for Amortization and Depletion of Gas Utility Plant, as appropriate.

C. This account shall also include the cost of training employees who will be directly responsible for the operation or maintenance of plant facilities constructed under a new technology where new special type training is required. Amortization from this account shall be debited to account 404.3, Amortization of Other Limited-term Gas Plant, and account 111, Accumulated Provision for Amortization and Depletion of Gas Utility Plant in Service, shall be credited. (See Gas Plant Instruction 16.)

D. [Recodified from "C" without change in text.]

* * * * *

4. Account "404.3, Amortization of other limited-term gas plant" of the Income Accounts is amended by revising the first sentence. As amended, this portion of account 404.3 reads:

Income Accounts

1. UTILITY OPERATING INCOME

* * * * *

404.3 Amortization of other limited-term gas plant.

This account shall include amortization charges applicable to amounts included in the gas plant accounts for limited-term franchises, licenses, patent rights, limited-term interests in land, expenditures on leased property where the service life of the improvements is terminable by action of the lease, and training costs. * * *

* * * * *

PART 204—UNIFORM SYSTEM OF ACCOUNTS FOR CLASS C NATURAL GAS COMPANIES

D. The Uniform System of Accounts for Class C and Class D Natural Gas Companies prescribed by Part 204, Chapter I, Title 18 of the Code of Federal Regulations is amended as follows:

1. The Gas Plant Instructions are amended by adding a new plant instruction entitled "15. Training costs." As amended, this portion of the Gas Plant Instructions reads:

Gas Plant Instructions

* * * * *

15. *Training costs.*

When it is necessary that employees be trained to operate or maintain plant facilities that are being constructed and such facilities are not conventional in nature or are new to the company's operations, these costs may be capitalized as an item of intangible plant and recorded in account 303, Miscellaneous Intangible Plant. The amount so capitalized shall be amortized over the estimated useful life of the related plant from the time the related plant is placed in or ready for service. Once plant is placed in service, the Capitalization of training costs shall cease, and subsequent training costs shall be expensed. (See Operating Expense Instruction 3.)

2. Amend the Operating Expense Instructions by adding a new instruction 3 entitled, "3. Training costs." As amended the Operating Expense Instruction reads:

Operating Expense Instructions

* * * * *

3. *Training costs.*

When it is necessary that employees be trained to specifically operate or maintain plant facilities that are being constructed, the related costs shall be accounted for as current operating and maintenance expense. These expenses shall be charged to the appropriate functional accounts currently as they are incurred. However, when the training costs involved relate to facilities which are not conventional in nature, or are new to the company's operations, then see Gas Plant Instruction 15, for accounting.

3. Account "303, Miscellaneous intangible plant" of the Gas Plant Accounts is amended by amending the text of paragraph "B", by adding a new paragraph "C", and by recodifying the present paragraph "C" as "D". As amended account 303 reads:

Gas Plant Accounts

1. INTANGIBLE PLANT

* * * * *

303 Miscellaneous intangible plant.

* * * * *

B. When any item included in paragraph A above of this account is retired

or expires, the book cost thereof shall be credited hereto and charged to account 426.5, Other Deductions, or account 110, Accumulated Provision for Depreciation, Depletion and Amortization of Gas Utility Plant, as appropriate.

C. This account shall also include the cost of training employees who will be directly responsible for the operation or maintenance of plant facilities constructed under a new technology where new special type training is required. Amortization from this account shall be debited to account 404, Amortization of Limited-term Gas Plant, and account 110, Accumulated Provision for Depreciation, Depletion and Amortization of Gas Utility Plant, shall be credited. (See Gas Plant Instruction 15.)

D. [Recodified from "C" without change in text.]

* * * * *

4. Account "404, Amortization of limited-term gas plant" of the Income Accounts is amended by revising the first sentence. As amended, this portion of account 404 reads:

Income Accounts

1. UTILITY OPERATING INCOME

* * * * *

404 Amortization of limited-term gas plant.

This account shall include amortization charges applicable to amounts included in the gas plant accounts for limited-term franchises, licenses, patent rights, limited-term interests in land other than land rights held for the production of natural gas expenditures on leased property where the service life of the improvements is terminable by action of the lease, and training costs. * * *

* * * * *

(B) The amendments and revisions adopted herein shall be effective January 1, 1974.

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

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

APPENDIX A—LIST OF RESPONDENTS

[Docket No. R-456]

ACCOUNTING FIRMS

Arthur Andersen Company
Haskins and Sells

ELECTRIC UTILITIES

American Electric Power System Companies
Arkansas Power and Light Company
Arizona Public Service Company
Baltimore Gas and Electric Company
Central Vermont Public Service Corporation
Cincinnati Gas and Electric Company
Cleveland Electric Illuminating Company
Columbus and Southern Ohio Electric Company
Commonwealth Edison Company
Consumers Power Company
Detroit Power Company
Duke Power Company
Florida Power Corporation
Central Public Utilities Corporation
Georgia Power Company
Long Island Lighting Company
Louisiana Power and Light Company
Nebraska Public Power District
Northeast Utilities
Northern States Power Company
Otter Tail Power Company
Pacific Gas and Electric Company
Pacific Power and Light Company
Pennsylvania Power and Light Company
Philadelphia Electric Company
Public Service of Indiana
Sacramento Municipal Utility District
Utah Power and Light Company
Wisconsin Power and Light Company
Wisconsin Public Service Corporation

GAS UTILITIES (JURISDICTIONAL)

Colorado Interstate Gas Company, a Division of Colorado Interstate Corporation
Southern Natural Gas Company
Tennessee Gas Pipeline Company, a Division of Tenneco, Inc.
Texas Eastern Transmission Corporation and Transwestern Pipeline Company
Texas Gas Transmission Corporation
Transcontinental Gas Pipe Line Corporation

GAS UTILITIES (NON-JURISDICTIONAL)

Southern California Gas Company

STATE COMMISSIONS

New York Public Service Commission

FEDERAL AGENCIES

United States Department of Agriculture

[FR Doc.73-14378 Filed 7-13-73;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER C—DRUGS

PART 130—NEW DRUGS

PART 132—REGISTRATION OF PRODUCERS OF DRUGS AND LISTING OF DRUGS IN COMMERCIAL DISTRIBUTION

Stay of Effective Date for Labeling Requirement

In the FEDERAL REGISTER of March 7, 1973 (38 FR 6258) the Commissioner of Food and Drugs published a final order implementing regulations for the Drug Listing Act of 1972. This order provided for an effective date of March 7, 1973, except that § 132.8(b)(3) was not effective for labeling bearing a National Drug Code number printed prior to July 1, 1973.

In the FEDERAL REGISTER of July 6, 1973 (38 FR 18041), the Commissioner proposed that § 132.8(b)(3) not be effective until printing plates are revised in the normal course of business or until July 1, 1975, whichever occurs first. All interested persons were invited to file, on or before September 4, 1973, with the Hearing Clerk, Food and Drug Administration, Room 6-88, 5600 Fishers Lane, Rockville, MD 20852, written comments regarding this proposal.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 510, 701(a), 52 Stat. 1053, as amended, 1055 as amended; 21 U.S.C. 360, 371(a)), and the Drug Listing Act of 1972 (Public Law 92-387; 865 Stat. 559-562) and under authority delegated to the Commissioner (21 CFR 2.120), the July 1, 1973 effective date for § 132.8(b)(3), as published in the FEDERAL REGISTER on March 7, 1973, is hereby stayed until a decision is reached on the July 6, 1973 proposal.

Dated: July 9, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-14445 Filed 7-13-73;8:45 am]

Title 22—Foreign Relations

CHAPTER I—DEPARTMENT OF STATE

[Dep. Reg. 108.689]

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Nonimmigrant Documentary Waivers

In recognition of the forthcoming independence of the Bahama Islands on July 10, 1973, Part 41 Chapter I, Title 22 of the Code of Federal Regulations is amended to insert the words "A Bahamian national" in the third sentence of § 41.6(a) to make it clear that the waiver of visa privilege provided by this sentence will apply to nationals of the Bahamas after it becomes an independent country. A minor technical amendment has been made in § 41.6(e)(1) to delete the words "Soviet Zone of Germany" formerly used in referring to the German Democratic Republic.

1. The heading and the third sentence of paragraph (a) and the last sentence of paragraph (e)(1) of § 41.6 are amended to read as follows:

§ 41.6 Nonimmigrants not required to present passports, visas, or border-crossing identification cards.

* * * * *

(a) *Canadian nationals, and aliens having a common nationality with nationals of Canada or with British subjects in Bermuda, Bahamian nationals or British subjects resident in Bahamas, Cayman Islands, and Turks and Caicos Islands.* * * * A Bahamian national or a British subject who has his residence in the Bahamas shall require a passport and a visa for admission to the United States except that a visa shall not be required of such an alien who, prior to or at the time of embarkation for the United States on a vessel or aircraft, satisfies the examining United States immigration officer at Nassau, Bahamas that he is clearly and beyond a doubt entitled to admission in all other respects. * * *

(e) *Aliens in immediate transit.*—(1) *Aliens in bonded transit.* * * * This waiver of visa and passport requirements is not available to an alien who is a citizen of North Korea ("Democratic Peoples' Republic of Korea"), North Viet-Nam ("Democratic Republic of Viet-Nam"), or the German Democratic Republic, and is a resident of one of the said countries, and is on a basis of reciprocity, available to a national of Albania, Bulgaria, Czechoslovakia, Estonia,

Hungary, Latvia, Lithuania, Mongolian People's Republic, People's Republic of China, Poland, Romania, or the Union of Soviet Socialist Republics resident in one of said countries, only if he is transiting the United States by aircraft of a transportation line signatory to an agreement with the Immigration and Naturalization Service on Form I-426 on a direct through flight which will depart directly to a foreign place from the port of arrival.

* * * * *

Effective date. The amendments to the regulations contained in this order shall become effective July 10, 1973.

The provisions of the Administrative Procedure Act (80 Stat. 383; 5 U.S.C. 553) relative to the notice of proposed rulemaking are inapplicable to this order because the regulations contained herein involve foreign affairs functions of the United States.

(Sec. 104, 66 Stat. 174; 8 U.S.C. 1104)

Dated: June 23, 1973.
For the Secretary of State.

[SEAL] BARBARA M. WATSON,
Administrator Bureau of Security and Consular Affairs, Department of State.
JAMES F. GREENE,
Acting Commissioner of Immigration and Naturalization, Immigration and Naturalization Service Department of Justice.

[FR Doc.73-14444 Filed 7-13-73;8:45 am]

Title 37—Patents, Trademarks and Copyrights

CHAPTER I—PATENT OFFICE, DEPARTMENT OF COMMERCE

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

Lawful Use for Supplemental Register and Size of Facsimiles

The Patent Office is revising §§ 2.47 and 2.57 of the trademark rules of practice. Section 2.47 is being revised to set forth that the year's use which is the basis for registration on the Supplemental Register must be lawful use. Existing § 2.47 states that the year's use for the Supplemental Register must be "continuous use," whereas section 23 of the Trademark Act of 1946 specifies that such use must be "lawful use." The purpose of this revision is to conform the wording of § 2.47 to the wording of the statute. This revision does not effect any change in practice, as in applying the rule the term "continuous use" has been treated as having the same meaning as the term "lawful use" in the statute.

Section 2.57 is being revised to set forth that facsimile-specimens are not to exceed 8½ inches wide and 13 inches long. Existing § 2.57 states that facsimiles shall be not larger than specified for the drawing. That statement is now incorrect due to a recent amendment of the drawing length to 11 inches. The purpose of this revision is to correct the wording of § 2.57, and to conform the wording of rule 2.57 to the wording of § 2.56 (Specimens) which has already been amended to specify that specimens are not to exceed 8½ inches wide and 13 inches long.

Since these revisions impose no burden on any person, notice and public procedures thereon are deemed unnecessary.

Therefore, pursuant to the authority contained in section 41 of the Act of July 5, 1946 (60 Stat. 440; 15 U.S.C. 1123), and section 6 of the Act of July 19, 1952 (66 Stat. 793; 35 U.S.C. 6, as amended October 5, 1971, 85 Stat. 364), Part 2 of Chapter I of Title 37 of the Code of Federal Regulations is hereby revised as follows:

1. Section 2.47 is revised to read as follows:

§ 2.47 Supplemental register.

In an application to register on the Supplemental Register, the application shall so indicate and shall specify that the mark has been in lawful use in commerce, specifying the nature of such commerce, by the applicant for the preceding year, if the application is based on such use. When an applicant requests registration without a full year's use of the mark, in accordance with the last paragraph of section 23 of the act, the showing required must be separate from the application.

(Sec. 23, 60 Stat. 435; 15 U.S.C. 1091)

2. Section 2.57 is revised to read as follows:

§ 2.57 Facsimiles.

When, due to the mode of applying or affixing the trademark to the goods, or to the manner of using the mark on the goods, or to the nature of the mark, specimens as above stated cannot be furnished, five copies of a suitable photograph or other acceptable reproduction, not to exceed 8½ inches wide and 13 inches long, and clearly and legibly showing the mark and all matter used in connection therewith, shall be furnished.

Effective date. These revisions shall become effective on July 16, 1973.

Dated: July 5, 1973.

RENE D. TEGTMEYER,
Acting Commissioner of Patents.

Approved:

BETSY ANCKER-JOHNSON,
Assistant Secretary for Science and Technology.

[FR Doc.73-14453 Filed 7-13-73;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1142]

PART 1033—CAR SERVICE

Chicago, Rock Island and Pacific Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 9th day of July 1973.

It appearing, that the Chicago, Rock Island and Pacific Railroad Company (RI) is unable to operate over its line between Herrington, Kansas, and Salina, Kansas, because of track damage; that RI operations to and from Salina can be accomplished by use of the Missouri Pacific Railroad Company (MP) between Herrington and Salina, a distance of approximately 36 miles; that the MP has consented to use of such tracks by the RI; that operation by the RI over the aforementioned tracks of the MP is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1142 Service Order No. 1142.

(a) *Chicago, Rock Island and Pacific Railroad Company authorized to operate over tracks of Missouri Pacific Railroad Company.* The Chicago, Rock Island and Pacific Railroad Company (RI) be, and it is hereby, authorized to operate over tracks of the Missouri Pacific Railroad Company (MP) between Herrington, Kansas, and Salina, Kansas, a distance of approximately 36 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the RI over tracks of the MP is deemed to be due to carrier's disability, the rates applicable to traffic moved by the RI over these tracks of the MP shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 11:59 p.m., July 11, 1973.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., October 15, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

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

54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

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

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-14473 Filed 7-13-73;8:45 am]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-171]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
*	*	*	*	*	*	*
Colorado	Adams	Westminster, City of.				July 13, Emergency.
Connecticut	New Haven	North Haven, Town of.				Do.
Michigan		Saginaw, Township of.				Do.
North Carolina	Durham	Durham, City of				Do.
Pennsylvania	Potter	Coudersport, Borough of.				Do.
Do	Carbon	Lehighton, Borough of.				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: July 9, 1973.

CHARLES W. WIECKING, *Acting Federal Insurance Administrator.*

[FR Doc.73-14320 Filed 7-13-73;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 525-73]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart G-1—Office of Watergate Special Prosecution Force

DELEGATION OF AUTHORITY TO DESIGNATE ATTORNEYS TO CONDUCT LEGAL PROCEEDINGS

The Office of Watergate Special Prosecution Force was established effective May 25, 1973. (38 FR 14688). The purpose of this order is to make clear that the Special Prosecutor has full authority to exercise the Attorney General's authority under 28 U.S.C. 515(a) to designate attorneys to conduct legal proceedings, including grand jury proceedings.

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, Subpart G-1 of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended by adding the following new § 0.38 at the end thereof:

§ 0.38 Designation of attorneys.

The Special Prosecutor is authorized to designate attorneys to conduct legal proceedings, including grand jury proceedings.

Dated: July 8, 1973.

ELLIOTT RICHARDSON, *Attorney General.*

[FR Doc.73-14443 Filed 7-13-73;8:45 am]

Title 39—Postal Service

CHAPTER I—U.S. POSTAL SERVICE

PART 156—RURAL SERVICE

Approved Manufacturers of Rural Mailboxes

The list of approved manufacturers and suppliers of rural and contemporary style suburban mailboxes is amended by deleting the names of firms which are no longer engaged in such business, and by correcting the name of one listed firm. Accordingly paragraph (a)(5) of § 156.5 is amended, effective on July 16, 1973, as follows:

1. The Deshler Mail Box Company, 101 East Maple Street, Deshler, OH 43516 and the Northern Fabricators Corp., Post Office Box 89, Worthington, OH 43085 are hereby deleted, together with notations as to the types of mailboves manufactured or supplied;

(2) The reference to "The Parker Co." is hereby changed to "Parker Mailboxes, Inc.". The address of the firm and the notations as to the types of mailboxes manufactured or supplied remain the same.

(39 U.S.C. 401)

ROGER P. CRAIG, *Deputy General Counsel.*

[FR Doc. 73-14465 Filed 7-13-73;8:45 am]

PART 171—MONEY ORDERS

Caution in Use of Tables

Tables of foreign currencies published in this title may not reflect current exchange rates, because of fluctuations in exchange rates.

Accordingly, paragraph (b)(2) of § 171.2 is amended, on July 16, 1973, by adding a new subdivision (iv) to read as follows:

§ 171.2 International money orders.

* * * * *

(b) * * *

(2) *Caution in use of tables.* * * *

(iv) Due to possible fluctuations in exchange rates, international money order exchange rates quoted in the following tables may not reflect the current exchange rates used by postal employees in carrying out money order transactions.

* * * * *

(39 U.S.C. 401)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.73-14271 Filed 7-13-73;8:45 am]

PART 171—MONEY ORDERS

Change in Monetary Conversion Rate for Money Orders Payable in Canada

Existing Table No. 1, under § 171.2 *International money orders*, is based upon a conversion rate of American and Canadian money which is no longer applicable. Since March 8, 1973, the conversion rate has been $1.01 in United States dollars for $1.00 in Canadian dollars. Accordingly, Table No. 1 is revised to read as follows:

TABLE No. 1 2-7

(Rate: U.S. dollar equals .99 Canadian money)

FROM 1 CENTS TO 100 DOLLARS

United States money	Canadian money	United States money	Canadian money	United States money	Canadian money	United States money	Canadian money
Cents	Cents	Cents	Cents	Dollars	Dollars	Dollars	Dollars
1	.01	51	.50	1.00	.99	51.00	50.49
2	.02	52	.51	2.00	1.98	52.00	51.48
3	.03	53	.52	3.00	2.97	53.00	52.47
4	.04	54	.53	4.00	3.96	54.00	53.46
5	.05	55	.54	5.00	4.95	55.00	54.45
6	.06	56	.55	6.00	5.94	56.00	55.44
7	.07	57	.56	7.00	6.93	57.00	56.43
8	.08	58	.57	8.00	7.92	58.00	57.42
9	.09	59	.58	9.00	8.91	59.00	58.41
10	.10	60	.59	10.00	9.90	60.00	59.40
11	.11	61	.60	11.00	10.89	61.00	60.39
12	.12	62	.61	12.00	11.88	62.00	61.38
13	.13	63	.62	13.00	12.87	63.00	62.37
14	.14	64	.63	14.00	13.86	64.00	63.36
15	.15	65	.64	15.00	14.85	65.00	64.35
16	.16	66	.65	16.00	15.84	66.00	65.34
17	.17	67	.66	17.00	16.83	67.00	66.33
18	.18	68	.67	18.00	17.82	68.00	67.32
19	.19	69	.68	19.00	18.81	69.00	68.31
20	.20	70	.69	20.00	19.80	70.00	69.30
21	.21	71	.70	21.00	20.79	71.00	70.29
22	.22	72	.71	22.00	21.78	72.00	71.28
23	.23	73	.72	23.00	22.77	73.00	72.27
24	.24	74	.73	24.00	23.76	74.00	73.26
25	.25	75	.74	25.00	24.75	75.00	74.25
26	.26	76	.75	26.00	25.74	76.00	75.24
27	.27	77	.76	27.00	26.73	77.00	76.23
28	.28	78	.77	28.00	27.72	78.00	77.22
29	.29	79	.78	29.00	28.71	79.00	78.21
30	.30	80	.79	30.00	29.70	80.00	79.20
31	.31	81	.80	31.00	30.69	81.00	80.19
32	.32	82	.81	32.00	31.68	82.00	81.18
33	.33	83	.82	33.00	32.67	83.00	82.17
34	.34	84	.83	34.00	33.66	84.00	83.16
35	.35	85	.84	35.00	34.65	85.00	84.15
36	.36	86	.85	36.00	35.64	86.00	85.14
37	.37	87	.86	37.00	36.63	87.00	86.13
38	.38	88	.87	38.00	37.62	88.00	87.12
39	.39	89	.88	39.00	38.61	89.00	88.11
40	.40	90	.89	40.00	39.60	90.00	89.10
41	.41	91	.90	41.00	40.59	91.00	90.09
42	.42	92	.91	42.00	41.58	92.00	91.08
43	.43	93	.92	43.00	42.57	93.00	92.07
44	.44	94	.93	44.00	43.56	94.00	93.06
45	.45	95	.94	45.00	44.55	95.00	94.05
46	.46	96	.95	46.00	45.54	96.00	95.04
47	.47	97	.96	47.00	46.53	97.00	96.03
48	.48	98	.97	48.00	47.52	98.00	97.02
49	.49	99	.98	49.00	48.51	99.00	98.01
50	.50			50.00	49.50	100.00	99.00

(39 U.S.C. 401(2), 404(b))

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.73-14272 Filed 7-13-73;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Massachusetts and Rhode Island

On April 30, 1971, pursuant to section 109 of the Clean Air Act, as amended, the Administrator promulgated national primary and secondary ambient air quality standards for six pollutants. The Act requires that the primary standards protect the public health with an adequate margin of safety and that the secondary standards protect the public welfare from any known or anticipated adverse effects. Under section 110 of the Act, States are required to prepare and submit to the Administrator plans for implementing the national ambient air quality standards in each air quality control region in the State. The Administrator published on May 31, 1972, his initial approvals and disapprovals of the State implementation plans developed and submitted under these provisions of Federal law.

On April 11, 1973, the United States Court of Appeals for the First Circuit decided the cases of "Natural Resources Defense Council, Inc., et al. v. Environmental Protection Agency," Case Nos. 72-1219 and 72-1224. These cases were filed pursuant to section 307(b)(1) of the Act and challenged the Administrator's approval of certain portions of the Massachusetts and Rhode Island implementation plans. The Court ordered that the Administrator disapprove several portions of these plans.

The Court first found that the Rhode Island plan did not expressly provide for revision after public hearings on the occasions and under the circumstances described in section 110(a)(2)(H) of the Clean Air Act. The Rhode Island plan is disapproved below insofar as it does not contain such provisions.

The Court also found that both Massachusetts and Rhode Island had variance statutes which allowed the State air pollution agencies to grant variances even after the mandatory dates for attainment of the national ambient air quality standards established in section 110 of the Clean Air Act. The Clean Air Act was interpreted to preclude States from granting variances after such dates except as provided in section 110(f) of the

Clean Air Act. The Court held that the provisions of the Clean Air Act "not only empower, but also require, the Administrator to disapprove State statutes and regulations, or portions thereof, which are not in accordance with the requirements of the Clean Air Act." Accordingly, the Massachusetts and Rhode Island State variance statutes and the State regulations implementing that authority are herein disapproved insofar as they permit the granting of variances beyond the statutory attainment dates, without the approval of the Administrator, and under conditions inconsistent with the Court's opinion.

The authority of the Rhode Island State air pollution Director to issue abatement orders was also challenged and the Court applied the same interpretation of the Clean Air Act to this part of the Rhode Island law as it did to the variance procedure. That portion of the Rhode Island statutes is also disapproved below.

With respect to the Massachusetts plan provisions relating to reporting of emission data and the public availability of such data, the Court held that the discretionary aspect of the Massachusetts reporting requirements, which would require reports only upon a request by the State, should have been disapproved since the Clean Air Act provides that the State plan must require periodic reporting.

Finally, the Court found that the Massachusetts statute which prohibits the release of certain information obtained during inspections suggested that the State does not have the authority to compel public disclosure of emission data, requiring disapproval by the Administrator.

In addition to the disapprovals required by the Court order which are published below, the Administrator must promulgate regulations to replace the disapproved sections of the two State plans. Those regulations are published elsewhere in this issue of the FEDERAL REGISTER. The amendments set forth below are effective from the date of publication in the FEDERAL REGISTER since they are made pursuant to the Court order which requires the Administrator to disapprove these portions of the Massachusetts and Rhode Island State implementation plans.

(42 U.S.C. 1857c-5)

Dated July 11, 1973.

ROBERT W. FRI,
Acting Administrator,
Environmental Protection Agency.

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

Subpart W—Massachusetts

1. Subpart W is amended by adding new §§ 52.1129, 52.1130, and 52.1131, as follows:

§ 52.1129 **Legal authority.**

(a) The requirements of § 51.11(a)(6) of this chapter are not met because G.L. c. 111 section 2B and G.L. c. 111 § 142B prevent the State from compelling public disclosure of emission data. These two statutory provisions are therefore disapproved to the extent they preclude the release of emission data.

§ 52.1130 **Source surveillance.**

(a) The reporting requirements of the Massachusetts plan are not adequate because Regulation 14 of the Department of Public Health Regulations for the Control of Air Pollution in the Berkshire Air Pollution Control District, Central Massachusetts Air Pollution Control District, Merrimack Valley Air Pollution Control District, Metropolitan Boston Air Pollution Control District, Pioneer Valley Air Pollution Control District and Southeastern Massachusetts Air Pollution Control District does not require periodic reports. Reports on emissions are only required by Regulation 14 if requested by the State, and it is therefore disapproved to that extent.

§ 52.1131 **Variances.**

(a) Regulations 50.1 and 2.4 of the Massachusetts Department of Public Health Regulations for the Control of Air Pollution in the Berkshire Air Pollution Control District, Central Massachusetts Air Pollution Control District, Merrimack Valley Air Pollution Control District, Metropolitan Boston Air Pollution Control District, Pioneer Valley Air Pollution Control District and Southeastern Massachusetts Air Pollution Control District are disapproved insofar as they permit the granting of variances (1) beyond the dates required for attainment of the national standards, (2) without the approval of the Administrator, and (3) for reasons not permitted by the Clean Air Act.

Subpart OO—Rhode Island

2. Subpart OO is amended by adding new §§ 52.2077, 52.2078, and 52.2079 as follows:

§ 52.2077 **Revisions.**

(a) The revision procedures of the Rhode Island plan are not adequate since the plan does not expressly provide for revisions at the times and under the conditions set forth in § 51.6 of this chapter.

§ 52.2078 **Enforcement.**

(a) Sections 23-25-5(h) and 23-25-8(a) of the General Laws of Rhode Island are disapproved insofar as they permit the Rhode Island Director of the Department of Health to issue abatement orders (1) that defer compliance with plan requirements beyond the dates required for attainment of the national standards, (2) without the approval of the Administrator, and (3) for reasons not permitted by the Clean Air Act.

§ 52.2079 **Variances.**

(a) Chapter 23-25-15 of the General Laws of Rhode Island is disapproved insofar as it permits the granting of variances (1) beyond the dates required for attainment of the national standards, (2) without the approval of the Administrator, and (3) for reasons not permitted by the Clean Air Act.

[FR Doc.73-14479 Filed 7-13-73;8:45 am]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Massachusetts and Rhode Island

On May 31, 1972 (37 FR 10842) pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved with specific exceptions State plans for implementation of the national ambient air quality standards. On April 11, 1973, the United States Court of Appeals for the First Circuit decided the cases of the "Natural Resources Defense Council, Inc., et al. v. Environmental Protection Agency," Case Nos. 72-1219 and 72-1224. The Court ordered the disapproval of certain portions of the Massachusetts and Rhode Island implementation plans, which had been approved by the Administrator on May 31, 1972. That formal disapproval is published in this issue of the FEDERAL REGISTER. The Court also required the Administrator to promulgate regulations amending the two plans in accordance with the terms of its order.

The regulations set forth below prescribe requirements in the Massachusetts plan for periodic reporting and public availability of emission data reported by sources in the State. Regulations setting forth revision requirements for the Rhode Island plan are also prescribed.

With respect to both the Massachusetts and Rhode Island plans, regulations are promulgated which specify the procedures and circumstances under which each State will be authorized to issue variances to sources subject to the provisions of its implementation plan. With respect to the Rhode Island plan, a similar provision is also set forth with respect to its enforcement authority.

Should Massachusetts or Rhode Island, following publication of these regulations, adopt identical or equivalent regulations, the Administrator will make an appropriate modification of his determination with respect to approvability of the affected portion of the State's plan and will rescind the pertinent Federal regulation.

The amendments set forth below are effective from the date of publication in the FEDERAL REGISTER since they are made to comply with the Court order.

(42 U.S.C. 1857c-5)

Dated: July 11, 1973.

ROBERT W. FRI,
Acting Administrator,
Environmental Protection Agency.

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

Subpart W—Massachusetts

1. Section 52.1130 is amended by adding paragraph (b) as follows:

§ 52.1130 Source surveillance.

(a) * * *

(b) *Regulation for source recordkeeping and reporting.* (1) The owner or operator of any stationary source in the State of Massachusetts shall maintain records of the nature and amounts of emissions from such source and/or any other information as may be deemed necessary by the Massachusetts Department of Health to determine whether such source is in compliance with applicable emission limitations or other control measures.

(2) The information recorded shall be reported to the Department every six (6) months on June 30 and December 31 of each year. The information shall be submitted on such forms as the Department may prescribe.

(3) Information recorded by the owner or operator and copies of the reports submitted to the Department shall be retained by the owner or operator for two (2) years after the date on which the report is submitted.

2. Section 52.1131 is amended by adding paragraph (b) as follows:

§ 52.1131 Variances.

* * * * *

(b) *Regulation limiting variances.* (1) No variance from any requirement of the Massachusetts Implementation Plan shall be granted which does not meet the following requirements:

(i) A variance must require compliance with the plan requirement within the times and under the conditions specified in §§ 51.15(b) (1) and (2) of this chapter.

(ii) A variance may not defer compliance beyond the last date permitted by § 110 of the Act for attainment of the national standard which the plan implements unless the procedures and conditions set forth in section 110(f) of the Act are met.

(iii) A variance shall not be effective until it has been submitted to and approved by the Administrator in accordance with §§ 51.6, 51.8, 51.15 (b) and (c), and, if applicable, § 51.32(a)–(e) of this chapter.

(2) Notwithstanding the limitations of paragraph (b)(1)(ii) of this section, a variance may be granted which provides for compliance beyond the statutory attainment date for a national standard where compliance is not possible because of breakdowns or malfunctions of equipment, acts of God, or other unavoidable occurrences. However, such variance may not extend for more than three (3) months unless the procedures and conditions set forth in section 110 (f) of the Act are met.

3. A new § 52.1132 is added as follows:

§ 52.1132 Public availability of emission data.

Emission data obtained from owners or operators of stationary sources pursuant to § 52.1130(b) shall be correlated with applicable emissions limitations and other control measures. All such emission data and correlations shall be available during normal business hours at the office of the Division of Environmental Health, Room 320, 600 Washington Street, Boston, Massachusetts, and/or at such other places as the Department shall specify.

Subpart OO—Rhode Island

4. Section 52.2077 is amended by adding paragraph (b) as follows:

§ 52.2077 Revisions.

* * * * *

(b) *Regulation for plan revisions.* (1) The Rhode Island implementation plan shall be revised:

(i) When necessary to take account of a revision of the national primary or secondary ambient air quality standard which it implements;

(ii) When improved or more expeditious methods of attaining a national standard which it implements become available;

(iii) When the Administrator finds that the plan is substantially inadequate to attain or maintain the national standard which it implements and issues notice of such finding pursuant to § 51.6 of this chapter.

(2) The Rhode Island implementation plan may be revised from time to time to the extent such revisions are consistent with the requirements applicable to implementation plans set forth in this chapter and the Act.

(3) No revision shall be effective until the hearing requirements of § 51.4 of this chapter have been satisfied.

5. Section 52.2078 is amended by adding paragraph (b) as follows:

§ 52.2078 Enforcement.

* * * * *

(b) *Regulation limiting administrative abatement orders.* (1) No order deferring compliance with a requirement of the Rhode Island Implementation Plan shall be issued by the Director of the Department of Health which does not meet the following requirements:

(i) An order must require compliance with the plan requirement within the times and under the conditions specified in § 51.15(b)(1) and (2) of this chapter.

(ii) An order may not defer compliance beyond the last date permitted by § 110 of the Act for attainment of the national standard which the plan implements unless the procedures and conditions set forth in § 110(f) of the Act are met.

(iii) An order shall not be effective until it has been submitted to and approved by the Administrator in accordance with §§ 51.6, 51.8 51.15(b) and (c), and, if applicable, 51.32(a)–(e) of this chapter.

(2) Notwithstanding the limitations of paragraph (b)(1)(ii) of this section, an order may be granted which provides for compliance beyond the statutory attainment date for a national standard where compliance is not possible because of breakdowns or malfunctions of equipment, acts of God, or other unavoidable occurrences. However, such order may not defer compliance for more than three (3) months unless the procedures and conditions set forth in section 110(f) of the Act are met.

6. Section 52.2079 is amended by adding paragraph (b) as follows:

§ 52.2079 Variances.

* * * * *

(b) *Regulation limiting variances.* (1) No variance from any requirement of the Rhode Island Implementation Plan shall be granted which does not meet the following requirements:

(i) A variance must require compliance with the plan requirement within the times and under the conditions specified in § 51.15(b)(1) and (2) of this chapter.

(ii) A variance may not defer compliance beyond the last date permitted by section 110 of the Act for attainment of the national standard which the plan implements unless the procedures and conditions set forth in section 110(f) of the Act are met.

(iii) A variance shall not be effective until it has been submitted and approved by the Administrator in accordance with §§ 51.6, 51.8, 51.15(b) and (c), and, if applicable, 51.32(a)–(e) of this chapter.

(2) Notwithstanding the limitations of paragraph (b)(1)(ii) of this section, a variance may be granted which provides for compliance beyond the statutory attainment date for a national standard where compliance is not possible because of breakdowns or malfunctions of equipment, acts of God, or other unavoidable occurrences. However, such variance may not extend for more than three (3) months unless the procedures and conditions set forth in section 110(f) of the Act are met.

[FR Doc.73-14480 Filed 7-13-73;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 15—ENVIRONMENTAL PROTECTION AGENCY

PART 15–16—PROCUREMENT FORMS

Subpart 15–16.7—Forms for Negotiated Architect-Engineer Contracts

ADDITIONAL GENERAL PROVISIONS

On pages 8458, 8459, 8460, and 8461 of the FEDERAL REGISTER dated April 2, 1973, there was published a notice of rule making to issue an amendment to 41 CFR Ch. 15, by adding a new § 15–16.701–50, Additional General Provisions to U.S. Standard Form 253, to Part 15–16. Interested persons were given until June 1, 1973, to submit written comments or objections to the proposed amendment. One comment was received which resulted in the substitution of the Government Rights (Unlimited) clause for the clause entitled "Drawings and other Data to Become the Property of the Government." The amendment is adopted with this one change.

Dated: July 10, 1973.

ROBERT W. FRI,
Acting Administrator.

Subpart 15–16.7—Forms for Negotiated Architect-Engineer Contracts

Sec.
15–16.701–50 Additional General Provisions to U.S. Standard Form 253.

AUTHORITY: 40 U.S.C. 486(c), sec. 205(c), 63 Stat. 377, as amended.

§ 15–16.701–50 Additional general provisions to U.S. Standard Form 253.

14. METHOD OF PAYMENT

(a) Estimates shall be made monthly of the amount and value of the work and services performed by the Architect-Engineer under this contract, such estimates to be prepared by the Architect-Engineer and accompanied by such supporting data as may be required by the Contracting Officer.

(b) Upon approval of such estimate by the Contracting Officer payment upon properly certified vouchers shall be made to the Contractor as soon as practicable of 90 percent of the amount as determined above, less all previous payments: *Provided, however,* That if the Contracting Officer determines that the work is substantially complete and that the amount of retained percentages is in excess of the amount considered by him to be adequate for the protection of the Government, he may at his discretion release to the Architect-Engineer such excess amount.

(c) Upon satisfactory completion by the Architect-Engineer of the work called for under the terms of this contract, and upon acceptance of such work by the Contracting Officer, the Architect-Engineer will be paid the unpaid balance of any money due for such work, including the retained percentages relating to this portion of the work.

(d) Upon satisfactory completion of the construction work and its final acceptance, the Architect-Engineer shall be paid the unpaid balance of any money due hereunder. Prior to such final payment under the contract, or prior settlement upon termination of the contract, and as a condition precedent thereto, the Architect-Engineer shall execute and deliver to the Contracting Officer a release of all claims against the Government arising under or by virtue of this contract, other than such claims, if any, as may be specifically excepted by the Architect-Engineer from the operation of the release in stated amounts to be set forth therein.

15. INTEREST

Notwithstanding any other provision of this contract, unless paid within 30 days all amounts that become payable by the Architect-Engineer to the Government under this contract (net of any applicable tax credit under the Internal Revenue Code) shall bear interest at the rate of six percent per annum from the date due until paid. Amounts shall be due upon the earliest one of (i) the date fixed pursuant to this contract, (ii) the date of the first demand for payment, consistent with the contract including demand consequent upon default termination, (iii) the date of a supplemental agreement fixing the amount, or (iv) if this contract provides for revision of prices, the date or written notice to the Architect-Engineer stating the amount of refund payable in connection with a pricing proposal or in connection with a negotiated pricing agreement not confirmed by contract supplement.

16. GRATUITIES

(a) The Government may by written notice to the Architect-Engineer, terminate the right of the Architect-Engineer to proceed under this contract if it is found, after notice and hearing, by the Administrator or his duly authorized representative, that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Architect-Engineer, or any agent or representative of the Architect-Engineer, to any officer or employee of the Government with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or making of any determinations with respect to the performing of such contract: *Provided,* That the existence of the facts upon which the Administrator or his duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court.

(b) In the event this contract is terminated as provided in paragraph (a) hereof, the Government shall be entitled (i) to pursue the same remedies against the Architect-Engineer as it could pursue in the event of a breach of the contract by the Architect-Engineer, and (ii) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Administrator or his duly authorized representative) which shall be not less than three nor more than ten times the costs incurred by the Architect-Engineer in providing any such gratuities to any such officer or employee.

(c) The rights and remedies of the Government provided in this caluse shall not be exclusive and are in addition to any rights and remedies provided by law or under this contract.

17. NOTICE TO THE GOVERNMENT OF DELAYS

Whenever the Architect-Engineer has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this contract, the Architect-Engineer shall within ten (10) days give notice thereof, including all relevant information with respect thereto, to the Contracting Officer.

18. COMPOSITION OF CONTRACTOR

If the Architect-Engineer hereunder is comprised of more than one (1) legal entity, each such entity shall be jointly and severally liable hereunder.

19. LISTING OF EMPLOYMENT OPENINGS

(This clause is applicable pursuant to 41 CFR Part 50–250 if this contract is for $10,000 or more and will generate 400 or more man-days of employment.)

(a) The Contractor agrees that all employment openings of the Contractor which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the Contractor other than the one wherein the contract is being performed but excluding those of independently operated corporate affiliates, shall, to the maximum extent feasible, be offered for listing at an appropriate local office of the State employment service system wherein the opening occurs and to provide such periodic reports to such local office regarding employment openings and hires as may be required.

(b) Listing of employment openings with the employment service system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve only the normal obligations which attach to the placing of a bona fide job order but does not require the hiring of any job applicant referred by the employment service system.

(c) The periodic reports required by paragraph (a) of this clause, shall be filed at least quarterly with the appropriate local office or, where the Contractor has more than one establishment in a State, with the central office of that State employment service. Such reports shall indicate for each establishment the number of individuals who were hired during the reporting period and the number of hires who were veterans who served in the Armed Forces on or after August 5, 1964, and who received other than a dishonorable discharge. The Contractor shall maintain copies of the reports submitted until the expiration of one (1) year after final payment under the contract, during which time they shall be made available, upon request, for examination by any authorized representatives of the Contracting Officer or of the Secretary of Labor.

(d) Whenever the Contractor becomes contractually bound to the listing provisions of this clause, he shall advise the employment service system in each State wherein he has establishments of the name and location of each such establishment in the State. As long as the Contractor is contractually bound to these provisions and has so advised the State employment service system, there is no need to advise the State system of subsequent contracts. The Contractor may advise the State systems when it is no longer bound by this contract clause.

(e) This clause does not apply (1) to the listing of employment openings which occur outside of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands, and (2) to contracts with State and local governments.

(f) This clause does not apply to openings which the Contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement. This exclusion does not apply to a particular opening once an employer decides to consider applicants outside of his own organization or employer-union arrangement for that opening.

(g) As used in this clause:

(1) "All employment openings" includes, but is not limited to, openings which occur in the following job categories: Production and nonproduction; plant and office; laborers and mechanics; supervisory and nonsupervisory; technical; and executive, administrative, and professional openings which are compensated on a salary basis of less than $18,000 per year. This term includes full-time employment, temporary employment of more than three days' duration, and part-time employment.

(2) "Appropriate office of the State employment service system" means the local office of the Federal-State national system of public employment offices with assigned responsibility for serving the area of the establishment where the employment opening is to be filled, including the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(3) "Openings which the Contractor proposes to fill from within his own organization or to fill pursuant to a customary and traditional employer-union hiring arrangement," means employment openings for which no consideration will be given to persons outside the Contractor's organization (including any affiliates, subsidiaries, and parent companies) or outside of a special hiring arrangement which is part of the customary and traditional employment relationship which exists between the Contractor and representatives of his employees and includes any openings which the Contractor proposes to fill from regularly established "recall" or "rehire" lists or from union hiring halls.

(4) "Man-day of employment" means any day during which an employee performs more than one (1) hour of work.

(h) The Contractor agrees to place this clause (excluding this paragraph (h)) in any subcontract directly under this contract.

20. UTILIZATION OF MINORITY BUSINESS ENTERPRISES

(a) It is the policy of the Government that minority business enterprises shall have the maximum practicable opportunity to participate in the performance of Government contracts.

(b) The Architect-Engineer agrees to use his best efforts to carry out this policy in the award of his subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, the term "minority business enterprise" means a business, at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members. For the purposes of this definition, minority group members are Negroes, Spanish-speaking American persons, American-Orientals, American-Indians, American-Eskimos, and American Aleuts. Contractors may rely on written representations by subcontractors regarding their status as minority business enterprises in lieu of an independent investigation.

21. AUDIT

(a) For purposes of verifying that certified cost or pricing data submitted, in conjunction with the negotiation of this contract or any contract change or other modification involving an amount in excess of $100,000.00 was accurate, complete, and current, the Contracting Officer, or his authorized representatives, shall, until the expiration of three (3) years from the date of final payment under this contract or of the time periods for the particular records specified in Part 1-20 of the Federal Procurement Regulations (41 CFR Part 1-20), whichever expires earlier, have the right to examine those books, records, documents, papers, and other supporting data which involve transactions related to this contract or which will permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

(b) The Architect-Engineer agrees to insert this clause, including this paragraph (b), in all subcontracts hereunder which when entered into exceed $100,000.00, unless the price is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. When so inserted, changes shall be made to designate the higher-tier subcontractor at the level involved as the contracting and certifying party; to add "of the Government prime contract" after "Contracting Officer;" and to add, at the end of (a) above, the words: "*Provided*, That, in the case of any contract change or modification, such change or modification results from a change or other modification to the Government prime contract." In each such excepted subcontract hereunder which when entered into exceeds $100,000.00, the Contractor shall insert the following clause:

AUDIT-PRICE ADJUSTMENTS

(a) This clause shall become operative only with respect to any change or other modification of this contract which involves a price adjustment in excess of $100,000.00 unless the price adjustment is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public or prices set by law or regulation: *Provided*, That such change or other modification to this contract results from a change or other modification to the Government prime contract.

(b) For purposes of verifying that certified cost or pricing data submitted in conjunction with such a contract change or modification were accurate, complete, and current, the Contracting Officer of the Government prime contract, or his authorized representatives, shall, until the expiration of three (3) years from the date of final payment under this contract, or of the time periods for the particular records specified in Part 1-20 of the Federal Procurement Regulations (41 CFR Part 1-20), whichever expires earlier, have the right to examine those books, records, documents, papers, and other supporting data which involve transactions related to this contract or which will permit adequate evaluation of the cost or pricing data submitted, along with the computations and projections used therein.

(c) The subcontractor agrees to insert this clause, including this paragraph (c), in all subcontracts hereunder which when entered into exceed $100,000.00.

22. PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA

(The provisions of this clause shall be applicable only if the amount of this contract exceeds $100,000.00.)

(a) If the Contracting Officer determines that any price, including profit or fee, negotiated in connection with this contract or any cost reimbursable under this contract was increased by any significant sums because the Architect-Engineer, or any subcontractor pursuant to the clause of this contract entitled "Subcontractor Cost or Pricing Data" or "Subcontractor Cost or Pricing Data—Price Adjustments," or any subcontract clause therein required, furnished incomplete or inaccurate cost or pricing data or data not current as certified in his Contractor's Certificate of Current Cost or Pricing Data, then such price or cost shall be reduced accordingly and the contract shall be modified in writing to reflect such reduction.

(b) Failure to agree on a reduction shall be a dispute concerning a question of fact within the meaning of the "Disputes" clause of this contract.

NOTE—Since the contract is subject to reduction under this clause by reason of defective cost or pricing data submitted in connection with certain subcontracts, it is expected that the Architect-Engineer may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the Architect-Engineer. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification for defective cost or pricing data required to be submitted by his lower tier subcontractors.

23. SUBCONTRACTOR COST AND PRICING DATA

(The provisions of this clause shall be applicable only if the amount of this contract exceeds $100,000.00.)

(a) The Architect-Engineer shall require subcontractors hereunder to submit in writing cost or pricing data under the following circumstances:

(1) Prior to award of any cost-reimbursement type, time and material, labor-hour, incentive, or price redeterminable subcontract, change or other modification, the price of which is expected to exceed $100,000.00; and

(2) Prior to the award of any other subcontract, the price of which is expected to exceed $100,000.00 or to the pricing of any subcontract change or other modification for which the price adjustment is expected to exceed $100,000.00, where the price or price adjustment is not based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(b) The Architect-Engineer shall require subcontractors to certify, in substantially the same form as that used in the certificate by the Prime Contractor to the Government, that, to the best of their knowledge and belief, the cost and pricing data submitted under (a) above are accurate, complete, and current as of the date of the execution, which date shall be as close as possible to the date of agreement on the negotiated price of the subcontract or subcontract change or modification.

(c) The Architect-Engineer shall insert the substance of this clause including this paragraph (c) in each of his cost-reimbursement type, time and material, labor-hour, price redeterminable, or incentive subcontracts hereunder, and in any other subcontract hereunder which exceeds $100,000.00 unless the price thereof is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. In each such excepted subcontract hereunder which exceeds $100,000.00, the Architect-Engineer shall insert the substance of the following clause:

SUBCONTRACTOR COST AND PRICING DATA-PRICE ADJUSTMENTS

(a) Paragraphs (b) and (c) of this clause shall become operative only with respect to any change or other modification made pursuant to one or more provisions of this contract which involves a price adjustment in excess of $100,000.00. The requirements of this clause shall be limited to such price adjustments.

(b) The Architect-Engineer shall require subcontractors hereunder to submit cost or pricing data under the following circumstances:

(1) Prior to award of any cost-reimbursement type, time and material, labor-hour, incentive, or price redeterminable subcontract, the price of which is expected to exceed $100,000.00; and

(2) Prior to award of any other subcontract, the price of which is expected to exceed $100,000.00, or to the pricing of any subcontract change or other modification for which the price adjustment is expected to exceed $100,000.00, where the price or price adjustment is not based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation.

(c) The Architect-Engineer shall require subcontractors to certify, in substantially the same form as that used in the Certificate by the Prime Contractor to the Government, that, to the best of their knowledge and belief, the cost and pricing data submitted under (b) above are accurate, complete, and current as of the date of the execution, which date shall be as close as possible to the date of agreement on the negotiated price of the contract modification.

(d) The Architect-Engineer shall insert the substance of this clause including this paragraph (d) in each subcontract hereunder which exceeds $100,000.00.

24. NOTICE OF MAXIMUM PERMISSIBLE ESCALATION IN WAGE AND PRICE STANDARDS

Offerors are advised of standards established under Executive Orders 11615, 11627, and 11640 setting maximum permissible percentage of escalation in wage rates and price

increases. Such standards call for wage rate increases of no more than 5.5 percent per annum unless specific exceptions have been granted by the Pay Board. The price standard established by the Price Commission has the objective of holding economy-wide price increases to 2.5 percent per annum (three percent (3%) per annum in the case of small business firms). To achieve this target, firms are allowed to increase prices to reflect allowable costs incurred since the last price increase or since January 1, 1971, whichever was later, and such costs as firms are continuing to incur, adjusted to reflect productivity gains. These price increases may not result in profit margins on sales which exceed the firm's profit margins for the highest two of the last three fiscal years ending before August 15, 1971. Average productivity gains are estimated to be 3 percent or higher for the economy annually for 1972 and 1973.

25. PRICE CERTIFICATION

(a) By submission of this bid (offer) bidder (offeror) certifies (1) that he is in compliance and will continue to comply with the requirements of Executive Order 11640, January 26, 1972, or (2) that he is a small business concern (as determined in accordance with the regulations of the Cost of Living Council in 6 CFR 101.51.37, FR 8939, May 3, 1972) and as such is exempt from wage and price controls (except where health services or construction are involved).

(b) Prior to the payment of invoices under this contract, the Contractor shall place on, or attach to, each invoice submitted one of the following certifications, as appropriate:

I hereby certify that the amounts invoiced herein do not exceed the lower of (1) the contract price, or (2) maximum levels established in accordance with Executive Order 11640, January 26, 1972.

I hereby certify that I am a small business concern employing 60 or fewer employees (as determined in accordance with the regulations of the Cost of Living Council in 6 CFR 101.51.37 FR 8939, May 3, 1972, and any subsequent amendments) and as such am exempt from wage and price controls as provided by the Council's regulation.

(c) The Contractor agrees to insert the substance of this clause, including this paragraph (c), in all subcontracts for supplies or services issued under this contract.

26. PRICING ADJUSTMENTS

When costs are a factor in any determination of a contract price adjustment pursuant to the "Changes" clause or any other provision of this contract, such costs shall be in accordance with the contract cost principles and procedures in Part 1-15 of the Federal Procurement Regulations (41 CFR Part 1-15) or section XV of the Armed Services Procurement Regulation in effect on the date of this contract.

27. PAYMENT OF INTEREST ON CONTRACTORS' CLAIMS

(a) If an appeal is filed by the Contractor from a final decision of the Contracting Officer under the disputes clause of this contract, denying a claim arising under the contract, simple interest on the amount of the claim finally determined owed by the Government shall be payable to the Contractor. Such interest shall be at the rate determined by the Secretary of the Treasury pursuant to Public Law 92-41, 85 Stat. 97, from the date the Contractor furnishes to the Contracting Officer his written appeal under the disputes clause of this contract, to the date of (1) a final judgment by a court of competent jurisdiction, or (2) mailing to the Contractor of a supplemental agreement for execution either confirming completed negotiations between the parties or carrying out a decision of a board of contract appeals.

(b) Notwithstanding (a), above, (1) interest shall be applied only from the date payment was due, if such date is later than the filing of appeal, and (2) interest shall not be paid for any period of time that the Contracting Officer determines the Contractor has unduly delayed in pursuing his remedies before a board of contract appeals or a court of competent jurisdiction.

28. ALTERATIONS

The following alterations are made in Standard Form 253:

Clause eight (8), Examination of Records, is deleted and the following clause substituted in lieu thereof:

EXAMINATION OF RECORDS BY COMPTROLLER GENERAL

(a) This clause is applicable if the amount of this contract exceeds $2,500 and was entered into by means of negotiation, including small business restricted advertising, but is not applicable if this contract was entered into by means of formal advertising.

(b) The Architect-Engineer agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three (3) years after final payment under this contract or such lesser time specified in either appendix M of the Armed Services Procurement Regulations or the Federal Procurement Regulations Part 1-20, as appropriate, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Architect-Engineer involving transactions related to this contract.

(c) The Architect-Engineer further agrees to include in all his subcontracts hereunder a provision to the effect that the subcontractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract or such lesser time specified in either appendix M of the Armed Services Procurement Regulation or the Federal Procurement Regulations Part 1-20, as appropriate, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontract. The term "subcontract" as used in this clause excludes (1) purchase orders not exceeding $2,500.00 and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

(d) The periods of access and examination described in (b) and (c) above, for records which relate to (1) appeals under the "Disputes" clause of this contract, (2) litigation or the settlement of claims arising out of the performance of this contract, or (3) costs and expenses of this contract as to which exception has been taken by the Comptroller General, or any of his duly authorized representatives, shall continue until such appeals, litigations, claims, or exceptions have been disposed of.

The following alterations are made in Standard Form 19-B, Representations and Certifications (Construction Contract) October 1969 Edition:

1. Change the title of the form to read: Representations and Certifications (Construction and Architect-Engineer Contracts) (for use with Standard Forms 19, 21, and 252).

2. Change the Reference block to read: Reference (Enter same No.(s) as on SF 19, 21, and 252).

3. Change (c) of paragraph 1, Small Business, to read:

(c) Had average annual receipts for the preceding three (3) fiscal years not exceeding $7,500,000.00 for construction contracts, $1,000,000.00 for Architect-Engineer contracts primarily architectural, and $5,000,000.00 for Architect-Engineer contracts primarily engineering.

[FR Doc.73-14394 Filed 7-13-73;8:45 am]

Title 43—Public Lands: Interior

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

SUBCHAPTER C—MINERALS MANAGEMENT (3000)

[Circular No. 2346]

PART 3540—USE PERMITS

Subpart 3541—Mineral Collection Permits

On page 1591 of the FEDERAL REGISTER dated January 16, 1973, there was published a notice and text of a proposed amendment to Subpart 3541 of Title 43, Code of Federal Regulations. The purpose of the amendment is to incorporate into the regulations provisions for authorizing mineral collectors to enter upon acquired National Forest System lands, within areas herein designated, to collect mineral specimens under terms and conditions necessary for the conservation of natural resources, multiple use of National Forest System lands, equitable distribution of recreation privileges, and public safety. Presently there are no regulations providing such authority, and rock-hounding on the acquired lands is not permitted.

Interested persons were given until February 19, 1973, to submit comments, suggestions, or objections to the proposed amendment. One hundred and sixty-seven comments were received. One hundred and sixty-five commenters favored adoption of the regulations and offered suggestions for the permit form. The two comments received in opposition to the proposal objected to collection of fees for rock collecting on the designated areas. One of those indicated a preference for awaiting action by Congress. The desirability of opening the lands to rockhounders and the need to manage this use militates against further delay.

Two changes in the proposed regulations have been made for the purpose of clarity. The description of the Emerald Creek Garnet Area and the Moat Mountain Smoky Quartz Area in § 3541.1 has been changed to reflect their proximity to the U.S. Forest Service Ranger Districts where permits may be obtained.

In § 3541.2, the last sentence has been changed to indicate that permits must be secured from the appropriate District Ranger. Permits will not be available from the Forest Supervisor as indicated in the proposed rulemaking.

The areas involved are relatively small. Rockhounding in the areas will be closely controlled to minimize environmental impacts. Heavy equipment, explosives, and other destructive agents will be forbidden. It is hereby determined that the publication of this rulemaking is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The proposed amendment is hereby adopted with the above indicated changes, and is set forth below. This

amendment shall become effective August 13, 1973.

A new subpart is added to Part 3540 to read as follows:

Subpart 3541—Mineral Collection Permits

Sec.
3541.0–1 Purpose.
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AUTHORITY: Act of March 4, 1917 (16 U.S.C. 520).

Subpart 3541—Mineral Collection Permits

§ 3541.0–1 Purpose.

The purpose of the regulations in this Subpart 3541 is to authorize mineral collectors to enter upon lands pursuant to § 3501.2–6(d) of this chapter for the purpose of searching for and removing mineral specimens.

§ 3541.0–2 Objectives.

The objective is to make certain acquired lands within the National Forest System available to mineral collectors at a reasonable fee and under terms and conditions necessary for the conservation of natural resources, multiple use of National Forest System lands, equitable distribution of recreation privileges, and public safety.

§ 3541.0–5 Definitions.

For purposes of the regulations in this Subpart 3541,

(a) "Chief" is the Chief of the Forest Service or his delegate.

(b) "Fee" is a user charge for searching for and removing mineral specimens. It includes a reasonable amount to defray the cost of rehabilitation and revegetation of the lands.

(c) "Permit" is the authorization issued upon payment of a fee to a permittee to search for or remove mineral specimens.

(d) "Permittee" is the holder of a permit.

§ 3541.1 Lands to which applicable.

The acquired lands for which a permit may be obtained are clearly identifiable by boundary markings and corner monuments at each site and by a boundary map available for public inspection in the offices of the Forest Supervisor and District Ranger in charge of the lands. Areas designated for mineral collecting are described as follows:

EMERALD CREEK GARNET AREA

On the East Fork of Emerald Creek, St. Maries Ranger District, St. Joe National Forest, Idaho, about 8 airline miles south of Fernwood and 4 miles west of Clarkia.

MOAT MOUNTAIN SMOKY QUARTZ AREA

About 1,000 feet south of Thompson Falls on Elm Brook, Town of Hales location, on the Saco Ranger District, White Mountain National Forest, N.H., and about 5 miles northwest of Ranger District headquarters in Conway.

§ 3541.2 Permit requirements.

Any individual who desires to search for or remove mineral specimens on acquired National Forest System lands must first have a permit to do so on the lands involved, signed by the authorized representative of the Bureau of Land Management. Permits can be secured in person from the District Ranger in charge of the area.

§ 3541.3 Fees for issuance of permits.

Fees will be determined by the Director and will be based on charges for comparable privileges on private and State lands, including recognition of the costs of supervising the activities of permittees, maintaining and providing improvements, and rehabilitating and revegetating the lands disturbed by mineral collecting.

§ 3541.4 Terms and conditions of permits.

The permit will contain terms and conditions which are deemed necessary by the Director and by the Chief to achieve the objectives of the regulations in this subpart, including, but not limited to, the following:

(a) Limits on the amount of material that may be taken by a permittee per day, calendar year, or other period of time, and the total number of days per calendar year any permittee shall be permitted to collect on any site.

(b) Prohibition or restriction of the use of explosives.

(c) Specifications as to the type of tools and equipment which may be used.

(d) Measures to be taken to prevent destruction of other natural resources or antiquities, to rehabilitate the land after removal of mineral specimens, and to protect the environment in any other respect deemed desirable.

(e) Use of fire.

(f) Cleanup.

(g) Avoidance of hazards.

§ 3541.5 Penalty for violations.

Permits are subject to immediate cancellation if any of the terms and conditions are violated. In such case no portion of the fee will be refunded. The Director may refuse to issue a permit to any individual who violated the terms and conditions of any prior permit.

§ 3541.6 Trespass.

Removal of mineral specimens from any National Forest System lands described in § 3541.1 without, or in violation of, a permit issued under the regulations in this subpart is a trespass against the United States. Trespassers will be liable in damages to the United States and may be subject to criminal prosecution.

JACK O. HORTON,
Assistant Secretary of the Interior.

[FR Doc.73–14457 Filed 7–13–73;8:45 am]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER N—DANGEROUS CARGO

[CGD 72–229R]

PART 146—TRANSPORTATION OR STORAGE OF EXPLOSIVES OR OTHER DANGEROUS ARTICLES OR SUBSTANCES AND COMBUSTIBLE LIQUIDS ON BOARD VESSELS

Metal Borings, Shavings, Turnings, Cuttings

The purpose of this amendment to the Dangerous Cargo Regulations is to improve the requirements applicable to bulk shipments by barge or vessel of the hazardous article currently listed as metal borings, shavings, turnings, cuttings.

In the December 6, 1972 issue of the FEDERAL REGISTER (37 FR 25957) a notice of proposed rulemaking was published concerning this amendment. Interested persons were given 40 days in which to submit written comments and a public hearing was held on January 11, 1973. Eleven written and five oral comments were received. Several commenters indicated the need for additional time in which to prepare more comprehensive comments. In the January 19, 1973 issue of the FEDERAL REGISTER (38 FR 1937) the deadline for written comments was extended from January 15, 1973 to March 1, 1973. An additional seven written comments were received.

Several commenters strongly urged that barge shipments of the material in bulk, especially those made entirely on the navigable waters of the United States, should be completely exempted from the proposed conditions for bulk shipments. It was argued that barge shipments made entirely on the navigable waters are either of such short duration or of such close proximity to a port of refuge that the requirements would be unnecessary. Therefore, the requirements are not applicable to bulk shipments of the material by barges in cases when the entire voyage involved in such a shipment is conducted or is to be conducted on the waters of the United States.

Several commenters requested that coastwise or Great Lakes' shipments of the bulk material by cargo vessel be exempted from the proposed conditions for bulk shipments. Again, it was argued that these shipments are either of such short duration or of such close proximity to a port of refuge that many of the requirements, if not all, would be unnecessary. It was especially desired by most of the commenters that the specific temperature requirements to meet prior to the sailing of the vessel be relaxed in the case of a short-duration voyage of the vessel to another port for the purposes of loading more of the material in bulk. It was suggested that a short-duration voyage be considered one of 12 hours underway-time or less and that the vessel be permitted to sail when the temperature of the bulk material was less

than 190°F and showing a downward trend. In view of the fact that cargo vessel shipments are manned shipments the blanket exemption for Great Lakes' or coastwise shipments is not considered appropriate. On the other hand, the suggestions pertaining to short-duration shipments are considered practical and acceptable. Therefore, the amendment contains somewhat relaxed requirements regarding the conditions for sailing for certain short-duration voyages.

Several commenters objected to the proposed restrictions concerning when a vessel may sail upon the completion of loading of the bulk material. The proposed conditions reflect the conditions under which approximately 100 shipments of the bulk material were conducted over a five-year period without any known incident, casualty or damage attributed to the heating of the material. Only one comprehensive suggestion was received regarding alternative sailing conditions. However, since April 1, 1973, two vessels transporting the bulk material reported severe heating in the material (emergency action and delay of the vessel were required); and since the vessels each left a United States port under conditions consistent with those suggested as an alternative to the proposed sailing conditions, the suggested alternative sailing conditions are considered unacceptable. Therefore, the amendment contains conditions for sailing as originally proposed except as previously indicated for certain short-duration voyages.

One commenter pointed out that combustible material should not be permitted in holds containing the bulk material. It was indicated that combustible material could contribute to the spontaneous heating properties of the bulk material even if the proposed conditions for the loading of other cargo were met. Therefore, the amendment prohibits the stowage of combustible material in holds containing the bulk material.

Several commenters indicated the conditions for the loading of other cargo in holds containing the bulk material were unnecessarily restrictive. One commenter desired conditions analogous to the sailing conditions. Since the loading of other cargo in a hold containing the bulk material could seriously hinder any emergency operations and may even camouflage increases in temperature, the specified temperature of the proposed conditions is considered the most acceptable. It is agreed, however, that the conditions should reflect only the temperature of the bulk material upon the completion of loading. Therefore, the amendment requires all temperatures in the hold containing the bulk material to be less than 130°F at the time the loading of the other cargo takes place and must not have shown any increase for at least eight hours prior to such loading.

Several commenters indicated the commonly used temperature-measuring devices are only eight inches in length. Therefore, the depth that temperatures must be taken in the bulk material has been revised to include depths of eight inches.

All other comments received consisted of suggestions for editorial changes for clarity. These comments have been incorporated into the amendment as determined appropriate.

In consideration of the foregoing, Part 146 of Title 46 of the Code of Federal Regulations is amended as follows:

1. By amending Subpart 146.27 by adding a new § 146.27–28 to read as follows:

§ 146.27–28 Metal borings, shavings, turnings and cuttings.

(a) *Applicability.* This section applies to the stowage and transportation in bulk of the hazardous article described as metal borings, shavings, turnings and cuttings on board cargo vessels and barges, except any barge on which the article is stowed for or transported on a voyage entirely on the navigable waters of the United States.

(b) *Conditions for stowage and transportation.* Metal borings, shavings, turnings and cuttings may be stowed and transported in bulk on board cargo vessels or barges to which this part applies if the following conditions are met:

(1) Each hold in which the article is stowed must have a fire extinguishment system that uses carbon dioxide or an equivalent to carbon dioxide with respect to fire extinguishing capability. Temporary systems are acceptable.

(2) All wooden sweat battens and dunnage and debris must be removed from the hold before the article is loaded.

(3) During loading and transporting, the bilge of each hold in which the article is stowed or is to be stowed must be as dry as practicable.

(4) During loading, the article must be compacted in the hold as frequently as practicable with a bulldozer or means that provides equivalent surface compaction. Upon completion of loading, the article must be trimmed to eliminate peaks or mounds and compacted.

(5) Other cargo may be loaded in a hold containing the article if—

(i) The cargo to be loaded in the same hold with the article is not another hazardous material as defined in this Part or combustible material;

(ii) The loading of the article is completed first; and

(iii) The temperature of the article in the hold is 130°F or less and has not increased within at least eight hours prior to the loading of the other cargo.

(6) During loading, the temperature of the article in the pile being loaded must be less than 130°F.

(7) Upon completion of loading, the cargo vessel or barge may not leave the port unless—

(i) The temperature of the article in each hold is less than 150°F and, if the temperature of the article in a hold has been more than 150°F during loading, the temperature of the article has shown a downward trend below 150°F for at least eight hours after completion of loading of the hold; or

(ii) The cargo vessel or barge intends to sail directly to another port that is no further than twelve hours sailing time for the vessel concerned for the purpose of loading more of the article in bulk or to completely off-load the article, and the temperature of the article is less than 190°F and has shown a downward trend for at least eight hours after completion of loading.

(c) *Temperature of article.* For the purposes of each temperature requirement of this section, the temperature of the article is the highest temperature taken between eight and fourteen inches below the surface at ten-foot intervals over its length and width.

(d) *Duties of master and person in charge.* The following rules apply to the master or person in charge of each cargo vessel or barge that is loading and transporting the article:

(1) The master or person in charge of a cargo vessel or barge that is loading or transporting the article shall ensure that the temperature of the article is taken—

(i) Before loading;

(ii) During loading, in each hold and in the pile being loaded at least every twenty-four hours and, if the temperature is rising, as often as necessary to ensure the conditions in this section are met; and

(iii) After loading in each hold at least every twenty-four hours.

(2) During loading, if the temperature of the article in a hold is 200°F or higher, the master or person in charge of the cargo vessel or barge shall notify the Coast Guard Captain of the Port and suspend loading until the temperature of the article is less than 190°F.

(3) After loading—

(i) If the temperature of the article is 150°F or above, the master or person in charge shall notify the Captain of the Port and ensure that the cargo vessel or barge remains in the port area until the conditions of paragraph (b)(7)(i) of this section are met; or

(ii) In the case of a short-duration voyage to which paragraph (b)(7)(ii) of this section applies, if the temperature of the article in a hold is 190°F or above, the master or person in charge shall notify the Captain of the Port and ensure that the cargo vessel or barge remains in the port area until the conditions of paragraph (b)(7)(ii) of this section are met.

(4) Except for shipments of the article in bulk which leave the port of loading under the conditions specified in paragraph (b)(7)(ii) of this section, after the cargo vessel or barge leaves the port, if the temperature of the article hold rises above 149°F, the master shall notify the nearest Coast Guard Captain of the Port as soon as possible of—

(i) The name, nationality, and position of the vessel or barge;

(ii) The most recent temperature taken;

(iii) The length of time that the temperature has been above 149° F and the rate of rise, if any;

(iv) The port where the article was loaded and the destination of the article;

(v) The last port of call of the vessel or barge and its next port of call;

(vi) What action has been taken; and

(vii) Whether any other cargo is endangered.

(5) The master of a cargo vessel or barge that is transporting the article shall ensure that each temperature taken to meet the conditions of this section is recorded.

2. By amending Subpart 146.27 by completely revising the second column of § 146.27-100 for the article metal borings, shavings, turnings, cuttings as follows:

* * *	Characteristic properties, cautions * * * markings required
Small pieces of metal scrap which may be mixed with cutting oils and combustible waste. The scrap when shipped is subject to spontaneous heating and ignition. Excessive amounts of cast iron borings or organic materials may encourage such heating. The scrap should be protected from moisture prior to and after loading. During loading, vessels' or barges' compartments should be closed or otherwise protected during inclement weather to keep the material dry; water, particularly sea water, should not be applied to the material except in the case of extreme emergency. Holds containing the scrap may have a reduced oxygen content; personnel should take precautions against possible asphyxiation prior to entering such holds. Do not stow explosives in a hold above, below or adjacent to holds used for the stowage of metal scrap. Do not stow metal scrap in the same hold or compartment with any other hazardous materials cargo. Bulk shipments on board cargo vessels and certain barges must be made under the conditions prescribed in § 146.27-28.	

* * * * *

Effective date. This amendment is effective on October 19, 1973.

(R.S. 4472, as amended, sec. 1, 19 Stat. 252; sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 170, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Dated: July 9, 1973.

C. R. BENDER,
Admiral, U.S. Coast Guard,
Commandant.

[FR Doc.73-14454 Filed 7-13-73;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19530; FCC 73-735]

PART 1—PRACTICE AND PROCEDURE

PART 73—RADIO BROADCAST SERVICES

International Broadcasting Stations

Report and order. In the matter of amendment of § 1.574 and Part 73, Subpart F, of the Commission's rules and regulations relating to international broadcasting stations, Docket No. 19530.

1. On June 27, 1972, the Commission released a notice of proposed rulemaking in the above-entitled proceeding (FCC 72-540, 37 FR 12969 and 37 FR 18632) in which it proposed broad revisions of its rules which govern international broadcasting. Comments and reply comments having been duly filed, the matter is ready for decision.[1]

INTRODUCTION

2. In addition to licensing and regulating domestic broadcasting stations (AM, FM, TV), the Commission also licenses and regulates international broadcasting stations located in the United States. Whereas the signals of the former are intended to be received by the public in this country, those of the latter are intended to be received directly by the general public in foreign countries. The Voice of America (VOA) also operates international broadcasting stations in this country but, as is the case with other governmental radio operations, they are neither licensed nor regulated by the Commission.[2]

3. International broadcasting stations, both those of Commission licensees and those of the VOA, operate in seven bands between 5,950 kHz and 26,100 kHz. These bands, which are allocated to the broadcasting service by the Radio Regulations annexed to the International Telecommunications Convention (Montreux 1965), are also used by other countries throughout the world for international broadcasting. The propagation characteristics of frequencies in these bands vary greatly with the time of day, season of the year, and the sunspot number. Because of this, unlike licenses of domestic broadcasting stations which always specify the frequency or channel of operation of the station, licenses of international broadcasting stations specify no frequency. Instead, four times each year, as the seasons change, the Commission assigns each licensee specified frequencies to be used by it (using directional arrays) for transmission of signals to specified areas of the world during specified times of the day. These assignments of frequencies are called seasonal schedules. When a seasonal schedule is issued, it becomes an attachment to the license, replacing the preceding schedule.[3]

4. The rule revisions proposed in the notice covered a variety of matters: (1) Placing a ceiling on frequency usage by private international broadcasters; (2) conforming seasonal schedule application procedures to those required by international agreement; (3) amending the technical requirements concerning station operation; and (4) other topics, e.g., proposing that fees be charged in connection with the processing of applications for seasonal schedules, changing the length of license period, and inquiring whether common ownership of more than one international broadcast station should be permitted.

FREQUENCY USAGE

5. The notice pointed out that between the years of 1950 and 1970 the number of short-wave transmitters in the international broadcasting service throughout the world more than tripled and the number of frequency-hours used daily by international broadcasters in the entire world increased from 4,000 to 10,000. This increase has made it more and more difficult for international broadcasters to obtain frequencies that will provide satisfactory service. The Notice also mentioned that VOA frequency-hour usage had increased over the years and that it had averaged 440 frequency-hours per day for the previous five years for its transmitters located in the continental United States. On the other hand, it stated, private international broadcasters licensed by the Commission had been using about 75 frequency-hours per day in recent years and only 45 in the previous two years. It noted that while increased budgets of VOA demonstrate Congressional support of the proliferating VOA broadcast activities, the Smith-Mundt Act[4] (which expresses the policy that the government shall not have a monopoly of international broadcasting) shows Congressional approval of private international broadcasting as well.

THE FREQUENCY USAGE PROPOSAL

6. Taking into account existing and anticipated frequency congestion throughout the world, existing and anticipated VOA usage, and the policy contained in the Smith-Mundt Act, we proposed to amend our rules to provide that private international broadcasters as a

[1] Comments were filed by the three stations presently authorized by the Commission to engage in international broadcasting, by potential licensees for such operations, by the Voice of America, and by others, as follows: Paul R. Bartlett; Family Stations, Inc., and Radio New York Worldwide, Inc. (jointly); Far East Broadcasting Company, Inc.; Billy Graham Evangelistic Association; Clarence C. Moore; E. H. Munn, Jr.; Lowell Perry; Robert W. Seaburg; Trans World Radio and Trans World Radio Pacific; World International Broadcasters, Inc.; and World Radio Missionary Fellowship, Inc. Reply comments were filed by Family Stations, Inc., and Radio New York Worldwide, Inc. (jointly), and Far East Broadcasting Company, Inc.

[2] Since international broadcasting stations licensed by the Commission are operated by private parties, their service is sometimes referred to as private international broadcasting to distinguish it from international broadcasting of the VOA. The service of either is often called short-wave or high-frequency broadcasting.

[3] A seasonal schedule is the same for each day of the season. For example, it may authorize a station to broadcast each day of the coming season on frequency A to area X between 1 and 3 p.m.; on frequency B to area X between 3 and 5 p.m.; on frequency C to area Y between 5 and 7 p.m.; and on frequency D to area Z between 7 and 8:30 p.m. A frequency used for one hour is called a frequency-hour. In the foregoing example, the station would be using 7½ frequency-hours per day.

[4] United States Information and Educational Exchange Act of 1948, 62 Stat. 6, codified in scattered sections of 22 U.S.C. (1964).

group could use not more than 100 frequency-hours per day. This, we believed, represented a reasonable balance of the pertinent factors bearing on the matter of frequency usage. It was a ceiling that appeared both to allow for some growth of private international broadcasting and to be reasonably related to existing and expected frequency usage.

7. Although we do not here repeat all the details of the proposal, essentially it provided the following: (1) The Commission would not license more than a total of 10 operating main transmitters for all international broadcasting stations; (2) each licensee would be entitled to 10 frequency-hours per day for each such transmitter it was licensed to operate; (3) if the total number of frequency-hours requested by all licensees was less than 100 per day, the request of each licensee would be granted (even if more than 10 frequency-hours per transmitter were requested), but if the total exceeded 100, the frequency-hours would be divided in proportion to the number of transmitters each licensee had. Under the proposed rule, each licensee had the responsibility of making all technical studies to show that frequency-hours requested by it were available and suitable for use as proposed.

8. Comments on the proposal vary from those of VOA which feels that the 100-frequency-hour proposal is not stringent enough, to those of parties who believe that there should be no limitations whatsoever on frequency-hour usage by private international broadcasters so long as licensees can demonstrate that the frequencies they request each season are available and suitable. Between these extremes are comments which suggest that there be no ceiling on frequency-hour usage by Commission licensees for a specified period, e.g., 3 years or 5 years, and that the Commission then review the matter in the light of experience as to actual demand for frequency-hours by private international broadcasters. Also lying between the extremes are comments which concede implicitly or explicitly that there may be a need for a ceiling but that the one proposed by the Commission is too low.

ARGUMENTS AGAINST THE PROPOSAL

9. A composite of some of the principal points made by opponents of the proposal follows. Article 10 of the Radio regulations annexed to the International Telecommunications Convention (Montreux, 1965), which has been ratified by the United States, contemplates coordination between countries as to their frequency-hour usage, and an amicable working out of their difference on the basis of past usage, need, and availability of frequencies. The radio regulations set no limit on frequency-hour usage by international broadcasters. Establishing a ceiling will not help to relieve frequency congestion because the frequencies that Commission licensees are not allowed to use will be allocated to other users at coordinating conferences. Availability of frequencies (which depends on many variables such as time of operation, target area, sunspot number) should be the governing standard rather than an artificial limitation which has little or no relation to the frequencies available to a U.S. international broadcaster. Such an approach would be self-policing because licensees would not wish to spend money to broadcast over frequencies unless they believed that they had selected frequencies over which the programming would get through to the target area. If the United States unilaterally restricts its frequency usage, it will be the only nation that does so, and for no compelling reason. Moreover, having a fixed ceiling deprives private international broadcasters of the use of additional frequencies that become available during periods of increased sunspot activity.

10. Present private international broadcasting from the United States is done mostly from the east coast. Many important areas of the world, such as Australia, China, New Zealand, Indonesia, Japan, Micronesia, Russia, and Southeast Asia do not presently receive service from Commission licensees. If the proposed ceiling of 100 frequency-hours is adopted, provision should be made to "stretch" it if a showing is made that a presently unserved area is proposed to be served. Or, the ceiling provisions should not apply to proposals for international broadcasting stations in states or territories outside the continental forty-eight states which intend to provide service to target areas not served by private international broadcasters. In other words, the usage of frequency-hours should be based not only on availability of frequencies, as mentioned above, but also on need for service.

11. The Smith-Mundt Act, as modified by Reorganization Plan No. 8 of 1953,[5] provides that the Director of the USIA shall reduce government information activities whenever corresponding private information dissemination is found to be adequate, and that nothing in the Act shall be construed to give the USIA (of which the VOA is a branch) a monopoly in the production or sponsorship on the air of short-wave broadcasting programs. To set a ceiling on private international broadcasters that would give them less than one-fifth of the frequency-hours used by the U.S.-based stations of VOA borders on being contrary to this mandate.

12. A credibility gap attaches to governmental broadcasting. Broadcasting by private stations is often more effective because it has a greater credibility. Having no ceiling on frequency-hours usage will promote more private international broadcasting and thus give a greater quantity of credible programming to target areas abroad. Moreover, the increase in number of private international broadcasting stations will make for competition among them and result in their providing a better service.

13. If a ceiling is adopted, it should be higher than that proposed so that it can accommodate anticipated private international broadcasting. Thus, it should, for example, be 120 to 150 frequency-hours and 12 to 15 transmitters; or, it should be half the number of frequency-hours used by VOA and half the number of their transmitters; or, perhaps 15 frequency-hours for 1 transmitter, 20 for 2, 25 for 3 or more; or, a maximum number of frequency-hours without regard to number of transmitters; on 100 frequency-hours with a 10 percent increase each year and no limit on the number of transmitters.

DECISION AS TO FREQUENCY USAGE

14. In its comments VOA states that while it would have preferred having a rule that restricted Commission licensees to having not more than three frequencies assigned simultaneously in any single band, it views our proposal for 100 frequency-hours as sufficiently limiting the impact of additional stations in broadcast bands that were already saturated. We believe that limiting private international broadcasters as a group to only three frequencies in a band would be far too severe a restraint. Not only would this generally lessen the ability of licensees to find adequate frequencies, but during periods of low sunspot number when usable frequencies are concentrated more and more in the lower regions of the spectrum it would mean that it might at times be almost impossible for them to satisfy their frequency needs.

15. On the other hand, we continue in the view that establishing some sort of ceiling represents a reasonable balance of present and anticipated frequency congestion in the entire world, existing and anticipated VOA usage, and the policy enunciated in the Smith-Mundt Act. Accordingly, we adopt a ceiling in this proceeding, but the rule imposing that ceiling differs from that which we proposed in the notice.

16. The rule adopted today provides a limit of 100 frequency-hours per day for all private international broadcasters as a group. However, whereas the proposal provided that each licensee would be entitled to 10 frequency-hours per day for each operating main transmitter that it had, the rule adopted is in no way tied to the number of transmitters. Moreover, although under the proposal the Commission would not have licensed more than a total of ten operating main transmitters for all private international broadcasting stations, the rule adopted has no limit whatsoever on the total number of transmitters that will be licensed, and issuance of authorizations for them will be dealt with on a case-by-case basis. The number of frequency-hours allocated to any licensee will depend on past usage, availability, and need. In other words, at the Commission

[5] 67 Stat. 642, 22 U.S.C. 1461 (1964).

level we shall have, in a sense, a microcosm of the Article 10 approach;* yet the existence of a ceiling will serve as a warning that authorizations for frequency-hours are not available without limit. Under the rule adopted (as was the case under the rule proposed in the notice), each licensee will have the responsibility of making all technical studies to show that the frequency-hours requested by it are available and suitable for the use proposed.

17. The rule, although providing a ceiling of 100 frequency-hours per day for all licensees as a group, also contains a provision that permits exceeding the ceiling under certain circumstances. It does this by providing that if for a forthcoming season the total of the requests for daily frequency-hours of all licensees exceeds 100, each licensee upon making an adequate showing that good cause exists for not having its request reduced may be authorized the frequency-hours requested. This type of rule is like others which have been established in different contexts and which have proved helpful in dealing with special types of problems.†

18. This rule will allow for a reasonable amount of growth and expansion of the private international broadcast service before frequency-hour usage by all licensees as a group (presently 45 frequency-hours per day) reaches the 100 frequency-hour ceiling, and conceivably for some thereafter. Nor does it seem unduly restrictive, for as one commenting party puts it, realistically there are only about a half dozen existing and potential licensees. As another party states, we may not expect a great rush into international broadcasting since it is not a financially remunerative activity.

19. We believe this rule to be a compromise between the rule that was proposed in the notice and the various proposals made in the comments. The decision here has not been easy. On the one hand, we cannot shut our eyes to the policy of Smith-Mundt. But on the other hand, it appears the Congress does support an active VOA program and may be expected to continue doing so. We believe it fruitless to debate whether VOA's having four-fifths of the frequency-hours constitutes a monopoly, or whether private broadcasting is more credible than governmental. The accommodation which we have arrived at appears to us a reasonable one.

Seasonal Schedule Application Procedures

20. The proposed rule amendments to bring seasonal schedule processing procedures into line with Article 10 requirements (paras. 7–8, 21–22 of the notice) met with no opposition; nor was any expected. Accordingly, no discussion of these amendments is deemed necessary here. Several helpful suggestions were submitted and are incorporated in the rules adopted today. One, for example, points out that the proposed processing procedures contain no provision for making frequency changes after the start of a season, and suggests that although the present rules contain no such provision, it might be helpful to insert in the new rules language to govern situations of this kind. In support of the suggestion it is stated that often it is necessary to make frequency changes in mid-season because propagation conditions do not always turn out to be as expected. Moreover, on occasion unanticipated interference problems arise and a move to another frequency becomes necessary in order to increase effectiveness. The suggested language to cover this problem, made by the commenting party, is as follows and will be adopted:

> If after the start of a season the licensee submits a request for changes in the manner of operation as authorized, the request will be considered only if accompanied by statements showing good cause therefor, and will be honored only if conditions permit.

Technical Standards

21. The proposed technical revisions in the notice cover a variety of matters. Since some of the proposals met with no opposition, no discussion of them is deemed necessary and they are adopted as proposed. Others, however, require discussion and are treated below.

Spurious Emission

22. One party opposes the adoption of proposed § 73.756(b)(1) which reads as follows:

> Any emission appearing on a frequency removed from the carrier frequency by between 5 kHz and 10 kHz, inclusive, shall be attenuated at least 25 decibels below the level of the unmodulated carrier.

Its contention is that for the audio to be down 25 decibels at 5 kHz from the carrier frequency, the process would have to begin at below 4kHz and would eliminate valuable presence of voice frequencies, thereby hindering the effectiveness and intelligibility of signals to listening areas. Therefore, this party recommends, in the interest of fidelity of transmitted signals, the reference to "between 5 kHz and 10 kHz" should be changed to read "between 6.5 kHz and 10 kHz."

23. As reflected in our proposed rule, normally our approach is to consider that the highest significant frequency in the modulating signal would be 5 kHz. However, as indicated in the comments to the notice and by Report 297–2 of the International Radio Consultative Committee (CCIR), it is frequently the practice in international broadcasting to process the modulation signal by some form of predistortion which emphasizes the higher audio components to add "presence" to that signal and to increase its ability to overcome interference. Accordingly, we are being guided by this factor and are modifying our proposed rule to provide that sideband emissions extending between 6.4 kHz and 10 kHz each side of the carrier frequency must be at least 25 db below the output power of the transmitter. This is in line with the practice reported by the CCIR and responds essentially to the recommendation submitted. It should be noted that this limitation refers to the power at spurious side frequencies under conditions of operation. It is not a specification of transmitter response.

Modulation and Bandwidth

24. Proposed § 73.766 specifies that percentage of modulation shall in no case exceed 100 percent on positive or negative peaks of frequency recurrence. One party suggests that this be changed to provide that in no case shall the percentage of modulation exceed 125 percent on positive peaks of frequent recurrence, or 100 percent on negative peaks of frequent recurrence. It urges that "this change would simply bring the rules into conformance with the standard broadcast rules."

25. It should be noted that in stipulating both positive and negative peaks be held within a 100 percent ceiling, the proposed rule only particularizes the intent of the existing rule, which, in effect, requires that peaks of frequent recurrence (regardless of polarity) not exceed 100 percent. Hence, no change in the existing mode of station operation in this respect is contemplated.

26. The situation existing in the standard broadcast band before the recent amendment of § 73.55 was quite different. Prior to its amendment, § 73.55 placed no limit on the positive degree of modulation, and advantage was being taken of this omission by many stations in employing asymmetrical techniques to produce extremely high levels of positive modulation, with attendant distortion and the potentiality for increased cochannel and adjacent channel interference to other stations. The principal reason for amending § 73.55 was to limit these abuses by placing a ceiling on positive modulation peaks. The ceiling was set at 125 percent (this is an absolute ceiling, not for "peaks of frequent recurrence" as the commenting party would interpret it) rather than at 100 percent as a compromise measure in the light of evidence that very many standard broadcast stations presently utilize moderate degrees of asymmetrical modulation with some benefit, and a finding that the adverse effects resulting from modulation not exceeding a 125 percent positive ceiling were not so severe as to

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* As proposed in the notice, we are deleting present § 73.702 which provides for resolution of conflicting requests for frequency-hours by designating them for hearing because the normal delays in the hearing process prevent it from dovetailing with the coordination process contemplated by Article 10. Hearings are also similarly inappropriate for the Commisison level activities in microcosm.

† An example of such a rule is § 73.613 which provides that the main studio location of a television broadcasting station shall be located in the principal community to be served. However, the rule also provides that if an adequate showing is made that good cause exists for locating a main studio outside the principal community to be served and that to do so would be consistent with the operation of the station in the public interests, the Commission will permit the studio to be located elsewhere.

warrant a disruption of widely employed and accepted operating practices.

27. International broadcast stations have operated subject to the 100 percent positive modulation limit for many years, and the kind of accommodation adopted in view of the existing situation in the standard broadcast service is neither necessary nor desirable for international broadcasting. Accordingly, we shall not adopt the change in § 73.766 suggested above.

FIELD STRENGTH IN ZONE OR AREA OF RECEPTION

28. The Notice (para. 24) invited comments on whether the present requirement of a minimum permissible median field strength to be delivered to desired target areas by private international broadcasting stations (43.5 decibels above one uv/m (dBu), either measured or calculated) should be deleted or modified, and reasons therefor. One party, the VOA, contends that the signal strength of 43.5 dBu was never viewed as a standard for satisfactory service, since at the Mexico City Conference (1949) it was considered as the minimum signal which would be afforded protection.* Therefore, the VOA strongly recommends that this provision be changed to require a delivered median strength of at least 54 dBu in designated reception areas which is the same level of signal intensity required for rural secondary skywave coverage of a standard broadcasting (medium wave) station licensed by this agency.

29. Two parties, filing jointly, express the view that the 54 dBu requirement recommended by the VOA is excessive and unrealistic since it implies that the same standards should be set for both medium and short-wave propagation predictions. These parties contend that the two media are significantly different—propagation characteristics are different, receiver capabilities are different, and distances to reception areas are different. They state that during daytime hours, medium-wave propagation is limited to the ground wave, and usable signals are generally limited to less than 100 miles for transmitter powers of 50 kilowatts and below. They also say that during the nighttime hours, the secondary skywave coverage on medium wave for the same power is of the order of several hundred miles, and propagation is via the lower regions of the ionosphere, whereas short-wave propagation is via the ionosphere both day and night, and is generally intended for areas thousands of miles away. It is further contended that perhaps the major propagation difference between medium and short wave involves atmospheric noise levels, which are considerably higher on medium wave than on short wave. Since a satisfactory signal is one that is high enough above the noise to be heard, it is their contention that it follows that higher signal levels are required on medium wave to produce a signal that is the same level above the noise as on short wave. We are in essential agreement with the argument of these parties and do not adopt the VOA proposal.

30. In contrast to the VOA proposal, all other parties commenting on the question of whether the 43.5 dBu standard should be deleted or modified favor deletion. Most of these parties state that experience shows that even though there are periods of time when the calculated value of median field strength falls somewhat below the value now specified in our rule, such operations are capable of rendering satisfactory service to substantial portions of desired areas of reception. They point out that the private international broadcaster is motivated to have its programming received because the possibility of non-reception wastes operational costs. If the programming is not received at the intended zone or area of reception, they say, the loss is borne by the broadcaster; moreover, if the signal does not arrive, it does not create interference. Two commenting parties state that over the past ten years participants in the co-ordinating procedures have learned that assignments which appear impossible on paper often work out in practice. They also state that at the present time there is no completely satisfactory method of predicting delivered field strength.

31. It appears that the technical standards adopted by the IFRB for short-wave service have been overlooked by the commenting parties. The IFRB has adopted specific minimum field strengths to be protected for this service as specified in IFRB Technical Standards, Series A (and amendments thereto) for application in their technical examinations of notified assignments. These values are stated to have been derived from pertinent recommendations of various reports of the CCIR. Therefore, consistent with our announced intention in the notice to bring the international broadcasting rules into conformance with the Radio regulations, we are persuaded that our rules should, as nearly as practicable, be consistent with the technical standards on which the IFRB bases its technical examination of notified frequency assignments in this service.

32. On the other hand, we find merit in the above-mentioned arguments for deleting the present 43.5 dBu requirement for field strength to be delivered to desired areas of reception. We have therefore decided to adopt rules which encourage compliance with the technical standards adopted by the IFRB but with provisions permitting lesser values of median field strengths in which it will be emphasized that no protection from interference will be provided by the IFRB if their technical examination of notifications with lesser values reveals incompatabilities with other notified assignments fully complying with IFRB technical standards.* Therefore, licensees proposing frequency-hour assignments in this category are forewarned of the risk factor involved in such proposals. In any event, we are requiring that licensees submit, with their seasonal frequency-hour requests, all pertinent technical data with reference to the frequencies and hours of operation which should be so chosen that a given frequency will provide the largest period of reliable transmission to selected areas of reception as practicable. The data should also include the predicted median field strength at the desired zone or area of reception even though we are deleting the 43.5 dBu field strength requirement.

POWER REQUIREMENT

33. Proposed § 73.751 would require licensees to have transmitter equipment with a rated carrier power of not less than 50 kW. One party suggests that this proposal be modified to provide for the use of 10 kW transmitters under some circumstances rather than have an arbitrary 50 kW minimum permissible power requirement. It urges that no amount of power is effective when a high frequency band is "not open," and that conversely, little is required when conditions are favorable. This party points to its experience with 10 kW transmitters on the 21 meter band which indicated that under certain conditions such stations could provide good service. It should be noted that this suggestion does not request an across-the-board minimum permissible standard of 10 kW. However, one party, in response to the suggestion that 10 kW be permitted under some circumstances, stated that it opposed an across-the-board standard of 10 kW, and gave supporting reasons.

34. Having considered the matter, we are of the view that with a minimum permissible transmitter power of 50 kW, usable signals are more likely to be delivered to the zones and areas of reception which licensees serve. It was this fact that partly entered into our decision to delete the requirement of a 43.5 dBu minimum permissible delivered field strength. Accordingly, we do not adopt the suggestion mentioned above.

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*This recommendation was adopted at the Mexico City Conference (1949). However, the United States did not sign the Mexico City Agreement, primarily because of a decision that the plan therein did not satisfactorily meet the frequency-hour requirements of this country as compared with other countries. This recommendation of the Mexico City Conference has since been superseded by International Frequency Registration Board (IFRB) Technical Standards, Series A (and amendments thereto). These standards specify minimum field strengths to be protected for various radio services (including HF broadcasting) and the values vary considerably depending upon the type of transmission, frequency, season, time of day, and noise figures according to the location of receiving points.

*In accordance with the procedures of the International Telecommunication Union (ITU) under Article 10, about 4 months before the start of a new season each administration is required to notify the International Frequency Registration Board in Geneva of the schedules of operation each proposes to use during that season. The IFRB examines these notifications and, using its Technical Standards, Series A, determines conflicting proposals. These conflicts are reported to the administrations involved for resolution before the season commences.

OPTIMUM WORKING FREQUENCY (FOT)

35. Proposed § 73.702(g) provides that frequencies requested for assignment must be as near as possible to the FOT for the zone or area of reception for the period and path of transmission, and should be so chosen that a given frequency will provide the largest period of reliable transmission to the selected zone or area of reception. One party opposes any unwavering requirement that the requested frequency be as near as possible to the FOT. It states that there are times when the frequency nearest to the FOT is actually in the 17, 21 or 26 megahertz bands where there are so few short-wave receivers and thus listeners, that adequacy of coverage is sacrificed for a theoretical improvement in signal already known to be satisfactory.

36. Although it is the contention of other parties filing comments regarding this matter that, in general, the FOT will provide the strongest signal and the highest reliability at any given time, we are of the opinion that the point raised has sufficient merit to warrant consideration in special cases. Therefore, the rule which we adopt will permit some flexibility to licensees, upon sufficient justification, to select frequencies that are not as near as possible to the FOT.

TABLE OF REFERENCE POINTS

37. The notice proposed to delete present § 73.703 which contains latitude and longitude reference points of target areas used in field strength calculations. Comments were invited on whether such a table is needed in the rules (whether or not the 43.5 dBu delivered field strength requirement was modified or deleted) and on what the reference points should be if such points are to be retained in the rules. Only one party commented on this subject stating that the reference points are not needed since it appears that almost any point could be selected within the zone or area of reception. It is further stated that although the reference points in the present rules, being on whole degrees of latitude and longitude, were convenient, using computer programs to calculate the propagation predictions as is normally done today makes the handling of decimal parts of latitude and longitude no problem at all. In addition it is said that the antennas used in this service are of such beam width that from any distance that one would use a short-wave transmitter, the entire area of reception normally is covered; hence any reference point taken within the zone would be satisfactory.

38. Our decision in this matter is not to have a table of latitude and longitude reference points. It is noted that specific reference points are not listed in the ITU Radio regulations. However, calculations of propagation predictions to zones or areas of reception shown on the map in new § 73.703 adopted today should be based on transmission paths from transmitter location to a convenient point in the desired zones or areas of reception.

FIELD STRENGTH PROTECTION RATIOS

39. In the notice (para. 25), we proposed to delete the present provisions of § 73.702(g) and (h) which provide that international broadcasting stations must provide minimum co-channel and adjacent channel delivered median field strength protection ratios of 40 db and 11 db, respectively, to the transmissions of other international broadcasting stations at the target area which, in the opinion of the Commission, have priority of assignment. In lieu thereof, we proposed a broad general requirement—without specific standards—that licensees shall provide protection to the transmissions of other stations (at the target areas of those other stations) which the Commission considers to have priority of assignment. Parties commenting on this matter favor our proposal.

40. Specific signal/interference protection ratios have been adopted by the IFRB for application in their technical examinations of notified assignments. IFRB Technical Standards, Series A, section A–1, page 8, (Note 2) reads as follows:

> In the application of the procedure prescribed in Article 10 of the Radio regulations, a calculated protection ratio of less than 23 db is taken by the Board to indicate an apparent incompatibility.

Since licensees will not normally have the necessary information to make such determinations until after notifications from all high-frequency broadcasters have been received by the IFRB from season to season and tentative seasonal schedules have been published, we are of the opinion that the broad general requirement that we proposed should be adopted. However, the technical standards of IFRB will be applied upon notification by the IFRB of apparent incompatibilities, which may require adjustments of operating schedules.

OTHER MATTERS

MULTIPLE OWNERSHIP

41. The notice (paras. 39–40) invited comments on whether the rules should restrict the number of private international broadcasting stations that a party may own, operate, or control. It also noted that a licensee having more than one transmitter, under a single license, each of which beams to a different target area has, in effect, more than one station when compared to a licensee having only a single transmitter (and directional array). Comments were therefore requested on the topic of whether a limit should be imposed on the number of transmitters a party might have under a single license. We also inquired whether if licensees are permitted to have more than one transmitter under a single license, the transmitters should be required to be located at the same place or be permitted to be situated at different locations.

42. In response to the foregoing, parties variously state the following. A multiple ownership rule is unnecessary, at least at the present time. However, if the Commission believes otherwise, it would be no burden if a rule provided for common ownership of not more than two stations with eight main transmitters. This, it is suggested, would permit present licensees to expand their operations if they could afford it, but they could not dominate the field. Limiting ownership to but a single station appears to be too stringent and actually self-defeating to the objectives of this country if one considers the paucity of organizations that might engage in international broadcasting.

43. Multiple ownership rules may be desirable for domestic broadcasting stations in order to promote, for example, diversity of viewpoints within a single market and to prevent undue concentration of control in those markets. However, such rules are unnecessary for international broadcasting because the air is filled with short-wave transmissions carrying programming and newsworthy information from nearly every country in nearly every language and representing nearly every ideology; and there is thus no danger that a single licensee in the United States might acquire undue control of this great communications medium.

44. As to transmitters, neither the Commission nor any other party has shown that owning and operating more than one transmitter under a single license has caused injury either in this country or abroad. As private international broadcasting develops there may be reason to limit the number of transmitters but there appears to be no present reason to do so. Additionally, rules should not be adopted which prevent a licensee from having one or more antenna or transmitter sites. The important consideration is that a station be able to provide the best and most efficient short-wave service to its authorized zones or areas of reception, and it might best do this by having multiple transmitter locations. From the point of view of the listener overseas who is tuning in to a short-wave station located in the United States, the important thing is that the station is in the United States and not that the transmitter is located at one site or another.

45. Of the foregoing arguments, we believe that the view that there are presently so many short-wave stations broadcasting from so many countries that no one party in the United States could acquire control of the medium misses the point. The objective of multiple ownership rules for international broadcasting would be to assure a diversity of programming and views emanating from the United States, not to assure that a single licensee would not control the medium internationally. However, aside from that, we find merit in the views set forth above, and do not now adopt any rules limiting the number of stations that a single party may own, operate, or control, the number of transmitters that a single licensee may have.

or the number of sites at which transmitters of a single station may be located. All of these matters will be handled on a case-by-case basis.

LICENSE PERIOD

46. Presently the rules provide for a license period of one year for private international broadcasting stations. The notice (para. 27) stated that the Commission saw no reason why the term should not be three years as is the case for other broadcast services. Generally the comments are silent on this matter. However, at least one party endorses the proposal. Another, stating that the present term of one year is unrealistic and that a three-year term would not encourage new stations, suggests a license term of ten years. Such a term, however, cannot be considered in view of Section 307 (d) of the Communications Act which limits broadcast license terms to three years. We adopt the proposed three-year term.

FEES

47. In a Notice of Proposed Rule Making in Docket No. 19658, 37 F.R. 28574 (Dec. 27, 1972), the Commission began a proceeding to make broad revisions of its present fee schedule. Paragraph 28 of that notice referred to the fact that the present rule making proceeding was pending and that the matter of fees for the international broadcasting service would be treated herein. Although comments concerning such fees have been duly filed in this docket, we believe, on further consideration, that it is best to defer final decisions on this subject until such time as decisions are reached in Docket No. 19658.

MISCELLANEOUS TOPICS

48. *Multiple frequency operation.* Present § 73.702(f) reads as follows:

> Not more than one frequency will be authorized for use at any one time for any one program transmission except in instances where a program is intended for reception in more than one target area and the intended target areas cannot be served by a single frequency.

The notice proposed to amend that section to read:

> Not more than one frequency will be assigned for use at any one time for any one program transmission to any single zone or area of reception in a specific band.

49. There seems to be confusion as to the meaning of the present rule. Many parties state that the rule recognizes the fact that certain target areas require simultaneous operation on more than one frequency to assure adequate coverage of the area. They also state that it has been common practice for VOA, Armed Forces Radio Service, and other international broadcasters to engage in such simultaneous multiple transmissions. However, the rule means what its clear language says, namely, that at any particular time only one frequency may be used to transmit any one program to one target area. Only if a station is beaming the same program to more than one target area at the same time may it use more than one frequency. The purpose of the rule is to avoid frequency congestion. It is true that many international broadcasters do broadcast in tandem on multiple frequencies to the same target area at the same time, but our rule does not permit licensees to do this.

50. The rule which we proposed has also been misinterpreted in the comments. For some reason, the same parties who misconstrue our present rule have also misconstrued our proposal as prohibiting broadcasting the same program to the same zone or area of reception on multiple frequencies at the same time. Such was not the purpose. It was the intent of the proposal to permit such operations, but only if the frequencies used were in different bands. In other words, we were willing to recognize tandem operation as a fact of life, even though it causes frequency congestion, but were restricting it to usage of a single frequency in any one band.

51. Parties who made this double misconstruction urge that we not adopt the proposal and that we retain the present rule. On further considering the matter, we believe it best to retain the old rule but to add to it a proviso that on a showing of good cause a licensee may be authorized such multiple frequency operation.

52. *Rebroadcast consent.* The Notice proposed deletion of paragraph (c) of § 73.790 governing rebroadcasting. That paragraph reads:

> A licensee of an international broadcast station may authorize the rebroadcast of its programs by any station outside the limits of the North American continent without permission from the Commission: *Provided*, That the station rebroadcasting the programs cannot be received consistently in the United States.

Of the two parties commenting on this proposal, one supported it. The other opposed it if deletion meant that a private international broadcasting station might not untier any circumstances authorize the rebroadcast of its programs by stations outside North America. It based its position of the fact that much of its programming was directed to Latin America and that stations there rebroadcast its programs because of their quality, a practice of which the commenting party approved because it viewed this as a worthwhile way to cement good relations between countries. We assure that party that the intent of the deletion is such that it need have no concern on this score, and paragraph (c) of § 73.790 is accordingly deleted. Paragraphs (a) and (b) of this section have been redrafted to clarify them and to relax some of the present provisions.

53. *Contract operation.* Present rules permit a licensee to enter into contracts with an agency of the United States Government to broadcast programming subject to Governmental control as to content, target areas to be covered, and time of broadcast. In view of the fact that the VOA no longer enters into such agreements, we proposed to delete provisions pertaining to contract operation. It has been suggested in the comments that the provisions be retained since at some time in the future, VOA, Radio Free Europe, Radio Liberty, AFRTS or some other governmental agency might have reason to desire to use the facilities of Commission licensees, and no purpose is served by deletion. As stated previously (para. 12), some parties urge that one of the reasons private international broadcasting is important is that overseas listeners find it to be more credible than that of governmental agencies. Without making a judgment on this question, we observe that to permit governmental agencies to broadcast over private facilities could be confusing to the foreign listener who might not know whether the programs heard were private or governmental. In any event, as stated, government agencies are not now making use of contract operation. Should they desire to do so in the future, we believe it best to handle such requests on a case-by-case basis rather than under a general rule. Accordingly the contract provisions of the present rules will be deleted as proposed.

54. *Commercial or sponsored programs.* Present § 73.788(b) contains rules governing commercial continuities. Among other things, they provide that such continuities may give no more than the name of the sponsor of the program and the name and general character of the commodity. Although we did not propose to modify this section, one party suggested its deletion, stating that it is unnecessary and a harmful restriction of private international broadcasters because advertisers are not interested in buying time on a purely institutional basis. The rule was originally adopted because it appeared that institutional advertising would create a better impression of the United States. Only a single party has suggested deletion, and we do not believe that the arguments mentioned above constitute a showing sufficient to overcome the original reasons for adoption.

55. *Change in transmitter location.* The proposed amendment to § 1.574 concerning processing of international broadcasting applications stated that a change in transmitter location, other than local, would be viewed as a major change. Similar language appears in the present rule. One party suggested that "local" be defined either in the rule or in this Report and Order in terms of mileage, community, county or state boundaries or in some other fashion. Our intent is that a local change in transmitter location means a change of transmitter location in the immediate vicinity of the existing antennas of the station, and the language of the rule is being amended accordingly.

56. In addition to all of the amendments discussed above, we note that a variety of other amendments were suggested in the Notice. They are not discussed here because they were unopposed in the comments, and are adopted

as proposed or with minor modifications.

Orders. 57. In view of the foregoing: *It is ordered*, That, effective August 20, 1973, Parts 1 and 73 of the Commission rules and regulations are amended as set forth below. Authority for this action is contained in sections 4 (i) and (j) and 303 of the Communications Act of 1934, as amended.

58. *It is further ordered*, That this proceeding is terminated except for the matter of fees to be charged in the international broadcasting service, and as to that matter the proceeding is not terminated.

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

Adopted: July 3, 1973.

Released: July 11, 1973.

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

Part 1, Subpart D—Broadcast Applications and Proceedings, of the Commission's rules and regulations, is amended as follows:

1. Paragraph (a) of § 1.574 is amended to read as follows:

§ 1.574 Processing of international broadcasting applications.

(a) Applications for international broadcasting facilities are divided into two groups.

(1) In the first group are applications for new stations, or for major changes in the facilities of authorized stations. A major change is (i) any change in or addition to authorized zones or areas of reception, (ii) any change in transmitter location other than one in the immediate vicinity of existing antennas of the station, or (iii) any change in power, or antenna directivity: *Provided, however*, That the Commission may, within 15 days after the acceptance for filing of any other application for modification, advise the applicant that such application is considered to be one for a major change and therefore is subject to the provisions of §§ 1.580 and 1.1111 pertaining to major changes.

(2) The second group consists of applications for licenses and all other changes in the facilities of authorized stations.

* * * * *

Part 73, Subpart F—International Broadcasting Stations, of the Commission's rules and regulations, is amended as follows:

1. Section 73.701 is amended to read as follows:

DEFINITIONS AND ALLOCATION OF FACILITIES

§ 73.701 Definitions.

The following definitions apply to terminology employed in this subpart:

(a) *International broadcasting stations.* A broadcasting station employing frequencies allocated to the broadcasting service between 5,950 and 26,100 kHz, the transmissions of which are intended to be received directly by the general public in foreign countries. (A station may be authorized more than one transmitter.) There are both government and non-government international broadcasting stations; only the latter are licensed by the Commission and are subject to the rules of this subpart.

(b) *Transmitter-hour.* One frequency used on one transmitter for one hour.

(c) *Frequency-hour.* One frequency used for one hour regardless of the number of transmitters over which it is simultaneously broadcast by a station during that hour.

(d) *Multiple operation.* Broadcasting by a station on one frequency over two or more transmitters simultaneously. If a station uses the same frequency simultaneously on each of two (three, etc.) transmitters for an hour, it uses one frequency-hour and two (three, etc.) transmitter-hours.

(e) *Day.* Any twenty-four hour period beginning 0100 G.m.t. and ending 0100 G.m.t.

(f) *Sunspot number.* The 12-month running average of the number of sunspots for any month as indicated in the U.S. Department of Commerce Telecommunications Research and Engineering Report No. 13—available from the Superintendent of Documents, Washington, D. C. 20402. The sunspot number varies in an approximate 11-year cycle.

(g) *March season.* That portion of any year commencing 0100 G.m.t. on the first Sunday in March and ending at 0100 G.m.t. on the first Sunday in May.

(h) *May season.* That portion of any year commencing at 0100 G.m.t. on the first Sunday in May and ending at 0100 G.m.t. on the first Sunday in September.

(i) *September season.* That portion of any year commencing at 0100 G.m.t. on the first Sunday in September and ending at 101 G.m.t. on the first Sunday in November.

(j) *November season.* That portion of any year commencing at 0100 G.m.t. on the first Sunday in November and ending at 0100 G.m.t. on the first Sunday in March.

(k) *Seasonal schedule.* An assignment, for a season, of a frequency or frequencies, and other technical parameters, to be used by a station for transmission to particular zones or areas of reception during specified hours.

(l) *Reference month.* That month of a season which is used for determining predicted propagation characteristics for the season. The reference month is January, April, July, or October, as related to the season in which it occurs.

(m) *Maximum usable frequency (MUF).* The highest frequency which is returned by ionospheric radio propagation to the surface of the earth for a particular path and time of day for 50 percent of the days of the reference month.

(n) *Optimum working frequency (FOT).* The highest frequency which is returned by ionospheric radio propagation to the surface of the earth for a particular path and time of day for 90 percent of the days of the reference month.

NOTE: The international abbreviation for optimum working frequency, FOT, is formed with the initial letters of the French words for "optimum working frequency" which are "frequence optimum de travail."

(o) *Zone of reception.* Any geographic zone indicated in § 73.703 in which the reception of particular programs is specifically intended and in which broadcast coverage is contemplated.

(p) *Area of reception.* Any geographic area smaller than a zone of reception in which the reception of particular programs is specifically intended and in which broadcast coverage is contemplated, such areas being indicated by countries or parts of countries.

(q) *Delivered median field strength, or field strength.* The field strength incident upon the zone or area of reception expressed in microvolts per meter, or decibels above one microvolt per meter, which is exceeded by the hourly median value for 50 percent of the days of the reference month.

(r) *Carrier power.* The average power supplied to the antenna transmission line by a transmitter during one radio frenquency cycle under conditions of no modulation.

2. Section 73.702 is amended to read as follows:

§ 73.702 Assignment and use of frequencies.

(a) Frequencies will be assigned by the Commission prior to the start of each season to authorized international broadcasting stations for use during the season at specified hours and for transmission to specified zones or areas of reception, with specified power and antenna bearing. Six months prior to the start of each season, licensees and permittees shall by informal written request, submitted to the Commission in triplicate, indicate for the season the frequency or frequencies desired for transmission to each zone or area of reception specified in the license or permit, the specific hours during which it desires to transmit to such zones or areas on each frequency, and the power, antenna gain, and antenna bearing it desires to use. Requests will be honored to the extent that interference and propagation conditions permit and that they are otherwise in accordance with the provisions of this section.

(b) After necessary processing of the requests required by paragraph (a) of this section, the Commission will notify each licensee and permittee of the frequencies, hours of use thereof to specified zones or areas of reception, power, and antenna bearing which it intends to authorize for the season in question. After receipt of such notification, the licensee or permittee shall, in writing, not later than two months before the start of the season in question, inform the Commission either that it plans to operate in accordance with the authorization which

the Commission intends to issue, or that it plans to operate in another manner. If the licensee or permittee indicates that it plans to operate in another manner, it shall furnish explanatory details.

(c) If after submitting the request required under the provisions of paragraph (a) of this section, but before receipt of the Commission's notification referred to in paragraph (b) of this section, the licensee or permittee submits a request for changes of its original request, such requests will be accepted for consideration only if accompanied by statements showing good cause therefor and will be honored only if conditions permit. If the information required to be submitted by the licensee or permittee under the provisions of paragraph (b) of this section indicates that operation in another manner is contemplated, and the explanatory details contain a request for change in the originally proposed manner of operation, and requests will be accepted for consideration only if accompanied by statements showing good cause therefor and will be honored only if conditions permit. If after the licensee or permittee submits the information required under the provisions of paragraph (b) of this section, but before the start of the season in question, the licensee or permittee submits a request for changes in its manner of operation for the season in question, the request will be accepted for consideration only if accompanied by statements showing good cause therefor and will be honored only if conditions permit. If after the start of a season the licensee or permittee submits a request for changes in the manner of operation as authorized, the request will be considered only if accompanied by statements showing good cause therefor, and will be honored only if conditions permit.

(d) The provisions of paragraphs (a), (b), and (c) of the section shall apply to licensees, to permittees operating under program test authority, and to permittees who anticipate applying for and receiving program test authority for operation during the specified season.

NOTE: Permittees who during the process of construction wish to engage in equipment tests shall by informal written request, submitted to the Commission in triplicate not less than 30 days before they desire to begin such testing, indicate the frequencies they desire to use for testing and the hours they desire to use those frequencies. No equipment testing shall occur until the Commission has authorized frequencies and hours for such testing. Such authorizations shall be only for one season, and if it is desired to continue equipment testing in a following season, new requests for frequencies and hours must be submitted at least 30 days before it is desired to begin testing in the following season.

(e) Within 14 days after the end of each season, a report shall be filed with the Commission by each licensee or permittee operating under program test authority who has been issued a seasonal schedule for that season. The report shall state whether the licensee or permittee has operated the number of frequency-hours authorized by the seasonal schedule to each of the zones or areas of reception specified in the schedule. If such operation has not occurred, a detailed explanation of that fact shall also be submitted which includes specific dates, frequency-hours not used, and reasons for the failure to operate as authorized. The report shall also contain information that has been received by the licensee or permittee as to reception or interference, and conclusions with regard to propagation characteristics of frequencies that were assigned for the season in question.

(f) Frequencies assigned by the Commission shall be within the following bands which are allocated exclusively to the international broadcasting service:

5,950–6,200 kHz
9,500–9,775 kHz
11,700–11,975 kHz
15,100–15,450 kHz
17,700–17,900 kHz
21,450–21,750 kHz
25,600–26,100 kHz

The carrier frequencies assignable shall begin 5 kHz above the frequency specified above for the beginning of each band and shall be in successive steps of 5 kHz to and including 5 kHz below the frequency specified as the end of each band.

(g) Frequencies requested for assignment must be as near as practicable to the optimum working frequency (unless otherwise justified) for the zone or area of reception for the period and path of transmission, and should be chosen so that a given frequency will provide the largest period of reliable transmission to the selected zone or area of reception. Moreover, at the zone or area of reception frequencies shall provide protection to the transmissions of other broadcasting stations which, in the opinion of the Commission, have priority of assignment.

NOTE 1: Requests for frequency-hours shall be accompanied by all pertinent technical data with reference to the frequencies and hours of operation, including calculated field strengths delivered to the zones or areas of reception.

NOTE 2: It is preferable that calculated field strengths delivered to zones or areas of reception be equal to or greater than those required by I.F.R.B. Technical Standards, Series A (and supplements thereto), in order for the I.F.R.B. to afford the notified assignment protection from interference. Nevertheless, calculated field strengths less than those required by the I.F.R.B. standards for protection will be acceptable to the Commission. However, licensees should note that if such lesser field strengths are submitted no protection from interference will be provided by the I.F.R.B. if their technical examination of such notifications show incompatibilities with other notified assignments fully complying with I.F.R.B. technical standards.

NOTE 3: Licensees are permitted to engage in multiple operation as defined in § 73.701 (d).

NOTE 4: Seasonal requests for frequency-hours will be only for transmissions to zones or areas of reception specified in the basic instrument of authorization. Changes in such zones or areas will be made only on separate application for modification of such instruments.

(h) Not more than one frequency will be assigned for use at any one time for any one program transmission except in instances where a program is intended for reception in more than one zone or area of reception and the intended zones or areas cannot be served by a single frequency: *Provided, however,* That on a showing of good cause a licensee may be authorized to operate on more than one frequency at any one time to transmit any one program to a single zone or area of reception.

(i) Any frequency assigned to a licensee or permittee shall also be available for assignment to other licensees or permittees.

(j) All assignments of frequencies and the hours during which they will be used will be made with the express understanding that they are subject to immediate cancellation or change without hearing whenever the Commission determines that interference or propagation conditions so require and that each frequency-hour assignment for a given seasonal schedule is unique unto itself and not necessarily available for use during a subsequent season.

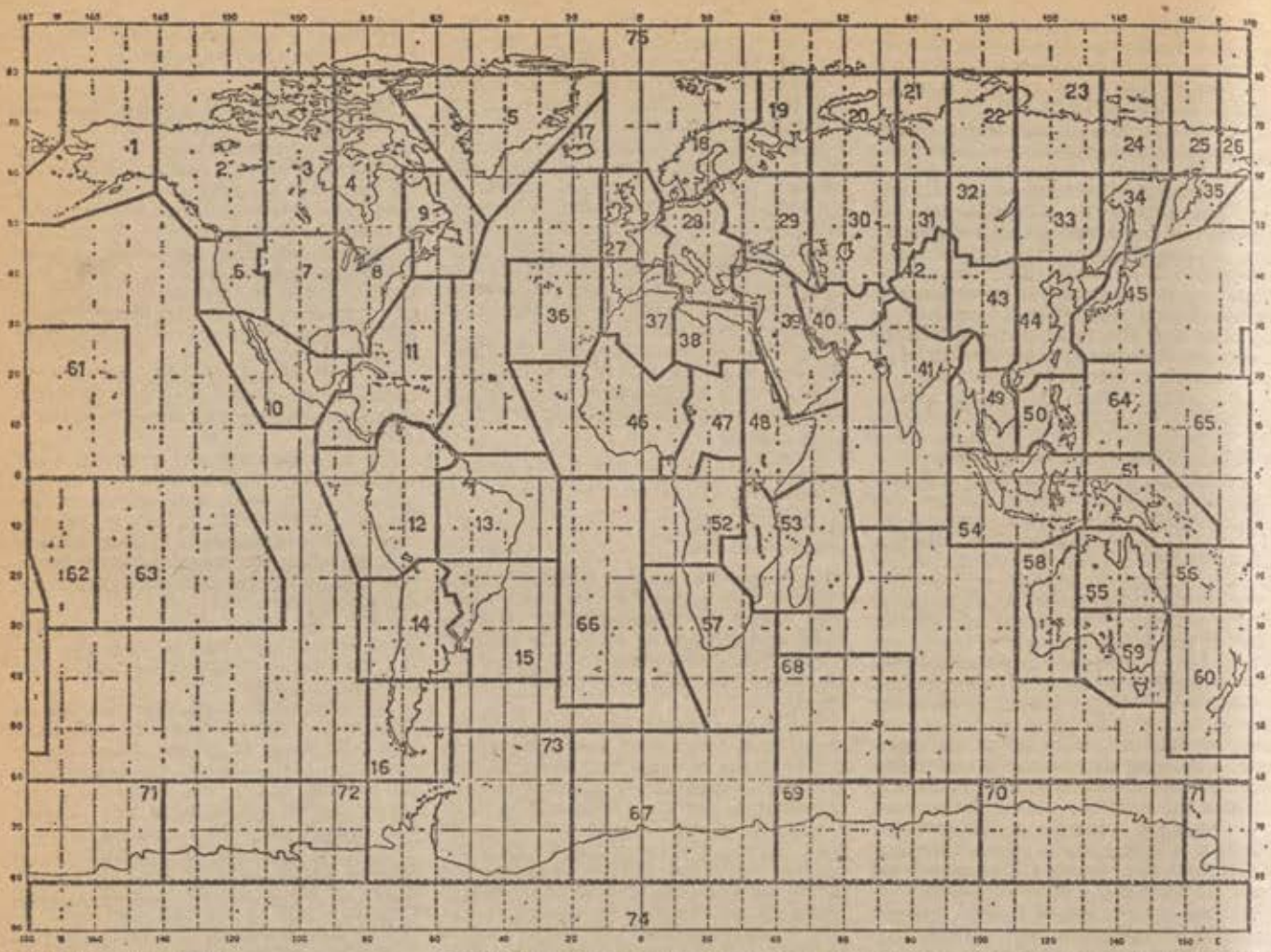
(k) The total maximum number of frequency-hours which will be authorized to all licensees of international broadcasting stations during any one day for any season is 100. The number of frequency-hours allocated to any licensee will depend on past usage, availability, and need. If for a forthcoming season the total of the requests for daily frequency-hours of all licensees exceeds 100, all licensees will be notified and each licensee that makes an adequate showing that good cause exists for not having its requested number of frequency-hours reduced and that operation of its station without such reduction would be consistent with the public interest may be authorized the frequency-hours requested.

NOTE: The provisions of this paragraph are not to be construed to mean that a total of 100 (or more) frequency-hours per day is assured licensees. Frequency-hours will only be assigned to the extent that they are available. It is the responsibility of each licensee to make all technical studies to show that frequency-hours requested by it are available and suitable for use as proposed.

3. Sections 73.703 and 73.704 are deleted, and § 73.792 is redesignated § 73.703 and amended by adding introductory language thereto and substituting a new map for the old map therein as follows:

§ 73.703 Geographical zones and areas of reception.

The zones or areas of reception to be served by international broadcasting stations shall be based on the following map, and directive antennas shall be employed to direct transmissions thereto:



§ 73.710 [Amended]

4. Section 73.710 is amended by adding the following note at the end thereof:

NOTE: Information required by these rules but not required by the application forms specified in Subpart D of Part 1 of this chapter shall be submitted as a supplement to the application and will be considered as a part thereof. Applications for renewal of license shall be accompanied by copies of program logs for the composite week designated by the Commission.

§ 73.711 [Deleted]

5. Section 73.711 is deleted.

§ 73.712 [Redesignated]

6. Section 73.712 is redesignated § 73.-711

7. Section 73.716 is redesignated § 73.-712, and paragraphs (a) and (c) thereof are amended to read as follows:

§ 73.712 Equipment tests.

(a) During the process of construction of an international broadcasting station, the permittee, having obtained authorization for frequencies and hours as set forth in the Note to § 73.702(d), and having thereafter notified the Engineer in Charge of the radio district in which the station is located may, without further authority of the Commission, conduct equipment tests for the purpose of such adjustments and measurements as may be necessary to assure compliance with the terms of the construction permit, the technical provisions of the application therefor, and the rules and regulations. Such tests shall use voice identification and test tones only. No programming shall be conducted during equipment tests.

* * * * *

(c) Equipment tests may be continued so long as the construction permit shall remain valid: *Provided, however,* That the procedure set forth in paragraph (a) of this section must be repeated prior to the conducting of such tests in each season after the season in which the testing began.

* * * * *

8. New § 73.713 is added as follows:

§ 73.713 Program tests.

(a) Upon completion of construction of an international broadcasting station in accordance with the terms of the construction permit, the technical provisions of the application therefor, and the rules and regulations and the applicable engineering standards, and when an application for station license has been filed showing the station to be in satisfactory operating condition, the permittee may request authority to conduct program tests: *Provided,* That such request shall be filed with the Commission at least ten (10) days prior to the date on which it is desired to begin such operation and that the Engineer in Charge of the radio district in which the transmitter(s) is located is notified. (All data necessary to show compliance with the terms and conditions of the construction permit must be filed with the license application.)

(b) Program tests shall not commence until specific Commission authority is received. The Commission reserves the right to change the date of the beginning of such tests or to suspend or revoke the authority for program tests as and when such action may appear to be in the public interest, convenience, and necessity.

(c) Unless sooner suspended or revoked, program test authority continues valid during Commission consideration of the application for license and during this period further extension of the construction permit is not required. Program test authority shall be automatically terminated by final determination upon the application for station license.

(d) All operation under program test authority shall be in strict compliance with the rules governing international broadcasting stations and in strict ac-

cordance with representations made in the application for license pursuant to which the tests were authorized.

(e) The granting of program test authority shall not be construed as approval by the Commission of the application for station license.

§ 73.718 [Redesignated]

9. Section 73.718 is redesignated § 73.733 and amended to read as follows:

§ 73.733 Normal license period.

All international broadcasting station licenses will be issued so as to expire at the hour of 3 a.m. local time and will be issued for a normal license period of 3 years expiring November 1.

10. Section 73.731 and headnote are amended to read as follows:

§ 73.731 Licensing requirements.

(a) A license for an international broadcasting station will be issued only after a satisfactory showing has been made in regard to the following, among others:

(1) That there is a need for the international broadcasting service proposed to be rendered.

(2) That the necessary program sources are available to the applicant to render the international service proposed.

(3) That the production of the program service and the technical operation of the proposed station will be conducted by qualified persons.

(4) That the applicant is legally, technically and financially qualified and possesses adequate technical facilities to carry forward the service proposed.

(5) That the public interest, convenience and necessity will be served through the operation of the proposed station.

11. New § 73.732 is added to read as follows:

§ 73.732 Authorizations.

Authorizations issued to international broadcasting stations by the Commission will be authorizations to permit the construction or use of a particular transmitting equipment combination and related antenna systems for international broadcasting, and to permit broadcasting to zones or areas of reception specified on the instrument of authorization. The authorizations will not specify the frequencies to be used or the hours of use. Requests for frequencies and hours of use will be made as provided in § 73.702. Seasonal schedules, when issued pursuant to the provisions of § 73.702, will become attachments to and part of the instrument of authorization, replacing any such prior attachments.

12. Section 73.751 is amended to read as follows:

§ 73.751 Power requirement.

No international broadcasting station will be authorized to install, or be licensed for operation of, transmitter equipment with a rated carrier power of less than 50 kilowatts.

§ 73.752 [Deleted]

13. Section 73.752 is deleted.

14. Section 73.753 is amended to read as follows:

§ 73.753 Antenna.

All international broadcasting stations shall operate with directional antennas. Such antennas shall be designed and operated so that the radiated power in the maximum lobe toward the specific zone or area of reception intended to be served shall be at least 10 times the average power from the antenna in the horizontal plane. Radiation in all other directions shall be suppressed to the maximum extent technically feasible. In order to eliminate or mitigate harmful interference, the direction of the maximum lobe may be adjusted upon approval of the Commission.

15. Section 73.756 is amended to read as follows:

§ 73.756 Required transmitter performance.

(a) *Design.* The construction, installation, operation, and performance of the international broadcasting transmitter system shall be in accordance with good engineering practice.

(b) *Spurious emission.* (1) Any emission appearing on a frequency removed from the carrier frequency by between 6.4 kHz and 10 kHz, inclusive, shall be attenuated at least 25 decibels below the level of the unmodulated carrier. Compliance with the specification will be deemed to show the occupied bandwidth to be 10 kHz or less.

(2) Any emission appearing on a frequency removed from the carrier frequency by more than 10 kHz and up to and including 25 kHz shall be attenuated at least 35 decibels below the level of the unmodulated carrier.

(3) Any emission appearing on a frequency removed from the carrier frequency by more than 25 kHz shall be attenuated at least 80 db below the level of the unmodulated carrier.

(4) In the event spurious emissions cause harmful interference to other stations or services, such additional steps as may be necessary to eliminate the interference must be taken immediately by the licensee.

(c) *Frequency control.* The transmitter shall be equipped with automatic frequency control apparatus so designed and constructed that it is capable of maintaining the operating frequency within 0.0015 percent of the assigned frequency.

16. Section 73.759 is amended to read as follows:

§ 73.759 Changes in equipment and antenna systems.

Specific authority, upon filing formal application (FCC Form 309) therefor, is required for any of the following changes:

(a) Change involving an increase or decrease in the power rating of the transmitters.

(b) A replacement of the transmitters as a whole.

(c) Change in the location of the transmitting antenna.

(d) Change in location of main studio, if it is proposed to move the main studio to a different city from that specified in the license.

(e) Change in the power delivered to the antenna.

(f) Change in frequency control and/or modulation system.

(g) Change in direction or gain of antenna system.

Other changes, not specified above in this section, may be made at any time without the authority of the Commission: *Provided,* That the Commission shall be immediately notified thereof and such changes shall be shown in the next application for renewal of license.

17. Section 73.761 is amended to read as follows:

§ 73.761 Time of operation.

(a) All international broadcasting stations shall operate in accordance with the times indicated on their seasonal schedules.

(b) In the event that causes beyond a licensee's control make it impossible to adhere to the seasonal schedule or to continue operating, the station may limit or discontinue operation for a period of not more than 10 days, without further authority from the Commission. However, in such cases, the Commission and the Engineer in Charge of the radio district in which the station is located shall be immediately notified in writing of such limitation or discontinuance of operation and shall subsequently be notified when the station resumes regular operation.

(c) In the event that causes beyond a licensee's control make it impossible to adhere to the seasonal schedule or to continue operating for a temporary period of more than ten days, the station may not limit or discontinue operation until it requests and receives specific authority to do so from the Commission. When the station subsequently resumes regular operation after such limited operation or discontinuance of operation, it shall notify the Commission and the Engineer in Charge of the radio district in which the station is located.

18. Section 73.763 and headnote are amended to read as follows:

§ 73.763 Station license and seasonal schedules, posting of.

The original of each station license and of the current seasonal schedule shall be posted in the transmitter room.

19. Section 73.765 and headnote are amended to read as follows:

§ 73.765 Operating power; how determined and maintained.

The operating power specified in § 73.751 shall be determined by use of a calibrated dummy load or by any other method specified by the licensee and accepted by the Commission. Such method

may subsequently be used by the licensee to maintain the authorized operating power.

20. Section 73.766 and headnote are amended to read as follows:

§ 73.766 Modulation and bandwidth.

The percentage of modulation shall be maintained as high as possible consistent with good quality of transmission and good broadcast practice. In no case shall it exceed 100 percent on positive or negative peaks of frequent recurrence. It should not be less than 85 percent on peaks of frequent recurrence. The range of modulation frequencies shall be so controlled that the authorized bandwidth of the emission shall not be exceeded under all conditions of modulation. The highest modulating frequency shall not exceed 5 kHz.

21. Section 73.769 is amended to read as follows:

§ 73.769 Discontinuance of operation.

The licensee of each station shall notify the Commission in Washington, D.C., and the Engineer in Charge of the radio district where such station is located of permanent discontinuance of operation at least two days before operation is discontinued. The licensee shall, in addition, immediately forward the station license and other instruments of authorization to the Washington, D.C. office of the Commission for cancellation.

§ 73.787 [Amended]

22. Section 73.787 is amended by deleting paragraph (c) thereof.

23. Section 73.788(c) is amended to read as follows:

§ 73.788 Service; commercial or sponsored programs.

* * * * *

(c) The geographic areas to be served by international broadcasting stations are the zones and areas of reception shown in § 73.703.

* * * * *

24. Section 73.790 is amended to read as follows:

§ 73.790 Rebroadcast.

(a) No international broadcasting station shall rebroadcast the program, or any part thereof, of another United States broadcasting station without the express authority of the originating station. A copy of the written consent of the licensee originating the program shall be kept by the licensee of the station rebroadcasting such program and shall be made available to the Commission upon request. The broadcasting of a program relayed by a remote pick-up broadcast station (§ 74.401 of this chapter) is not considered a rebroadcast.

(b) The retransmission of point-to-point messages originated by government or privately owned non-broadcast stations must be authorized by the Commission prior to retransmission; requests for such authority may be submitted informally (by letter) accompanied by the written consent of the originating station.

§ 73.791 [Deleted]

25. Section 73.791 is deleted.

§ 73.792 [Deleted]

26. Section 73.792 is deleted.

[FR Doc.73-14348 Filed 7-13-73;8:45 am]

[FCC 73-731]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations, Woodstock and Rutland, Vermont

Memorandum opinion and order. In the matter of amendments of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Woodstock and Rutland, Vermont) RM-1913.

1. The Commission has before it a proposal to reassign Channel 246 from Rutland, Vermont to Woodstock, Vermont. The petition, filed by White Mountain Broadcasting Company ("White Mountain"), has been opposed by Vermont Radio, Incorporated.

2. At present, Rutland, Vermont, has two Class B FM channel assignments. One, Channel 251, is already in use, and Vermont Radio's opposition is based on its desire to operate on Channel 246 in Rutland, not Woodstock. On behalf of its proposal to reassign the channel, White Mountain points to Woodstock's lack of a broadcast facility and asserts that this situation is compounded by the lack of dependable signals from stations located in other area communities. In particular, White Mountain contends that Woodstock receives only "spotty" FM service from the White River Junction FM station 10 miles away. White Mountain asserts that by making the proposed assignment service could be brought to extensive areas now receiving either no FM signal or just one FM signal. Petitioner urges us to proceed to give this community of 2,608 (said to reach 3,500 in the tourist season) its first local facility. No showing has been provided on the preclusionary impact, if any, the proposal would have, but as to the proposal itself, petitioner has shown that the channel could be used in Woodstock and meet all applicable technical requirements.

3. Vermont Radio urges us to leave the assignment in Rutland, a community of 20,900, so that it might use the channel there. According to Vermont Radio, the assignment of a Class B channel to a community as small as Woodstock is inappropriate and in conflict with Commission policy. Rather, it sees a need for the channel in Rutland.

4. The question before us is easy to state, albeit harder to resolve: is there sufficient information on hand to indicate that the channel might be better used at Woodstock than Rutland, so as to warrant the commencement of a rulemaking proceeding? No substitute channel has been mentioned for Rutland and our study does not reveal that one is available. The same holds true for Woodstock. Thus we must choose, for there appears to be no way to respond to the urgings of both parties.

5. The desire for a local facility in Woodstock, while understandable, is not in itself compelling, considering the small size of the community. This is all the more true when recognition is given to the fact that it is a Class B channel under consideration. To grant the proposal would be to provide equal treatment to communities having an eightfold difference in population. White Mountain's argument about being able to provide service to unserved or underserved areas raises a significant point, but utilizing its own engineering data, it appears that if the station were located in Rutland instead, using the same facilities as White Mountain proposes, it would provide a strong signal to Woodstock and to most of the very areas that all now lack FM service. The only exception would be a small area south of Wentworth, New Hampshire. Depending on site and facilities, the unused Plymouth, New Hampshire, assignment could bring a second service to some or even all of this area.

6. Under these circumstances, we believe the public interest would be better served by leaving the channel assigned to Rutland. However, our conclusion is premised on the use of the channel in Rutland at maximum facilities. Otherwise service in the unserved or underserved areas would be significantly reduced. Any such reduction would require us to reexamine our determinations and draw the balance anew. Accordingly, we are amending the FM Table to include a footnote requiring use of this channel with maximum facilities or equivalent. The application now pending does not propose such facilities, but Vermont Radio (or any other applicant) will be afforded an opportunity to specify maximum facilities or their equivalent. If no applicant is prepared to proceed on this basis, White Mountain may resubmit its proposal based on the situation then obtaining.

7. *Accordingly, it is ordered,* That the White Mountain proposal is denied. And in view of the foregoing and pursuant to authority found in sections 4(i), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and because the prior notice of section 4 of the Administrative Procedures Act (5 U.S.C. 553) does not apply: *It is further ordered,* That effective August 24, 1973, FM Assignments, § 73.202(b), is amended by the addition of the following footnote to the channel 246 assignment at Rutland, Vermont: Any application for this channel must specify an effective radiated power of 50 kW and antenna height of 500 feet above average terrain or their equivalent.

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

Adopted: July 3, 1973.

Released: July 10, 1973.

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

[FR Doc.73-14466 Filed 7-13-73;8:45 am]

Proposed Rules

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

DEPARTMENT OF THE TREASURY

Fiscal Service

[31 CFR Part 223]

SURETY COMPANIES DOING BUSINESS WITH THE UNITED STATES

Notice of Proposed Rule Making

The Department of the Treasury is considering amending its regulations governing surety companies doing business with the United States, at 31 CFR Part 223 (also appearing as Department Circular No. 297, Revised). These amendments will provide a surety company with an opportunity for a hearing to explain and justify its reasons for not settling claims made against it by Federal agencies, prior to a determination by the Secretary of the Treasury to revoke its certificate of authority to do business with the United States for failure to perform its obligations to such agencies. The provisions concerning the revocation of a company's certificate of authority for not complying with other requirements of 6 U.S.C. 6–13 and these regulations are not affected by this amendment.

Accordingly, notice is hereby given pursuant to 5 U.S.C. 553 that the Secretary of the Treasury is considering amending Part 223, Subchapter A, Chapter II of Title 31 of the Code of Federal Regulations by: (1) Amending the table of contents; (2) amending § 223.6; (3) retitling and renumbering § 223.17 as § 223.18; (4) renumbering § 223.18 as § 223.17 and § 223.19 as § 223.22, and (5) adding new §§ 223.19, 223.20 and 223.21.

More specifically: (1) As amended, the table of contents for §§ 223.17 through 223.22, would read:

Sec.
223.17 Revocation.
223.18 Performance of agency obligations.
223.19 Informal hearing on agency complaints.
223.20 Final decisions.
223.21 Reinstatement.
223.22 Schedule of fees.

(2) As amended, § 223.6 would read:

§ 223.6 Requirements applicable to surety companies.

Every company now or hereafter authorized to do business under the act of Congress referred to in § 223.1 shall be subject to the regulations contained in this part.

§§ 223.17, 223.18 [Redesignated]

(3) Section 223.18 would be redesignated as § 223.17; § 223.17 would be redesignated as § 223.18 and the heading changed to read as follows: § 223.18 *Performance of agency obligations.*

(4) As newly added, §§ 223.19 through 223.21 would read:

§ 223.19 Informal hearing on agency complaints.

(a) *Request for informal hearing.* If a company determines that the opportunity to make known its views, as provided for under § 223.18(b), is inadequate, it may, within 20 business days of the date of the notice required by § 223.18(b), request, in writing, that the Secretary of the Treasury convene an informal hearing.

(b) *Purpose.* As soon as possible after a written request for an informal hearing is received, the Secretary of the Treasury shall convene an informal hearing, at such time and place as he deems appropriate, for the purpose of determining whether revocation of the company's certificate of authority is justified.

(c) *Notice.* The Company shall be advised, in writing, of the time and place of the informal hearing and shall be directed to bring all documents, records and other information as it may find necessary and relevant to substantiate its refusal to settle the claims made against it by the Federal agency making the report under § 223.18(a).

(d) *Conduct of hearings.* The hearing shall be conducted by a hearing officer appointed by the Secretary. The company may be represented by counsel and shall have a fair opportunity to present any relevant material and to examine the agency's evidence. Formal rules of evidence will not apply at the informal hearing.

(e) *Report.* Within 30 days after the informal hearing, the hearing officer shall make a written report to the Secretary setting forth his findings, the basis for his findings, and his recommendations. A copy of the report shall be sent to the company.

§ 223.20 Final decisions.

If, after review of the case file, it is the judgment of the Secretary that the complaint was unfounded, the Secretary shall dismiss the complaint by the Federal agency concerned and shall so notify the company. If, however, it is the judgment of the Secretary that the company has not fulfilled its obligations to the complainant agency, he shall notify the company of the facts or conduct which indicate such failure and allow the company 20 business days from the date of such notification to demonstrate or achieve compliance. If no showing of compliance is made within the period allowed, the Secretary shall either preclude renewal of a company's certificate of authority or revoke it.

§ 223.21 Reinstatement.

If, after one year from the date of the expiration or the revocation of the certificate of authority, as the case may be, a company can show that the basis for the non-renewal or revocation has been eliminated and that it can comply with the requirements of 6 U.S.C. 6–13 and the regulations in this part, a new certificate of authority shall be issued without prejudice.

(5 U.S.C. 301; 6 U.S.C. 8.)

Prior to the adoption of the proposed amendments, consideration will be given to written views or arguments submitted to the Commissioner of Accounts, U.S. Department of the Treasury, Washington, D.C. 20226, and received not later than August 15, 1973. Pursuant to 31 CFR 1.4(b), 36 FR 13835, comments submitted in response to this notice of proposed rule making are available to the public upon request therefor unless confidential status for the submission has been requested and approved.

Dated: July 10, 1973.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.73-14452 Filed 7-13-73;8:45 am]

Internal Revenue Service

[26 CFR 301]

TIME FOR PERFORMANCE OF ACTS WHERE LAST DAY FALLS ON A LEGAL HOLIDAY

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by August 15, 1973. Written comments or suggestions which are not exempt from disclosure by the Internal Revenue Service may be inspected by any person upon compliance with 26 CFR 601.702(d)(9). The provisions of 26 CFR 601.601(b) shall apply with respect to the designation of portions of comments or suggestions as exempt from disclosure. Any person submitting written comments or suggestions

who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by August 15, 1973. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the Federal Register, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

This document contains proposed amendments to the Regulations on Procedure and Administration (26 CFR Part 301) in order to conform such regulations to the changes made by P.L. 90-363, 82 Stat. 250, which amended 5 U.S.C. 6103 (a) (1964), regarding the observance of certain legal holidays on Monday. Such amendment was effective on January 1, 1971.

The proposed amendment to the regulations is designed to conform § 301.7503-1(b)(1) to the present District of Columbia law regarding the date of observance of legal holidays. The District of Columbia now observes Washington's Birthday on the third Monday in February, Memorial Day on the last Monday in May, Veterans' Day on the fourth Monday in October, and Thanksgiving on the fourth Thursday in November. Columbus Day is also considered a legal holiday in the District of Columbia for all calendar years after 1970, and is observed on the second Monday in October. Under the proposed amendment of the regulations, the dates of observance of these holidays for purposes of the Internal Revenue Code of 1954 will correspond to the dates of observance of these holidays in the District of Columbia. So that the proposed amendments to the regulations will not adversely affect certain taxpayers who relied on the current regulations, for the calendar years 1971, 1972, and 1973, taxpayers may, at their option (except with respect to the performance of any act relating to the jurisdiction of a court), treat Washington's Birthday as falling on either February 22 or the third Monday in February and Memorial Day as falling on either May 30 or the last Monday in May. For the calendar years 1971 and 1972, taxpayers may, at their option (except with respect to the performance of any act relating to the jurisdiction of a court), treat Veterans' Day as falling on either November 11 or the fourth Monday in October. The option is denied to taxpayers in those cases where the performance of an act relates to the jurisdiction of a court in order to be consistent with "William M. Winkler," 56 T.C. 844 (1971), where the United States Tax Court held that in computing the 150-day filing requirement of section 6213(a), Monday, February 15, 1971, was a legal holiday (Washington's Birthday) in the District of Columbia. The Tax Court made no mention of the availability of an option in cases where the performance of an act relates to the jurisdiction of a court.

Amendment to regulations. Section 7503 of the Internal Revenue Code of 1954 provides rules for the time for performance of acts where the last day for performance falls on a legal holiday. In order to conform the Regulations on Procedure and Administration (26 CFR Part 301) under section 7503 to the changes made by P.L. 90-363, 82 Stat. 250, which amended 5 U.S.C. 6103 (a) (1964), regarding the observance of certain legal holidays on Monday, paragraph (b) (1) of § 301.7503-1 of such regulations is amended to read as follows:

§ 301.7503-1 Time for performance of acts where last day falls on Saturday, Sunday, or legal holiday.

* * * * *

(b) *Legal holidays.* (1) For the purpose of section 7503, the term "legal holiday" includes the legal holidays in the District of Columbia. Such legal holidays found in D.C. Code Ann. § 28-2701 (1967) and 5 U.S.C. 6103 (a), as enacted and made effective by the Act of June 28, 1968 (82 Stat. 250), are—

(i) January 1, New Year's Day,

(ii) January 20, when such day is Inauguration Day,

(iii) Third Monday in February, Washington's Birthday,

(iv) Last Monday in May, Memorial Day,

(v) July 4, Independence Day,

(vi) First Monday in September, Labor Day,

(vii) Second Monday in October, Columbus Day,

(viii) Fourth Monday in October, Veterans' Day,

(ix) Fourth Thursday in November, Thanksgiving Day,

(x) December 25, Christmas Day.

When a legal holiday in the District of Columbia falls on a Sunday, the next day is a legal holiday in the District of Columbia (see D.C. Code Ann. § 28-2701 (1967)). For the purpose of section 7503, when a legal holiday in the District of Columbia (other than Inauguration Day) falls on a Saturday it shall be treated as falling on the preceding Friday. For calendar years prior to 1971, Washington's Birthday will be treated as falling on February 22, Memorial Day on May 30, and Veterans' Day on November 11. For calendar years 1971, 1972, and 1973, the taxpayer may, at his option (except with respect to the performance of any act relating to the jurisdiction of a court), treat Washington's Birthday as falling on either February 22 or the third Monday in February, and Memorial Day as falling on either May 30 or the last Monday in May. For calendar years 1971 and 1972, the taxpayer may, at his option (except with respect to the performance of any act relating to the jurisdiction of a court), treat Veterans' Day as falling on either November 11 or the fourth Monday in October. Columbus Day is not a legal holiday in the District of Columbia in any calendar year prior to 1971.

* * * * *

[FR Doc.73-14496 Filed 7-13-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 948]

IRISH POTATOES GROWN IN COLORADO

Proposed Handling Limitations

This proposal, designed to promote orderly marketing of Colorado Area No. 3 potatoes, would impose minimum quality standards and would require inspection of fresh shipments to keep low quality potatoes from being shipped to consumers.

Consideration is being given to the issuance of a handling regulation, hereinafter set forth, which was recommended by the Area Committee for Area No. 3, Colorado, established pursuant to Marketing Agreement No. 97 and Order No. 948, both as amended (7 CFR Part 948). This marketing order program regulates the handling of Irish potatoes grown in the State of Colorado and is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

The recommendations of the committee reflect its appraisal of the composition of the 1973 crop in Area No. 3 and of the marketing prospects for this season. Harvesting is expected to begin on or about August 1 so the regulation should become effective on that date. The grade, size, and maturity requirements provided herein are necessary to prevent potatoes of lesser maturities, undesirable sizes, or low quality from being distributed in fresh market channels. They will also provide consumers with good quality potatoes consistent with the overall quality of the crop.

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

Potatoes for prepeeling may be handled without regard to maturity requirements since skinning of such potatoes is of no consequence.

Shipments may be made to certain special purpose outlets without regard to the grade, size, maturity and inspection requirements, provided that safeguards are met to prevent such potatoes from reaching unauthorized outlets. Certified seed is so exempted because requirements for this outlet differ greatly from those for fresh market. Shipments for use as livestock feed are likewise exempt. Since no purpose would be served by regulating potatoes used for charity purposes, such shipments are exempt. Exemption of potatoes for most processing uses is mandatory under the legislative authority for this part and therefore shipments to processing outlets are unregulated.

All persons who desire to submit written data, views, or arguments in connection with this proposal may file the same, in four copies, with the Hearing Clerk, Room 112–A, United States Department of Agriculture, Washington, D.C. 20250, not later than July 23, 1973. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). The proposed regulation is as follows:

§ 948.369 Handling regulation.

During the period August 1, 1973, through June 30, 1974, no person shall handle any lot of potatoes grown in Area No. 3 unless such potatoes meet the requirements of paragraphs (a), (b) and (e) of this section, or unless such potatoes are handled in accordance with paragraphs (c), (d), (f) and (g) of this section.

(a) *Grade and size requirements.—All varieties.* U.S. No. 1, or better grade, 2 inches minimum diameter; or U.S. No. 2, or better grade up to but not including U.S. No. 1 grade and not less than 1⅞ inches minimum diameter: *Provided,* That Size B may be handled if U.S. No. 1, or better grade: *Further Provided,* That long varieties may, in lieu of such minimum diameters, be 4 ounces minimum weight.

(b) *Maturity (skinning) requirements—All varieties.* For U.S. No. 2 grade, not more than "moderately skinned," and for all other grades, not more than "slightly skinned."

(c) *Special purpose shipments.* (1) The grade, size, maturity and inspection requirements of paragraphs (a), (b) and (e) of this section shall not be applicable to shipments of potatoes for:

(i) Livestock feed;

(ii) Charity;

(iii) Canning, freezing; and "other processing" as hereinafter defined; and

(iv) Certified seed potatoes (§ 948.6)

(2) The maturity requirements set forth in paragraph (b) of this section shall not be applicable to shipments of potatoes for prepeeling.

(d) *Safeguards.* Each handler making shipments of potatoes pursuant to paragraph (c) of this section shall,

(1) Prior to shipment, apply for and obtain a Certificate of Privilege from the committee.

(2) Furnish the committee such reports and documents as requested, including certification by the buyer or receiver on the use of such potatoes, and

(3) Bill each shipment directly to the applicable buyer or receiver.

(e) *Inspection.* (1) No handler shall handle any potatoes for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment. For purpose of operation under this part it is hereby determined pursuant to paragraph (d) of § 948.40, that each inspection certificate shall be valid for a period not to exceed 5 days following the date of inspection as shown on the inspection certificate.

(2) No handler may transport or cause the transportation by motor vehicle of any shipment of potatoes for which an inspection certificate is required unless each shipment is accompanied by a copy of the inspection certificate applicable thereto and the copy is made available for examination at any time upon request.

(f) *Minimum quantity.* For purposes of regulation under this part, each person may handle up to but not exceed 1,000 pounds of potatoes without regard to the requirements of paragraphs (a) and (b) of this section, but this exception shall not apply to any shipment of over 1,000 pounds of potatoes.

(g) *Definitions.* The terms "U.S. No. 1," "U.S. No. 2," "Size B," "moderately skinned" and "slightly skinned," shall have the same meaning as when used in the United States Standards for Grades of Potatoes §§ 51.1540–51.1566 of this title, as amended, effective September 1, 1971) including the tolerances set forth therein. The term "prepeeling" means potatoes which are clean, sound, fresh tubers prepared commercially in a prepeeling plant by washing, removal of the outer skin or peel, trimming, and sorting preparatory to sale in one or more of the styles of peeled potatoes described in § 52.2422 (United States Standards for Grades of Peeled Potatoes, §§ 52.2421–52.2433 of this title). The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, or dicing, or the application of material to prevent oxidation does not constitute "other processing."

(h) *Applicability to imports.* Pursuant to section 8e of the act and § 980.1, "Import regulations" (§ 980.1 of this chapter), round white varieties of Irish potatoes, except certified seed potatoes, imported into the United States during the period August 1, 1973, through June 4, 1974, shall meet the minimum grade, size, quality, and maturity requirements specified in paragraphs (a) and (b) of this section.

Dated: July 11, 1973.

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

[FR Doc.73-14486 Filed 7-13-73;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 185]

EMERGENCY SCHOOL AID

Proposed Amendments Concerning Waivers of Ineligibility

In the administration of the Emergency School Aid Act it was determined that in some cases major metropolitan school districts, because of their size, were unable to satisfy the requirements for eligibility or waiver contained in 45 CFR 185.43(b)(2) and 185.44(d)(3) which deal with discrimination in faculty assignment. These districts were able to demonstrate serious need for the assistance provided by ESAA; had submitted proposals which were rated at a level which would have permitted funding but for their ineligibility; and had demonstrated a commitment to the elimination of discrimination in faculty assignment.

In order to meet the critical needs for assistance demonstrated by these districts and to allow such districts to qualify for assistance under the Act, it is proposed to amend the regulations to permit districts which are unable to alter the faculty assignment patterns within the existing time constraints a longer period in which to complete corrective action.

The proposed revision of the regulations is to amend the provision for waiver of ineligibility resulting from discrimination in faculty assignment to permit districts to show that policies of teacher assignment which resulted in ineligibility have been changed and that corrective action to eliminate the results of past discrimination in assignment is being taken through implementation of a plan which will accomplish the complete elimination of such discrimination within a prescribed time frame.

In addition a change is proposed in § 185.95(b) (1) and (3) *Reservation of funds* to make the maximum amount authorized by the Act available to the Assistant Secretary for special projects under subpart J of this part. The amount of funds available for educational television projects under subpart H of this part is reduced to the level authorized by the Act.

Part 185 of Title 45 of the Code of Federal Regulations is hereby amended by revising §§ 185.44(d)(3) and 185.95(b)(1) and (3) to read as follows:

§ 185.44 Waiver of ineligibility.

* * * * *

(d) Demotion or dismissal of minority group personnel:

* * * * *

(3) In the case of ineligibility resulting from discriminatory assignment of teachers as prohibited by § 185.43(b)(2), such applications for waiver shall contain evidence that such agency has adopted and implemented a nondiscriminatory

assignment policy. In the case of a local educational agency implementing a plan described in § 185.11(a), such evidence shall indicate that such agency is complying with the requirements of such plan with respect to the assignment of faculty. In the case of local educational agencies not implementing such a plan, or implementing such a plan which contains no provision as to assignment of faculty, such evidence shall include at a minimum:

(i) Adoption by such agency of a policy of nondiscriminatory assignment of faculty and staff members;

(ii) Determination of all faculty and staff assignments made after the date of application for waiver in a manner which does not contribute to or reinforce the racial or ethnic identifiability of any school operated by such agency;

(iii) Adoption of a plan to eliminate all full-time teaching faculties composed exclusively of members of a single racial or ethnic group no later than the end of the period for which assistance is to be awarded; and

(iv) Adoption of a plan for assignment of faculty and staff members which will eliminate all racially or ethnically identifiable faculties at schools operated by such agency within a reasonable period of time but in no event later than the commencement of the 1975–76 academic year. In the case of school districts in which the percentage of minority group members on the full-time teaching faculty is less than the percentage of minority group members in the student body, such plans shall include a plan of affirmative action to increase the percentage of minority group members on the full-time teaching faculty of such agency.

* * * * *

§ 185.95 Reservation of funds.

* * * * *

(b) The Assistant Secretary hereby reserves:

(1) An amount equal to 5 percent of the sums appropriated under the Act for any fiscal year for the purpose of special projects under subpart J of this part;

* * * * *

(3) An amount equal to 3 percent of the sums so appropriated for the purposes of educational television projects under subpart H of this part; and

* * * * *

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amendments to the regulation to Dr. Herman R. Goldberg, Associate Commissioner, Equal Educational Opportunity, Room 2029, 400 Maryland Avenue, S.W., Washington, D.C. 20202, on or before August 6, 1973. Comments received in response to this notice will be available for public inspection at Room 2029, 400 Maryland Avenue, S.W., Washington, D.C. between 8 a.m. and 4:30 p.m. Monday through Friday.

Dated: July 12, 1973.

S. P. MARLAND, JR.,
Assistant Secretary for Education.

Approved: July 12, 1973.

FRANK CARLUCCI,
Acting Secretary of Health, Education, and Welfare.

[FR Doc.73-14584 Filed 7-13-73;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Parts 1910, 1927]

EMERGENCY TEMPORARY STANDARD FOR CERTAIN CARCINOGENS

Commencement of Rulemaking Proceeding

On May 3, 1973, an emergency temporary standard on certain carcinogens was published in the FEDERAL REGISTER at 38 FR 10929. Section 6(c) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) provides that upon the publication of an emergency temporary standard, a rulemaking proceeding in accordance with section 6(b) of the Act shall be commenced, and that the emergency temporary standard as published shall also serve as a proposed rule for the proceeding. Accordingly, pursuant to sections 6(b) and 6(c) of the Act, it is hereby proposed to amend Part 1910 of Title 29, Code of Federal Regulations, by adopting as a "permanent" standard § 1910.93c (38 FR 10929).

In addition to the proposal with respect to § 1910.93c, it is also proposed to adopt additional rules dealing with the subjects and issues contemplated by section 6(b)(7) and by section 8(c)(3) of the Act. These are described below. Further, Chapter XVII of Title 29, Code of Federal Regulations, would be amended by adding thereto a new Part 1927 setting forth a permit procedure to be used after December 31, 1975, in order to afford more particularized protection for employees than would be practicable under general standards when there is potential exposure to any of the substances listed in § 1910.93c.

Interested persons are invited to submit written data, views, or arguments with four copies thereof concerning the proposals not later than September 5, 1973, to the Office of Standards, U.S. Department of Labor, 400 First Street, N.W., Room 504, Washington, D.C. 20210. The written submissions will be available for public inspection and copying, except as to matters the disclosure of which is prohibited by law, at the Office of Standards, U.S. Department of Labor, 400 First Street, N.W., Room 507, Washington, D.C. 20210.

Oral data, views, and arguments will be heard before an administrative law judge to be designated later, at an informal hearing beginning at 10:00 a.m. on September 11, 1973.

Persons desiring to appear at the hearing must file with the Office of Standards, U.S. Department of Labor, 400 First Street, N.W., Room 504, Washington, D.C. 20210 a written notice of intention to appear, together with two copies, postmarked no later than August 31, 1973. The notice must state the name and address of the person wishing to appear, the capacity in which he will appear, and the approximate amount of time required for his presentation. The notice must also include, or be accompanied by, a statement of the position to be taken with regard to the proposed rules. A notice of intention to appear not complying with the above rules will be unacceptable and may be returned with indication of deficiencies thereof and reasons for nonacceptance and return.

Beginning at 9:30 a.m. on September 11, 1973, the presiding administrative law judge will hold a prehearing conference in order to establish the order and time for the presentations, and in order to settle any other matter relating to the proceeding.

The oral proceedings shall be reported verbatim. The use of prepared statements by witnesses is encouraged. All documents that are intended to be submitted for the record at the hearing should be submitted in triplicate (original and two copies).

The administrative law judge shall have all the powers necessary or appropriate to conduct a fair and full informal hearing, including the powers:

(a) To regulate the course of the proceeding;

(b) To dispose of procedural requests, objections, and comparable matters;

(c) To confine the presentations to matters pertinent to the proposed standard;

(d) To regulate the conduct of those present at the hearing by appropriate means;

(e) In his discretion, to permit cross-examination of any witness; and

(f) In his descretion, to keep the record open for a reasonable stated time to receive written recommendations, and supporting reasons, and additional data, views, and arguments from any person who has participated in the oral proceeding.

Following the close of the hearing, the presiding officer shall certify the record thereof to the Assistant Secretary of Labor for Occupational Safety and Health. Upon consideration of the record of the hearing, together with any other written data, views, or arguments received in response to this notice, the Assistant Secretary may adopt the proposal with or without changes, or determine to revoke the existing emergency temporary standard in whole or in part.

A draft environmental impact statement on the proposed standard for certain carcinogens has been filed with the

Council on Environmental Quality (38 FR 15650, June 14, 1973) and distributed to the appropriate Federal and State agencies. An environmental consideration will be an issue in this proceeding. When the final environmental impact statement is prepared, it will be filed as part of the record in this proceeding.

A standards advisory committee on carcinogens has been formed and is scheduled to have its first meetings on June 25, 26, 27, 1973 (38 FR 16002), and on subsequent dates as will be noticed in the FEDERAL REGISTER. The recommendations of the standards advisory committee on carcinogens will be part of the record in this rulemaking proceeding. When made, the recommendations will be available for public inspection, and notice of such availability will be made in the FEDERAL REGISTER.

1. It is hereby proposed to adopt as a "permanent" standard § 1910.93c of Title 29, Code of Federal Regulations (38 FR 10929) reading as follows:

§ 1910.93c Carcinogens.

(a) *Scope and application.*—This section applies to any activity in which a carcinogen is manufactured, processed, used, repackaged, released, handled, or otherwise present in any manner.

(b) *Definitions.*—(1) "Carcinogen" means any of the substances listed below, or compositions containing such substances, but does not include compositions containing less than 1 percent by weight of the listed carcinogens:

Compound No.	Chemicals	Chemical abstracts registry No.
1	2-Acetylaminofluorene	53963
2	4-Aminodiphenyl	92671
3	Benzidine (and its salts)	92875
4	3,3'-Dichlorobenzidine (and its salts).	91941
5	4-Dimethylaminoazobenzene	60117
6	alpha-Naphthylamine	134327
7	beta-Naphthylamine	91598
8	4-Nitrobiphenyl	92933
9	N-Nitrosodimethylamine	62759
10	beta-Propiolactone	57578
11	bis-Chloromethyl ether	542881
12	Methyl Chloromethyl ether	107302
13	4,4'-Methylene(bis)-2-chloroaniline.	101144
14	Ethylenedimine	151564

(2) "Controlled area" means an area to which access is restricted and controlled by the employer.

(3) "Decontamination" means the removal or chemical neutralization of a carcinogen to a form that is either nontoxic or not capable of easy absorption into the body.

(4) "Present" includes manufactured, processed, used, repackaged, released, handled, or otherwise present.

(c) (1) *Controlled areas.*—(i) Any area in which any carcinogen is present shall be deemed a controlled area.

(ii) An area shall not be deemed a controlled area if the presence of a carcinogen results only from a transshipment in sealed packages.

(2) *Open-process vessels and open containers.*—Open-process vessels and open containers of a carcinogen shall be permitted only at container filling points and at points where contents of containers are charged into process vessels, and only to the extent necessary to permit transfer of contents. Such transfers shall be under continuous local exhaust ventilation which shall prevent the dispersion of the carcinogen into any work area. The transfer facilities shall have provision to confine any spills to the area served by the ventilation system.

(3) *Toilet facilities and drinking fountains.*—No toilet facilities and no drinking fountains shall be used inside a controlled area.

(4) *Food and beverage.*—No food or beverage shall be permitted within a controlled area.

(5) *Smoking.*—No smoking or smoking materials shall be allowed within a controlled area.

(d) (1) *Access to controlled areas.*—Except as provided in subparagraph (2) of this paragraph, any controlled area may be connected with an uncontrolled area only by means of change rooms and shower rooms to arranged that an employee, in order to enter or leave the controlled area, must go through the following procedures:

(i) In order to enter, an employee must undress completely in a clean change room outside the controlled area, and put on clean protective clothing and equipment; he may enter the controlled area through an entrance designed to prevent the escape of carcinogens from the controlled area to the change room;

(ii) In order to leave a controlled area, an employee must enter a separate dirty change room where he must undress completely and leave every item of clothing and equipment, then he must shower in an adjacent room which he may enter through an entrance designed to prevent the escape of carcinogens from the dirty change room to the shower room. Thereafter, he must enter the clean change room where his street clothes are in his locker.

(iii) A physical layout which would conform to this subparagraph is illustrated below:



(2) A controlled area may also be connected with an uncontrolled area by means of emergency exits which may only be used in case of emergency, such as fire.

(3) Appropriate instructions and signs shall be posted to inform employees of the procedures that must be followed in entering and leaving a controlled area.

(4) The clean change room shall have individual storage facilities for storage of street clothes and clean protective clothing and equipment.

(5) (i) Shower rooms shall be provided in accordance with § 1910.141.

(ii) Shower supplies may be introduced into a shower room only through a noncontaminated area such as a clean change room.

(6) The employer shall provide all protective clothing, equipment and shower supplies including towels.

(e) (1) *Operations of known exposure.*—(i) This subparagraph applies to any operation where there is a direct exposure of an employee to a carcinogen, including, but not limited to: (A) An opening for any purpose of equipment which contains, or has contained, a cacinogen; (B) any cleanup of leaks or spills of a carcinogen; (C) any decontaminating of equipment, surfaces, or clothing which are known, or which should be reasonably expected to be known, to be contaminated with a carcinogen; (D) the performing of any work which results in the release of a carcinogen; (E) any work in any area containing open equipment which contains a carcinogen, or which has contained a carcinogen and has not been decontaminated; or (F) any work on any area known, or reasonably expected to be known, to be contaminated with a carcinogen.

(ii) Every employee engaged in any operation described in subdivision (i) of this subparagraph shall: (A) Be provided with a clean full impervious pressurized air-supplied suit; (B) be required to put on the suit before entering an affected area and engaging in an affected operation; (C) be required to wear the suit in such an area and during the operation; and (D) be decontaminated before leaving the areas and before removing the suit.

(iii) Every area which is known, or which should be reasonably expected to be known, to be contaminated with a carcinogen, including every area where work described in subdivision (i) of this subparagraph is to be done, shall be posted with legible danger signs bearing the legend:

CANCER-PRODUCING AGENT
EXPOSED IN THIS AREA

FULL IMPERVIOUS PRESSURIZED AIR-SUPPLIED SUIT REQUIRED AT ALL TIMES

AUTHORIZED PERSONNEL ONLY

(iv) Contaminated equipment, material, and clothing shall not be removed from a controlled area, unless it is either decontaminated or sealed in impervious containers bearing the legend:

DANGER
Contaminated with
CANCER—PRODUCING AGENT

(2) *Decontamination.*—Decontamination processes shall be established and implemented to remove carcinogens on surfaces of equipment, materials, and the decontamination facility.

(3) *Waste disposal.*—Waste disposal methods and processes shall be established and implemented which do not permit carcinogens to be introduced into noncontrolled areas.

(4) *Posting.*—Controlled areas shall be posted at all entrances with legible danger signs bearing the legend:

CANCER-PRODUCING AGENT

In this area

AUTHORIZED PERSONNEL ONLY

(5) *Medical surveillance programs.*—Each employer subject to this section shall report in writing to the Occupational Safety and Health Administration, Office of Standards, room 504, 400 First Street NW., Washington, D.C. 20210, information as to any kind of medical surveillance program that has been voluntarily instituted, or will be voluntarily instituted by the employer.

(6) *Monitoring.*—All employers subject to this section shall report in writing to the same office information as to the type of monitoring system that has been instituted.

(7) *Ventilation.*—Every controlled area shall be under constant mechanical ventilation and negative air pressure with respect to the surrounding areas, including change rooms. Air withdrawn from a controlled area shall be decontaminated before being released into any area where employees may enter.

(8) *Cleanup.*—(i) Controlled areas shall be cleaned thoroughly not less than once each working day.

(ii) Employees shall be provided, and shall be required to wear, impervious protective equipment, including trousers, jacket, headgear, boots, and gloves. Employees shall be required to wash down carefully before removing protective equipment.

(9) *Employee identification.*—Each employer shall establish and maintain a list of employees entering a controlled area. The list shall be made available on request to authorized representatives of the Secretary of Labor.

(10) *Reporting.*—Every employer subject to this section shall report in writing to the Occupational Safety and Health Administration, Office of Standards, the following information:

(i) The address of each of his controlled areas;

(ii) The name and other identifying information as to the particular carcinogens present in each of his controlled areas;

(iii) The approximate number of employees entering each of his controlled areas during a representative week of normal operations in the controlled area; and

(iv) The manner in which the carcinogens are present in each of his controlled areas, e.g., whether a carcinogen is manufactured, processed, used, repackaged, released, or otherwise handled.

(Sec. 6, Public Law 91-596, 84 Stat. 1593 (29 U.S.C. 655), Secretary's Order No. 12-71 (36 FR 8754.))

2. Section 6(b)(7) of the Occupational Safety and Health Act requires that any standard thereunder be addressed to specified subjects that are in addition to or supplement those included in the emergency temporary standard forming the main part of this proposal. The requirement under section 6(c)(3) for prompt publication of a notice commencing this proceeding obviously does not contemplate necessarily fashioning the terms of proposed rules dealing with the subjects and issues specified in section 6(b)(7). A description of the substance of the proposed rules or of the subjects and issues involved meeting the notice requirements of 5 U.S.C. 553 would seem to be adequate for the purpose of prompt commencement of the rulemaking proceeding. In addition, section 8(c)(3) provides for related rulemaking concerning the monitoring of toxic substances.

The substance of the proposals under section 6(b)(7) and section 8(c)(3) or of the subjects and issues involved are as follows:

(a) It is proposed to require employers to provide at no cost to employees an opportunity for medical examinations to determine any adverse effects of exposure of employees to the listed carcinogens. The medical examinations would be required not less often than annually.

(b) Reports of the medical examinations would be submitted to the employee and the employer, and made available for inspection by representatives of the Occupational Safety and Health Administration and the National Institute of Occupational Safety and Health. The employer would be required to maintain reports of medical examinations throughout the employment of the employees involved. The reports would be treated as confidential.

(c) The employer would be required to report orally or in writing to the Occupational Safety and Health Administration any conditions or incidents resulting in direct exposure of employees to any of the listed carcinogens. The report would be made within 24 hours of the first occurrence of the exposure. The employer would be then required to notify promptly each employee of his exposure, and of any corrective action being taken to prevent further exposure. Further, the employer would be required to keep accurate records of any exposures of employees to any of the listed carcinogens. Each employee, and former employee, would have reasonable access to the records.

(d) Appropriate testing of carcinogen containers for susceptibility to rupture or leaking of any of the listed carcinogens resulting from normal handling would be required.

(e) The labelling of containers containing carcinogens would be in a form suitable for informing employees of the contents, the precautions to be taken in handling, the symptoms resulting from any exposure to the substances, and any appropriate emergency treatment for exposure.

(f) Controlled areas would be carefully monitored by appropriate means for the presence of any of the listed substances in areas where employees are present.

3. It is hereby proposed to amend Title 29 of the Code of Federal Regulations by adding a new Part 1927. The proposed new part concerns permits for use of carcinogens and would prohibit the use by employers of the listed carcinogens in § 1910.93c, except under the permit system after December 31, 1975.

The new part is proposed to read as follows:

PART 1927—PERMITS FOR USE OF CARCINOGENS

Subpart A—Granting and Denying Permits

Sec.

1927.1 Purpose and scope.
1927.2 Who must apply.
1927.3 When to apply.
1927.4 To whom to apply.
1927.5 Contents of application.
1927.6 Effect of application.
1927.7 Factors considered in issuance of permits.
1927.8 Issuance of permits.
1927.9 Terms and conditions.
1927.10 Investigation; informal hearing.
1927.11 Denial of application.

Subpart B—Suspension and Revocation of Permits

1927.15 Suspension; revocation.
1927.16 Opportunity to demonstrate or achieve compliance.
1927.17 Publication of final decisions.

AUTHORITY: Secs. 6(b), 8(c)(3), 8(g), Pub. L. 91-596, 84 Stat. 1593, 1599, 1600 (29 U.S.C. 655, 657).

Subpart A—Granting and Denying Permits

§ 1927.1 Purpose and scope.

(a) This part prescribes the rules of practice for processing permits for employers using any of the substances listed in § 1910.93c of this chapter to which employees may be potentially exposed. It is the purpose of the permit process to provide for effective regulation of conditions and practices concerning potential exposure to the listed substances in a manner that is more effective than the application of more general standards may permit.

(b) The terms and conditions of any permit shall comprise an occupational safety and health standard within the meaning of section 3(8) of the Act.

§ 1927.2 Who must apply.

Any employer wishing to use after December 31, 1975, any of the substances listed in § 1910.93c of this chapter and having any employee potentially exposed to any of such substances must apply for a permit from the Occupational Safety and Health Administration.

§ 1927.3 When to apply.

Any application for an existing use must be submitted no sooner than July 1, 1975, and no later than September 1, 1975.

§ 1927.4 To whom to apply.

Each application shall be sent to the Director, Office of Standards, Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210.

§ 1927.5 Contents of application.

Any application for a permit shall contain the following information.

(a) The name and address of the applicant.

(b) The name and address of each place of employment for which application is made.

(c) A full description of how the substance would be used under the permit. The description shall include the conditions, practices, means, methods, operations, and processes that would be used for protecting employees from potential exposure to the substance involved. The application shall include information in each of the factors listed in § 1927.7.

(d) A certification that the employer has informed his employees of the application by giving a copy to their authorized representative, if any; and posting a statement giving a summary of the application at a place where employee notices are usually found, and specifying where a copy may be examined.

(e) Such additional information as the Director, Office of Standards, may direct. A failure to provide any requested information within a specified time may constitute grounds for rejection of the application. This paragraph may include any information relating to the question of whether an environmental impact statement is required under the National Environmental Policy Act (42 U.S.C. 4332), and any information that may be sought when an environmental impact statement is required.

§ 1927.6 Effect of application.

An application filed in good faith within the time prescribed in § 1927.3 shall be considered temporarily approved pending its processing, so long as the requirements of § 1910.93c are met.

§ 1927.7 Factors considered in issuance of permits.

(a) To the extent feasible, on the basis of the best available evidence, the Director shall determine that no employee will suffer material impairment of health or functional capacity as a result of exposure to any of the carcinogens listed in § 1910.93c of this chapter.

(b) For the purpose of making the determination required by paragraph (a) of this section, the Director shall determine that:

(1) Appropriate engineering and administrative controls will be used to assure that no employee is subjected to harmful exposure;

(2) Industrial hygiene surveillance will be implemented whenever appropriate;

(3) Medical surveillance will be implemented whenever appropriate, and include provisions for annual examinations of employees who are subject to confirmed or suspected harmful exposure;

(4) Special measures are to be taken in the event of confirmed, suspected, and potential harmful exposures;

(5) Labels and other appropriate forms of warning are provided to inform employees of actual and potential hazards of the substances involved, relevant symptoms, and appropriate emergency treatment, and proper conditions and precautions of safe use;

(6) Appropriate personal protective equipment is provided to protect employees from the hazards involved;

(7) There is appropriate monitoring or measuring of the exposure of employees to the hazards involved, and adequate records of such monitoring and measuring are made and maintained;

(8) The employees or their representatives have an opportunity to observe the monitoring or measuring, and to have access to the records thereof;

(9) Procedures are established whereby the employer shall promptly notify any employee who has been, or is being exposed, to the substances involved, of such exposure. The procedures shall further provide that the employer shall notify such employees of any action taken to eliminate his exposure; and

(10) Each employee and former employee shall have access to such records as will indicate his own exposure to the substances involved.

§ 1927.8 Issuance of permits.

If the information examined indicates that the requirements of § 1927.7 are met, the Director shall grant the permit. Otherwise, the Director shall propose to deny the permit.

§ 1927.9 Terms and conditions.

Each permit shall be subject to the special terms and conditions prescribed therein.

§ 1927.10 Investigation; informal hearing.

(a) The Director shall provide an opportunity to the employer and the affected employees for an informal hearing, before issuing a permit.

(b) The Director may conduct a physical inspection of the workplace. If a physical inspection of the workplace is made, representatives of the employer and his employee shall be given an opportunity to accompany the investigator during the inspection for the purpose of aiding in the fact-gathering process. The investigator shall have authority to resolve all disputes as to who is the representative authorized by the employer and the employees for the purpose of this section.

(c) If an informal hearing is held, in his discretion, the Director may provide an opportunity to interested persons in addition to the employer and affected employees to present data and views on the permit application.

(d) If no investigation is made of the workplace or no hearing is held, the Director shall otherwise afford the affected employees an opportunity to comment on the application.

§ 1927.11 Denial of application.

Upon the basis of the information before him, if the Director finds that the granting of a permit will not provide safe and healthful employment in light of the factors listed in § 1927.7, the Director shall so notify the applicant in writing. The notice shall be given by registered mail.

Subpart B—Suspension and Revocation of Permits

§ 1927.15 Suspension; revocation.

The Assistant Secretary may suspend or revoke any permit of an employer when the employer fails to comply with the terms and conditions thereof or otherwise violates the Occupational Safety and Health Act when the violation is relevant to compliance with the terms and conditions of the permit.

§ 1927.16 Opportunity to demonstrate or achieve compliance.

(a) Except when the safety or health of employees requires differently, before instituting proceedings for suspension or revocation of a permit, the Assistant Secretary or his delegate shall notify by mail the employer holding the permit of the alleged facts that may warrant suspension or revocation. The notice shall fix a time and place for a conference at which the employer shall be afforded an opportunity to show that no cause for suspension or revocation exists, or that the employer has achieved compliance with the terms and conditions of the permit.

(b) The employer shall cause a copy of the notice to be served personally or by mail upon the authorized representative of the employees, if any, and to post a copy of the notice at the place or places where employee notices are normally posted.

(c) The notice described in paragraph (a) of this section shall indicate that employees shall be entitled to representation at the conference described therein. When there is no authorized representative of employees, an appropriate spokesman may be designated to represent employees seeking participation in the conference.

(d) If, as a result of the conference, the Assistant Secretary is satisfied that the employer has either demonstrated or achieved compliance, no proceedings for suspension or revocation shall be instituted.

§ 1927.17 Proceedings for suspension or revocation. [Reserved.]

§ 1927.18 Publication of final decision.

The Assistant Secretary shall publish, or cause to be published, in the FEDERAL REGISTER each final decision rendered under this part. The decision shall be accompanied by a statement of the reasons therefor.

Signed at Washington, D.C. this 9th day of July 1973.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.73-14382 Filed 7-13-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 73-WA-12]

TERMINAL CONTROL AREA

Proposed Adoption

Correction

In FR Doc. 73-13088 appearing at page 17250 in the issue for Friday, June 29, 1973, in the description of Area G on page 17251, the 12th and 13th lines should be reversed.

[14 CFR Part 71]

[Airspace Docket No. 73-WA-5]

TERMINAL CONTROL AREA

Proposed Adoption

The Federal Aviation Administration (FAA) is considering the adoption of a Group II Terminal Control Area (TCA) for Denver, Colo. Rules for the control and segregation of all aircraft operated within terminal control areas are contained in Part 91, §§ 91.70 and 91.90 of the Federal Aviation regulations. Further information concerning flight within TCAs is contained in FAA Advisory Circular 91-30, Terminal Control Areas (TCAs), dated 6/11/70.

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, Rocky Mountain Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Park Hill Station, P.O. Box 7213, Denver, Colo. 80207. All communications received on or before September 14, 1973 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.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue, S.W., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The establishment of terminal control areas at 22 large hub airports was proposed in Notice 69-41 and supplemental notices thereto, and adopted on May 20, 1970 (35 F.R. 7782), to create a safer environment in those congested terminal areas. The need for TCAs has been well established, and a priority implementation schedule has been developed which is based on the air traffic congestion at each location, the capability of the terminal air traffic control facility to provide separation service to VFR aircraft, the experience gained from earlier established TCAs, and the publication dates of associated aeronautical charts.

The issue of whether or not to establish a TCA at each of the specified locations was decided as a result of Notice 69-41 and is not within the scope of this notice. This notice is intended to produce the input necessary to design an appropriate airspace configuration that can provide the safest environment with the least impact on the airspace users. TCAs have now been designated at all Group I locations, and this Notice proposes a configuration for a Group II TCA at Denver.

On April 25, 1973, the FAA held an FAA/industry meeting in Denver, Colo., to consider user operational requirements in designing the Denver Terminal Control Area.

A proposed configuration was presented at the meeting. Generally comments were favorable. The U.S. Air Force representative contended that Buckley ANG Base should be included in the TCA as a primary Airport.

A working group was established to conduct a feasibility study regarding future inclusion of the Buckley ANG Base within the TCA. The military agreed to the configuration proposed in this docket with the understanding that possible future action would be taken to make Buckley a part of the TCA, if the study indicates such action is feasible.

The TCA floors proposed herein have been established at altitudes which will offer the least inconvenience to satellite airports and yet provide the necessary vectoring airspace and maneuvering area for traffic landing and departing Stapleton Airport.

In consideration of the foregoing and for reasons stated in Docket No. 9880 (35 FR 7782), it is proposed to amend Part 71 of the Federal Aviation Regulations by adding the following to § 71.401(b) Group II Terminal Control Areas.

DENVER, COLORADO, TERMINAL CONTROL AREA

Primary Airport. Denver-Stapleton International (Lat. 39°45'55" N., Long. 104°52'46" W.)

Boundaries. 1. *Area A.* That airspace extending upward from the surface to and including 11,000 feet MSL within an area bounded by a line beginning at the Denver VORTAC (Lat. 39°51'39"N., Long. 104°45'-08"W.) thence south via the Denver VORTAC 180°T (167°M) radial to and counterclockwise along the western boundary of Area B to and west along Colfax Avenue to and south along a line 2.5 miles east of and parallel to the extended centerline of Stapleton International Airport Runway 17R/35L to and clockwise along a 9-mile radius arc of the Stapleton International Airport to and south along the 360°T (347°M) radial of the Denver VORTAC to the point of beginning and that airspace north of Denver between the 9 and 11-mile radius arcs of Stapleton International Airport bounded on the east by the Denver VORTAC 360°T (347°M) radial and on the west by a line 6 miles west of and parallel to the extended centerline of Stapleton International Airport Runway 17R/35L, excluding Prohibited Area P-26.

2. *Area B.* That airspace extending upward from 6400 feet MSL to and including 11,000 feet MSL within a 2-mile radius circle centered at latitude 39°46'30"N., longitude 104°-44'40"W., excluding that area south of Colfax Avenue.

3. *Area C.* That airspace extending upward from 8,000 feet MSL to and including 11,000 feet MSL within a 15-mile radius of Stapleton International Airport excluding Areas A, B, and D.

4. *Area D.* That airspace extending upward from 7,000 feet MSL to and including 11,000 feet MSL bounded on the north by the Denver VORTAC 093°T (070°M) radial, on the west by Denver VORTAC 180°T (167°M) radial, on the south by Colfax Avenue, on the east by a 15-mile radius arc of Stapleton International Airport, excluding that airspace within Area B.

5. *Area E.* That airspace extending upward from 10,000 feet MSL to and including 11,000 feet MSL between the 15-mile and 20-mile radius circles centered on Stapleton International Airport, excluding Area F.

6. *Area F.* That airspace extending upward from 9,000 feet MSL to and including 11,000 feet MSL between the 15-mile and 20-mile radius circles centered on Stapleton International Airport bounded on the north by the Denver VORTAC 093°T (070°M) radial and on the south by Interstate Highway 70.

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

Issued in Washington, D.C., on July 9, 1973.

CHARLES H. NEWPOL,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.73-14409 Filed 7-13-73;8:45 am]

Federal Highway Administration

[49 CFR Part 391]

[Docket No. MC-49; Notice No. 73-18]

MEDICAL EXAMINATIONS OF COMMERCIAL VEHICLE DRIVERS BY CHIROPRACTIC PHYSICIANS

Advance Notice of Proposed Rule Making

The purpose of this notice is to invite comments from interested persons on a petition for rulemaking filed by the Idaho Association of Chiropractic Physicians. In its petition, the Association asks the Director of the Bureau of Motor Carrier Safety to amend § 391.43(a) of the Motor Carrier Safety Regulations, 49 CFR 391.43(a), to permit the periodic medical examination of commercial vehicle drivers to be performed by chiropractic physicians. Under § 391.45 of the regulations (49 CFR 391.45), drivers of commercial motor vehicles used for the transportation of passengers or property in interstate commerce must have a complete physical examination at least once every 24 months. The purpose of the examination is to ascertain whether the driver is afflicted with any medical condition that would disqualify him to drive a commercial truck or bus under criteria set out in § 391.41 of the regulations, 49 CFR 391.41. Section 391.43(a) provides that, with the exception of tests for visual acuity (which may be performed

by optometrists), "the medical examination shall be performed by a licensed doctor of medicine or osteopathy." The quoted language excludes chiropractic physicians, and the Bureau will not now accept as valid a driver's medical certificate signed by a chiropractic physician.

As noted above, the pending petition by the Idaho Association of Chiropractic Physicians seeks to change this situation so that a chiropractic physician may give the required physical examination and, based upon his findings, may certify a driver as being physically qualified to drive under the cited provisions of the Regulations. The petitioner claims that persons who hold licenses to practice chiropractic in the State of Idaho are qualified to give the examination and to issue the required certificate. It says that (1) doctors of chiropractic are now approved for coverage under the United States Medicare Program; (2) in the State of Idaho, doctors of chiropractic are now qualified to administer blood tests; (3) the Idaho Attorney General has ruled that State law permits doctors of chiropractic to reduce bone fractures; (4) doctors of chiropractic in Idaho bear the same responsibility for reporting infectious and contagious diseases as doctors of medicine; (5) Idaho chiropractors are authorized to call themselves physicians; and (6) under the Idaho workmen's compensation laws, chiropractic physicians are in a position equivalent to that of the other practitioners of the healing arts, both in terms of the number of visits authorized for an injured person and the compensation to be paid for the services they render. Finally, the petition asserts that the existing rule invidiously discriminates against doctors of chiropractic by restricting the performance of drivers' medical examinations to doctors of medicine and doctors of osteopathy.

The Motor Carrier Safety Regulations do not require the examining physician to treat any disease or disorder he discovers when he performs a medical examination of a driver. The objective of the Regulations is to have drivers examined by medical examiners who are capable of diagnosing diseases, injuries, abnormalities, or other conditions which may affect the ability to drive a heavy commercial motor vehicle safely. Hence, the Director is primarily concerned with the diagnostic training and capabilities of chiropractic physicians. In disposing of the pending petition, the Bureau must, in the final analysis, determine whether chiropractic physicians as a group are trained and skilled to diagnose those conditions which would disqualify a person from serving as a commercial vehicle driver under the criteria and procedures in §§ 391.41 and 391.43 of the Motor Carrier Safety Regulations.

Interested persons are invited to submit written data, views, or arguments pertaining to the proposed amendment sought by the petitioner. All comments submitted should refer to the docket number and notice number that appear at the top of this document. Comments should be submitted in three copies to the Director, Bureau of Motor Carrier Safety, Washington, D.C. 20590. All comments received before the close of business on December 31, 1973 will be considered. Comments will be available for examination by any interested person in the public docket of the Bureau of Motor Carrier Safety, Room 4136, 400 Seventh Street, SW, Washington, D.C. both before and after the closing date for comments.

This advance notice of proposed rule making is issued under the authority of section 204 of the Interstate Commerce Act, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegations of authority by the Secretary of Transportation and the Federal Highway Administrator at 49 CFR 1.48 and 389.4, respectively.

Issued on July 9, 1973.

ROBERT A. KAYE,
Director, Bureau of Motor Carrier Safety.

[FR Doc.73-14411 Filed 7-13-73;8:45 am]

Federal Railroad Administration

[49 CFR Part 213]

[Docket No. RST-1B; Notice 1]

TRACK SAFETY STANDARDS

Maximum Operating Speeds; Notice of Public Hearing

The Federal Railroad Administration (FRA) is considering an amendment to Part 213, Track Safety Standards, to permit maximum operating speeds of more than 110 m.p.h.

On June 7, 1972, the National Railroad Passenger Corporation (Amtrak) filed a petition (Docket No. RST-1; Pet No. 2) requesting that § 213.9 be amended to provide higher speed limits for passenger trains operating over classes 1 through 6 track. On the basis of this petition, FRA initiated a rule-making proceeding (Docket No. RST-1A) which resulted in issuance of an amendment establishing higher speeds for passenger trains operating over classes 1 through 5 track (38 FR 873, 1508). However, the portion of the petition requesting trains on class 6 be increased to 120 m.p.h. was denied by FRA for failure to show a relationship between high speed specialized equipment and class 6 track which would support a safe increase in the maximum allowable speed.

The proposed amendment would permit maximum operating speeds of more than 110 m.p.h. only after prior approval by the FRA. To obtain FRA approval, a petition must be filed in accordance with § 211.11 of the FRA rulemaking procedures (49 CFR 211.11). In addition to providing the information required by § 211.11, each petition for FRA approval of maximum operating speeds of more than 110 m.p.h. must provide sufficient information to establish that the track and equipment involved can safely sustain the proposed speed.

Interested persons are invited to participate in making these proposed amendments by submitting written data, views, or comments. Communications should identify the docket number and notice number, and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before August 16, 1973, will be considered by the Federal Railroad Administrator before final action is taken on the proposed amendments. Comments received after that date will be considered so far as practicable. The proposals contained in this notice may be changed in light of the comments received. All comments received will be available, both before and after the closing date for communications, for examination by interested persons during regular business hours in Room 5101, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

In addition to insure that all interested persons have an opportunity for oral presentation, the FRA will conduct a public hearing at 10:00 a.m. on August 16, 1973, in Room 5332, 400 Seventh Street, SW., Washington, D.C. The hearing will be an informal one, not a judicial or evidentiary type of hearing. There will be no cross-examination of persons making statements. A staff member of the FRA will make an opening statement outlining the matter set for hearing. Interested persons will then have an opportunity to present their initial oral statements. At the completion of all initial oral statements, those persons who wish to make rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures for conducting the hearing oral presentation, the FRA will conduct a public hearing at 10:00 a.m. on written statements at the hearing. All statements will be made a part of record of the hearing and be a matter of public record. Persons who wish to make oral statements at the hearing should notify the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590, before August 16, 1973, stating the amount of time required for his initial statement.

This notice is issued under the authority of section 202, 84 Stat. 971, 45 U.S.C. 431; and § 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).

In consideration of the foregoing it is proposed to amend Part 213 of Title 49 of the Code of Federal Regulations as set forth below

Issued in Washington, D.C. on July 9, 1973.

JOHN W. INGRAM,
Administrator.

1. In § 213.9, it is proposed to amend paragraph (a) and add a new paragraph (c) as follows:

§ 213.9 Classes of track: operating speed limits.

(a) Except as provided in paragraphs (b) and (c) of this section and §§ 213.57(b), 213.59(a), 213.105, 213.113 (a) and (b), and 213.137 (b) and (c), the following maximum allowable operating speeds apply:

Over track that meets all of the requirements prescribed in this part for—	The maximum allowable operating speed for freight trains is—	The maximum allowable operating speed for passenger trains is—
Class 1 track	10 m.p.h	15 m.p.h.
Class 2 track	25 m.p.h	30 m.p.h.
Class 3 track	40 m.p.h	60 m.p.h.
Class 4 track	60 m.p.h	80 m.p.h.
Class 5 track	80 m.p.h	90 m.p.h.
Class 6 track	110 m.p.h	110 m.p.h.

* * * * *

(c) Maximum operating speed may not exceed 110 m.p.h. without prior approval of the Federal Railroad Administrator. Petitions for approval must be filed in the manner and contain the information required by § 211.11 of this chapter. Each petition must provide sufficient information concerning the performance characteristics of the track, signaling, grade crossing protection, trespasser control where appropriate, and equipment involved and also concerning maintenance and inspection practices and procedures to be followed, to establish that the proposed speed can be sustained in safety.

[FR Doc.73-14274 Filed 7-13-73;8:45 am]

[49 CFR Part 221]

[Docket No. PC-1; Notice 1]

PASSENGER TRAIN VISIBILITY

Proposed Rulemaking and Notice of Hearing

The Federal Railroad Administration (FRA) is considering an amendment to Title 49 of the Code of Federal Regulations to require markings on the rear end of passenger trains to enhance their visibility and protect against rear end collisions. The proposed rules would apply to trains operated in intercity rail passenger service and to trains operated in rapid transit, commuter, or other short-haul passenger service in an urban, suburban, or metropolitan area.

Because of its role in the area of railroad safety, it is the duty of the Federal Railroad Administration to seek more effective means of preventing the loss of life and property damage which results from rear-end train collisions. One means of contributing to this goal is enhancement of the visibility of the rear end of passenger trains. The train marking system being proposed is not intended as a substitute for existing signal systems and operating rules. Rather, the markings would serve as a back-up or secondary aid to warn the crew of an approaching train of the presence of a stopped or slow moving passenger train ahead on the same track.

At present the many types of passenger cars are generally unpainted or painted in dark colors which tend to blend with the typical range of railroad surroundings. Such a car is difficult to distinguish when viewed from the operating compartment of an approaching train on the same track. If the marking patterns proposed by this notice are adopted, the rear end of passenger trains will be rendered attention-getting and distinguishable against typical railroad backgrounds. Uniformity of size and configuration of markings will also aid the crew of an approaching train in judging distance and closing rate between that train and a passenger train ahead on the same track.

The proposed new part contains several sections covering fluorescent panels, retroflectors, and flashing lamps, including technical specifications and procedures for measuring color, luminance, and reflectivity. A railroad that operates a passenger train would have the duty of marking and maintaining the last car on the train in compliance with the proposed requirements. For example, under the proposed § 221.13, a panel painted with fluorescent material would have to be repainted whenever the peak reflectance of the material deteriorates to 100 percent of that of pure white. The rate of deterioration and frequency of repainting would depend in each case on the type and amount of fluorescent material that is used and the operating environment of the car on which it is applied.

In accordance with the Federal Railroad Safety Act of 1970, each violation of the proposed regulations would result in assessment of a civil penalty of not less than $250 nor more than $2500, subject to compromise by the Federal Railroad Administrator.

Compliance with the proposed requirements could be achieved by a variety of methods. It would not be necessary for each car operated in passenger service to be marked as proposed, since only the last car of a train carrying passengers would have to meet the requirements. A railroad that operates passenger trains could designate a certain percentage of its passenger equipment as "rear end cars". These cars could be permanently marked and maintained in compliance with the proposed rules, and operated at the rear end of every passenger train.

It would also be possible for an operator of passenger equipment to fit each car with mountings for a system of removable panels, retroflectors, and battery operated lamps. The car at the rear end of a passenger train would be fitted with the equipment necessary to comply with the requirements.

A railroad would not be limited to either of the above systems of implementation, but would be free to develop and employ any approach to implementation which is consistent with the rules being proposed.

The proposed rules are as follows:

PART 221—PASSENGER TRAIN VISIBILITY

Sec.

221.1 Scope of part.
221.3 Application.
221.5 Civil penalty.
221.7 Waivers.
221.9 Rear end panels; general.
221.11 Rear end panels; plan for spacing.
221.13 Rear end panels; deterioration.
221.15 Specifications for fluorescent substance.
221.17 Location of retroflectors.
221.19 Specifications for retroflectors.
221.21 Number and location of lamps.
221.23 Specifications for lamps.
221.25 Operation of lamps.

§ 221.1 Scope of part.

This part prescribes standards for the marking of the rear end of trains transporting passengers.

§ 221.3 Application.

(a) Except as provided in paragraph (b) of this section, this part applies to trains engaged in—

(1) Intercity rail passenger service; and

(2) Rapid transit, commuter, or other short haul rail passenger service in an urban, suburban or metropolitan area, including passenger service provided by an intrumentality of a State or political subdivision thereof.

(b) This part does not apply to trains consisting of historic or antiquated equipment which are operated for excursion, educational, or recreational purposes.

§ 221.5 Civil penalty.

Any railroad that operates a passenger train to which this part applies in violation of any requirement prescribed in this part is liable to a civil penalty of at least $250 but not more than $2500.

§ 221.7 Waivers.

(a) Any railroad may petition the Federal Railroad Administrator for a permanent or temporary waiver of compliance with any requirement prescribed in this part.

(b) Each petition for a waiver under this section must be filed in the manner and contain the information required by § 211.11 of this chapter.

(c) Each petition received is processed in the manner prescribed in Part 211 of this chapter.

(d) If the Administrator finds that a waiver of compliance is in the public interest and is consistent with railroad safety, he may grant the waiver. Notice of each waiver granted is published in the FEDERAL REGISTER together with a statement of the reasons therefor.

§ 221.9 Rear end panels; general.

(a) Except as provided in § 221.11, the rear end of the last car of each train to which this part applies must display three clean panels coated with the yellow-orange fluorescent substance described in § 221.15 and affixed in conformity with the following dimensions and spacing:

(1) One square panel measuring 36 inches on each side must be positioned at each lower corner of the rear end so that the inside edges of the two panels are parallel at least 42 inches but not more than 54 inches apart, and the bottom edges of the two panels are in a horizontal plane at least 36 inches but not more than 48 inches above the level of the tops of the rail heads on tangent track.

(2) One rectangular panel 12 inches high extending across the entire width of the car must be positioned near the top of the car so that the bottom edge of the panel is parallel with and at least 48 inches but not more than 72 inches above the top edges of the panels positioned under paragraph (a)(1) of this section.

(b) A panel must consist of—

(1) Any durable material which will not warp; or

(2) An area on the surface of the rear end of the car which meets the dimensions and spacing requirements prescribed in paragraph (a) of this section.

(c) Holes may be made in panels to accommodate fixed lamps, train identification indicators, receptacles for electrical connections, and other fixtures.

§ 221.11 Rear end panels; plan for spacing.

If the configuration of the rear end of a passenger car makes compliance with the requirements of § 221.9(a) (1) or (2) impractical, that car may display panels in accordance with a plan of dimensions and spacing proposed by the railroad concerned and approved by the Federal Railroad Administrator. Each plan submitted for approval must be accompanied by a statement of the reasons why compliance with the applicable requirements would be impractical, including a diagram where appropriate. Each panel displayed in accordance with a plan must be permanently and legibly marked with a statement that the panel complies with a plan approved by the Federal Railroad Administrator in accordance with this section.

§ 221.13 Rear end panels; deterioration.

When the peak reflectance of the fluorescent substance applied to a panel under § 221.9 deteriorates to 100 percent of that of a flat magnesium oxide surface (pure white) as determined by comparing the apparent brightness of the panel under indirect daylight with the various color squares on a color tolerance chart, a new coat of the yellow-orange fluorescent substance described in § 221.15 must be applied to the panel. The color chart used to determine peak reflectance must consist of three rows of yellow-orange hues within the range specified in § 221.15(c), with each row containing four color squares measuring 2 inches on a side, and the squares in each row respectively characterized by a peak reflectance of 200 percent, 125 percent, 100 percent, and 75 percent of that of a flat magnesium oxide surface. The color chart must be enclosed in an opaque protective reuseable container when not in use to guard against deterioration over time.

§ 221.15 Specifications for fluorescent substance.

The coat of yellow-orange fluorescent substance applied to panels under §§ 221.9 and 221.13 must have the following characteristics when subjected to a 150-watt high pressure xenon compact arc lamp with an unmodified spectrum at an angle of incidence of 45°, and when viewed from an observation angle of 90°:

(a) A peak reflectance which is at least 200 percent of that of a flat magnesium oxide surface (pure white);

(b) A relative luminance factor not less than 50 percent of that of a flat magnesium oxide surface; and

(c) When expressed in terms of the International Commission on Illumination 1931 colormetric system, chromaticity coordinates which lie within the region bounded by the spectrum locus and the lines defined by the following equations:

Boundary	*Equation*
Yellow	$y=0.17+0.47$
White	$x+y=0.92$
Red	$y=0.37$

§ 221.17 Location of retroflectors.

Four yellow-range retroflectors, each circular in shape and at least six inches but not more than 12 inches in diameter, must be affixed to the rear end of the last car of each train to which this part applies as follows:

(a) One retroflector must be affixed in the lower outside corner of each panel positioned under § 221.9(a)(1) so that the edge of the retroflector is six inches from the outside and bottom edges of the panel measured perpendicularly to the respective edge.

(b) One retroflector must be affixed in the left side and one in the right side on the lateral axis of the panel positioned under § 221.9(a)(2) so that the outside edge of each retroflector is six inches from the respective left edge or right edge of the panni, measured perpendicularly to that edge.

§ 221.19 Specifications for retroflectors.

(a) When tested in accordance with paragraph (b) of this section, the yellow-orange reflective material used for each retroflector applied under § 221.17 must have, at a minimum, for an observation angle of 0.1 degree, a specific intensity of 100 candlepower per foot-candle of incident illumination at an entrance angle of zero degrees, and a specific intensity of 40 candlepower per foot-candle of incident illumination for an entrance angle of 10 degrees.

(b) Test the yellow-orange reflective material as follows:

(1) Use a lamp with a tungsten filament operating at 2,854° Kelvin color temperature as the source of illumination.

(2) Place the source of illumination 100 feet from the reflective material.

(3) Measure the incident illumination at the retroflector and the reflected intensity from the retroflector, then determine the total candlepower per incident foot candle of the yellow-orange reflective material at the entrance and observation angles specified in paragraph (a) of this section.

§ 221.21 Number and location of lamps.

Two flashing incandescent lamps or two strobe lamps must be affixed to the rear end of the last car of each train to which this part applies on the lateral axis of the panel positioned under § 221.9(a)(2). One lamp must be placed in the left side and the other in the right side of the panel, so that the outside edge of each lamp is six inches from the inside edge of the retroflector affixed to the respective side under § 221.17(b), measured along the lateral axis of the panel.

§ 221.23 Specifications for lamps.

(a) Each lamp affixed under § 221.21 must have—

(1) A clear lens;

(2) With respect to the longitudinal axis of the car, a minimum plus or minus 15 degree horizontal beam, and a minimum plus of minus 5 degree vertical beam; and

(3) An effective minimum intensity of 4000 candela at the centre of its beam.

(b) When actuated, each lamp must flash in unison at least 45 but not more than 75 times per minute.

§ 221.25 Operation of lamps.

The lamps affixed to the rear end of the last car of a train as required by § 221.21 must be actuated whenever the train is engaged in passenger service.

Interested persons are invited to participate in the making of these standards by submitting written data, views, or comments. Communications should identify the regulatory docket number and notice number, and should be submitted in triplicate to the Docket Clerk, Office of the Chief Council, Federal Railroad Administration, Attention: Docket No. P.C. 1, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before August 30, 1973 will be considered by the Federal Railroad Administrator before taking final action on the proposed rules. All comments received will be available for examination by interested persons at any time during the regular working hours in Room 5428, Nassif Building, 400 Seventh Street, SW., Washington, D.C. The proposals contained in this notice may be changed in light of comments received.

In addition, to ensure that all interested persons have an opportunity for oral presentation, the FRA will conduct a public hearing at 10 a.m. on August 30, 1973, in Room 5332, 400 7th Street, S.W., Washington, D.C.

The hearing will be an informal one, not a judicial or evidentiary type of hearing. There will be no cross-examination of persons making statements. A staff member of the FRA will make an opening statement outlining the matter set for hearing. Interested persons will then have an opportunity to present their oral

statements. At the completion of all initial oral statements, those persons who wish to make rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures for conducting the hearing will be announced at the hearing.

Interested persons may present oral or written statements at the hearing. All statements will be made a part of the record of the hearing and be a matter of public record. Persons who wish to make oral statements at the hearing should notify the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 7th Street, SW., Washington, D.C. 20590, before August 30, 1973, stating the amount of time required for his initial statement.

This notice is issued under the authority of the Federal Railroad Safety Act of 1970 (84 Stat. 971 et seq.; 45 U.S.C. 421 et seq.) and § 1.49(n) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.49(n)).

Issued in Washington, D.C. on July 6, 1973.

JOHN W. INGRAM,
Administrator.

[FR Doc.73-14273 Filed 7-13-73;8:45 am]

ATOMIC ENERGY COMMISSION

[10 CFR Part 20]

STANDARDS FOR PROTECTION AGAINST RADIATION

Procedures for Receiving and Opening Packages; Extension of Time for Comments

On May 18, 1973, the Atomic Energy Commission published in the FEDERAL REGISTER (38 FR 13033) proposed amendments to 10 CFR part 20 which would include a requirement that licensees who pick up packages of radioactive material at the carrier's facility do so expeditiously and that all labelled packages of radioactive material in other than "special form" be monitored on receipt for significant, removable, external contamination. The period for public comment on these proposed amendments was specified as ending on July 2, 1973. In response to a request from the Society for Nuclear Medicine, the Commission has extended the comment period on the proposed amendments to August 2, 1973. Copies of comments received may be examined in the Commission's public document room at 1717 H Street NW, Washington, D.C.

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Germantown, Maryland this 10th day of July 1973.

For the Atomic Energy Commission.

GORDON M. GRANT,
Acting Secretary of the Commission.

[FR Doc.73-14449 Filed 7-13-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 64]

[Docket No. 19777; FCC 73-718]

DOMESTIC TELEGRAPH SPEED OF SERVICE STUDIES

Notice of Proposed Rule Making

In the matter of amendment of Subpart B of Part 64 of the Commission's rules and regulations governing domestic telegraph speed of service studies, docket No. 19777.

1. Notice is hereby given of proposed rulemaking looking to revision of the sections of Subpart B of Part 64 of the Commission's rules and regulations governing the conduct and reporting of domestic telegraph speed of service studies. The proposed amended rules as set forth in Appendix A below will replace the present text of §§ 64.201 through 64.295.

2. The revisions appear desirable because of changes in operating methods and service objectives of The Western Union Telegraph Company. The company has recently replaced its multiple reperforator switching centers with a single computer switching complex, many company-operated offices have been converted to agency operation, telephone recording of messages has been consolidated into three centralized telephone bureaus, and former service performance goals have been superseded by delivery standards set forth in its tariffs.

3. The proposed new rules provide essentially that Western Union shall make service measurements on every 200th full rate message or money order transiting its switching computer from time of filing to time switched to the destination office or direct to telex or TWX subscribers over the 24-hour period daily. A monthly summary report will be produced to show the volumes handled, by time interval in 15 minute segments. Terminal handling speed of service (telephone, tieline and messenger deliveries) at local offices will be sampled one day each week using procedures now prescribed in the rules, at the 25 largest telegraph centers. Service performance studies at agency offices are also prescribed, and the new rules provide for telephone speed of answer studies over the 24-hour period at the three centralized telephone bureaus.

4. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules and regulations, interested persons may file comments on or before August 20, 1973 and reply comments on or before August 30, 1973. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. All relevant and timely comments and replies will be considered by the Commission before final action is taken in the proceeding. In reaching its decision on the proposed rules, the Commission may, in addition to the specific comments invited by this notice and any replies thereto, take into account other relevant information before it.

5. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its Headquarters in Washington, D.C. (1919 M Street NW.).

7. Authority for the amendments herein proposed is contained in section 4(i) of the Communications Act of 1934.

Adopted: July 3, 1973.

Released: July 9, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] VINCENT J. MULLINS,
Acting Secretary.

APPENDIX A

Part 64, Subpart B, of Chapter I of Title 47 of the Code of Federal Regulations is revised to read as follows:

Subpart B—Domestic Telegraph Speed of Service Studies

DEFINITIONS

Sec.
64.202 Filing time.
64.203 Time delivered.
64.204 First attempt.
64.205 Tieline.
64.210 Identifying wire numbers.
64.212 Messenger route.
64.214 Time routed out.
64.215 Time returned.
64.216 Terminal handling speed of service.
64.218 Filing time to computer output speed of service.
64.220 Speed of answer—Central Telephone Bureaus (CTB).
64.221 Agency speed of service.

INSTRUCTIONS FOR THE CONDUCT OF TERMINAL HANDLING SPEED OF SERVICE STUDIES

GENERAL PROVISIONS

64.230 Offices and locations to be studied.
64.231 Types of messages to be tallied.
64.232 Exclusion of messages from tally.
64.233 Hours to be included and selection of study date.
64.234 Tallies; when made.
64.235 Suspension of tallying.
64.236 Volume of messages to be tallied.
64.237 Selection of offices for tallying.
64.238 Selection of messages for tallying.

MESSAGES DELIVERED BY TELEPHONE

64.261 Selection and tally.

MESSAGES DELIVERED BY TIELINE

64.271 Selection and tally.

MESSAGES DELIVERED BY MESSENGER

64.281 Route record data.
64.282 Selection and tally.

INSTRUCTIONS FOR THE CONDUIT OF FILING TIME TO COMPUTER OUTPUT SPEED OF SERVICE STUDIES

64.285 Procedures.

[1] Commissioners Johnson and Hooks concurring in the result.

INSTRUCTIONS FOR THE CONDUCT OF CENTRAL TELEPHONE BUREAU SPEED OF ANSWER STUDIES

Sec.

64.288 Procedures.

INSTRUCTIONS FOR THE CONDUCT OF AGENCY SPEED OF SERVICE STUDIES

64.290 Source of data.
64.291 Method of tallying.

GENERAL PROVISIONS

64.297 Company instructions to offices making studies.
64.298 Summary reports.

AUTHORITY: Sec. 4(1), Communications Act of 1934.

Subpart B—Domestic Telegraph Speed of Service Studies

DEFINITIONS

§ 64.202 Filing time.

The time a message is first accepted at an office for transmission, except as otherwise provided in this section.

(a) In the case of messages filed or corrected over the telephone, the time the transaction with the sender is completed shall be the time filed.

(b) In the case of messages filed over manually terminated teleprinter, TWX or Telex tielines, the filing time shall be the acknowledgment or stamped received time, whichever is earlier. Where messages are filed over a telefax tieline, the filing time shall be the stamped received time placed on the message upon removal from the recorder. Where messages are filed over TWX, Telex or Info-Com directly with the ISCS computer, the filing time shall be the acceptance time placed on the message by the computer. In the case of manually terminated tieline, if the sender is called back to verify a questionable part of the message, the original filing time shall be used unless a correction is made by the sender, in which case a new filing time consisting of the time the correction is received shall be placed on the message.

(c) In the case of messages received in an office by messenger, the time the messenger returns to the office from the pickup run shall be the time filed.

(d) In the case of messages filed at the counter, the time the transaction with the sender is completed shall be the time filed.

§ 64.203 Time delivered.

The time delivery of a telegram is completed to the addressee (or to a person authorized to receive the telegram for the addressee), except as otherwise provided in this section.

(a) For speed of service purposes the first attempt to deliver a telegram shall be considered to be the time of delivery.

(b) When delivery is made by telephone, the time delivered is the time reading of a telegram is completed, or the time the first attempt to deliver is made.

(c) When delivery is made by manual teleprinter tieline (or manually by Telex/TWX) or by tieline switching equipment, the time delivered is the time transmission of a telegram is completed, or the time of the first attempt to deliver.

(d) When delivery is made by telefax tieline, the time delivered or time of first attempt is two minutes later than the time a facsimile transmitter is connected to the customer's line for transmission of the message.

(e) When delivery is made by messenger, the time delivered or the time of the first attempt to deliver for each message on the route shall be the time routed out plus one-half of the interval from the time routed out to the time returned.

(f) In the case of Domestic Full Rate Money Orders, the time delivered shall be the time the money order is paid or the payee is notified.

§ 64.204 First attempt.

(a) In the case of telephone delivery, the time the addressee's telephone is reported to be busy or not answered, or reported out of order, or the addressee or someone authorized to accept the message is not available to receive the message.

(b) In the case of tieline delivery, the time of first attempt is the time transmission is attempted but could not be made because the addressee did not answer or, having answered, requested later transmission. Two minutes later than such time is the time of first attempt for facsimile tieline messages.

(c) In the case of messenger delivery, messages returned to the office undelivered for any reason when first routed out are "first attempts." The time of the first attempt to deliver shall be the time routed out plus one-half of the interval from the time routed out to the time returned.

(d) In all such cases there shall be noted on the message and delivery sheet the "first attempt" time and the reason for non-delivery.

(e) If unsuccessful attempts to deliver by one method result in transfer to another method for delivery, the messages shall not be tallied in the second method, but shall be tallied as a first attempt in the original method in those cases when it is practicable to do so.

(f) Messages delayed in delivery due to special instructions of the sender or addressee shall be excluded from tally as provided in § 64.232.

§ 64.205 Tieline.

A direct circuit connecting a telegraph company's office with a customer's office by teleprinter, telefax, TWX, Telex or Info-Com for the purpose of accepting and/or delivering telegrams.

§ 64.210 Identifying wire numbers.

A number assigned to messages sent over each channel each day at office of origin.

§ 64.212 Messenger route.

A continuous trip of a messenger for the physical delivery or pickup of telegrams entered on a Route Call Record.

§ 64.214 Time routed out.

The time a messenger is dispatched on route.

§ 64.215 Time returned.

The time a messenger returns to the office after completing a route.

§ 64.216 Terminal handling speed of service.

The elapsed time from the time transmission is started from the computer to the destination Western Union office until time delivered or first attempt. For purposes of this measurement, messages sent to agents shall be measured to the time transmission to the agent is completed.

§ 64.218 Filing time to computer output speed of service.

The elapsed time from filing time to the time transmission is started to the destination terminal (Western Union office, TWX station or Telex station).

§ 64.220 Speed of answer—Central Telephone Bureaus (CTB).

The elapsed time on an incoming telephone call from the start of ringing at the CTB until the call is answered by a recording operator.

§ 64.221 Agency speed of service.

The elapsed time in agency handling on:

(a) Originating messages—from filing time to time transmitted to control office.

(b) Terminating messages—from time transmission to the agent is completed to time routed out for messenger delivery or time telephoned or first attempt.

INSTRUCTIONS FOR THE CONDUCT OF TERMINAL HANDLING SPEED OF SERVICE STUDIES

GENERAL PROVISIONS

§ 64.230 Offices and locations to be studied.

The Western Union Telegraph Company shall conduct weekly terminal handling studies, in accordance with the instructions contained herein, in the following cities and locations:

Atlanta, Ga.
Baltimore, Md.
Boston, Mass.
Chicago, Ill.
Cincinnati, Ohio
Cleveland, Ohio
Dallas, Tex.
Denver, Colo.
Detroit, Mich.
Houston, Tex.
Indianapolis, Ind.
Kansas City, Mo.
Los Angeles, Calif.
Miami, Fla.
Minneapolis, Minn.
New Orleans, La.
New York, N.Y. (All Public Message Centers)
Philadelphia, Pa.
Portland, Ore.
San Francisco, Calif.
St. Louis, Mo.
Washington, D.C.
Central Tel. Bureaus
Moorestown, N.J.
Bridgeton, Mo.
Reno, Nev.
(Telephone dlys only)

§ 64.231 Types of messages to be tallied.

Of the messages selected as hereinafter provided, the following shall be tallied by time intervals on speed of service tally sheets: Domestic Full Rate including Government and CAK, Domestic Full Rate Money Order, CND and Full Rate International (INTL). (For purposes of this instruction, "Domestic" shall include messages originating in Canada and Mexico as well as other "domestic" points outside the United States.

§ 64.232 Exclusion of messages from tally.

Messages other than those specified in § 64.231 shall not be tallied. These messages include among others: Service, Wire, Press, Personal Opinion Messages (POM), Overnight Telegrams, Deadhead, confirmation copies of messages previously delivered, messages delayed in delivery due to special instructions of the sender or adressee, and messages delayed due to closed hours of the addressee.

§ 64.233 Hours to be included and selection of study date.

Speed of service studies shall be made on messages received at delivery office between the hours of 9 a.m. and 6 p.m. local time, on one designated day each week, except as provided in §§ 64.235 and 64.282. The day to be designated each week, for each of the listed offices in § 64.230, shall be selected at a central point, from a random number table, and the date so determined shall not be communicated to the office involved prior to 4 p.m. local time at that office on the designated date.

§ 64.234 Tallies; when made.

Speed of service tallies shall be made after 7:00 p.m. of the day of transmission but not later than the day following transmission, except any tally thus scheduled to be made on a holiday or a Saturday may be postponed until the following business day.

§ 64.235 Suspension of tallying.

(a) Speed of service tallies shall not be taken with respect to messages handled on the following holidays: New Year's, Washington's Birthday, Valentine's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas; and on the last business day preceding each of these holidays.

(b) In the event of a serious and unusual communication emergency such as that caused by flood, earthquake, strike by respondent's employees, or fire, tallying may be suspended at the offices affected by such emergency. In the event of suspension of tallies during an emergency, messages handled during the emergency need not be tallied.

§ 64.236 Volume of messages to be tallied.

At each city studied (in New York City, each PMC), there shall be sampled for each method of delivery (telephone, tieline and messenger) not less than 50 messages in each delivery method (or all available messages).

§ 64.237 Selection of offices for tallying.

(a) Sampling for terminal handling speed of service in each method shall be limited to those offices in each city which deliver an average of 50 or more messages daily by telephone, tieline or messenger: *Provided, however*, That if none of the offices in a city deliver 50 or more messages daily in a particular method of delivery, then each such office shall be considered as delivering an average of 50 messages per day in that method and as qualifying under this section for tallying.

(b) The volume to be sampled at each office shall be determined as follows:

(1) Where there are no branch offices in a city, the entire sample of 50 messages (or all available messages) in each delivery method shall be taken at the main office.

(2) Where there are one or more delivery branches in a city, the sample of 50 messages in each delivery method shall be divided between the main office and any branches delivering by that method in the proportion that each office load bears to the total delivered load in that method.

(3) The sample of 50 messages in the tieline method shall be divided between teleprinter (including TWX and Telex) and telefax in the ratio of the respective total city loads in these methods.

§ 64.238 Selection of messages for tallying.

(a) The selection of individual messages to be tallied from the delivered message file of any method at any office shall be determined from the identifying wire number, as follows:

(1) A set of ten cards shall be prepared, each card bearing one of the digits 0 to 9;

(2) The ten cards shall be thoroughly shuffled face down followed by a cut of the deck. The digit appearing on the top card after completion of the cut shall determine selection of the messages to be tallied. Messages in the files of the types named in § 64.231, received at delivery office between 9 a.m. and 6 p.m., local time, on which the identifying wire number ends in the digit selected shall be withdrawn from tallying until the quota for the day has been obtained.

(b) Offices shall select individual messages from the files for each method in the following manner:

(1) Where delivered messages are filed alphabetically, a card for each letter of the alphabet shall be prepared. The set of cards shall be shuffled face down and the deck cut. The top card shall be drawn after completion of the cut. The file shall be searched beginning with the letter of the alphabet drawn for individual messages of the types named in § 64.231 whose identifying wire number ends in the digit drawn. If, after complete search of the file for messages received at delivery office between 9 a.m. and 6 p.m., local time, the quota for tallying is not obtained, the succeeding alphabet card or cards shall be drawn and used in the order of their appearance in the pack from the top down.

(2) Where delivered messages are filed in sent number sequence or in delivered time order or route records are filed in route out or return time order, a set of 9 cards shall be prepared, each card bearing one of the hours 9 a.m. to 10 a.m. through 5 p.m. to 6 p.m. The set of cards shall be shuffled face down and the deck cut. The top card shall be drawn after completion of the cut. The file shall be searched beginning with the hour drawn for individual messages whose identifying wire number ends in the digit drawn. If after complete search of the file for messages of the types named in § 64.231 received at delivery office between 9 a.m. and 6 p.m., local time, the quota for tallying is not obtained, another digit shall be selected in accordance with § 64.238 (a) (2).

MESSAGES DELIVERED BY TELEPHONE

§ 64.261 Selection and tally.

(a) Offices and messages selected for tallying in any city shall be determined in accordance with §§ 64.236 to 64.238.

(b) Each selected message of the type described in § 64.231 which was received at delivery office between the hours of 9 a.m. and 6 p.m., local time, shall be tallied.

(c) The interval of time to be tallied for each message selected shall be from the computer output time to the time delivered or time of the first attempt.

MESSAGES DELIVERED BY TIELINE

§ 64.271 Selection and tally.

(a) For messages delivered by telefax and manual teleprinter, TWX or Telex, offices and messages for tallying in any city shall be determined in accordance with §§ 64.236 to 64.238.

(b) For messages delivered by tieline switching equipment, the following method for selection of messages to be tallied shall be used:

(1) Each roll of monitor tape, on which are recorded copies of messages delivered by tieline switching equipment shall be designated with a separate number;

(2) A number card shall be prepared for each numbered roll of monitor tape. The entire set of cards, representing an equal number of monitor rolls, shall be thoroughly shuffled face down daily and the deck cut. The required number of cards shall be withdrawn from the top of the deck after completion of the cut to determine the monitor roll or rolls from which tallies will be made. These cards shall be withdrawn and used in the order of their appearance in the pack from the top down;

(3) A digit shall be selected, as outlined in § 64.238(a);

(4) Each message of the types named in § 64.231 in the selected monitor tape rolls received at delivery office between 9 a.m. and 6 p.m., local time, on which the identifying wire number ends in the digit selected shall be tallied, until the quota is obtained.

(c) The interval of time to be tallied for each message selected shall be from the computer output time to the time delivered or time of the first attempt.

MESSAGES DELIVERED BY MESSENGER

§ 64.281 Route record data.

At all offices in the cities enumerated in § 64.230 where tallies are required to be made, the following shall be entered on route records: (a) The identifying wire number of each message; (b) the computer output time for each message of the types named in § 64.231 except for confirmation copies of messages previously delivered; (c) the time a messenger is dispatched on each route carrying messages; and (d) the time of return from the route.

§ 64.282 Selection and tally.

(a) Offices and messages selected for tallying in any city shall be determined

in accordance with §§ 64.236 through 64.238.

(b) Each message of the type described in § 64.231 which was received at delivery office between the hours of 9 a.m. and 6 p.m., local time, shall be tallied, except that messages delivered by telephone and subsequently dispatched for physical delivery by messenger need not be tallied.

(c) The interval of time to be tallied for each message selected shall be from the computer output time to the time delivered or to the time of the first attempt (see §§ 64.203 and 64.204).

INSTRUCTIONS FOR THE CONDUCT OF FILING TIME TO COMPUTER OUTPUT SPEED OF SERVICE STUDIES

§ 64.285 Procedures.

Continuous studies shall be made of the elapsed time from filing time to computer output time on full-rate and money order traffic transiting the computer. The monthly report of sampled traffic will be based upon every 200th full rate message or money order transiting the computer and will include messages which originate as Teleprinter Computer Service (TCS) inputs by Telex, TWX and Info-Com customers as well as those originating at Western Union offices.

INSTRUCTIONS FOR THE CONDUCT OF CENTRAL TELEPHONE BUREAU SPEED OF ANSWER STUDIES

§ 64.288 Procedures.

Continuous studies will be made of the speed of answer at the three Central Telephone Bureaus, Moorestown, New Jersey, Bridgeton, Missouri and Reno, Nevada. Monthly reports shall be made for each of the bureaus showing the percentage of calls answered within 20 seconds and also the percentage of calls answered within 50 seconds.

INSTRUCTIONS FOR THE CONDUCT OF AGENCY SPEED OF SERVICE STUDIES

§ 64.290 Source of data.

Agency speed of service studies shall be prepared from summary data contained in Western Union's Agency Inspection Guide List, Form WU 16, for Class 9–C and Class 11–B agencies, which forms shall be collected and maintained at the Company's Washington, D.C. headquarters.

§ 64.291 Method of tallying.

(a) As inspection forms are received during the month to be studied, such forms shall be sorted and filed in:

(1) chronological order, and

(2) administrative area order.

(b) At the close of the study month the forms shall be held in a separate file from those received in the ensuing month for speed of service sampling.

(c) The forms for each administrative area shall be studied on a random sampling basis as follows:

(1) The number of forms for each area under study shall be determined;

(2) Based upon the number of forms received for each area, the number of forms to be sampled shall be determined from the following incremental sampling table:

Number of forms in given area (population)	Sample size	Sample selection
20 or less	all items	all items
21–25	17	random number table
26–30	19	random number table
31–35	23	random number table
36–40	25	random number table
41–45	27	random number table
46–50	30	random number table
51–60	33	random number table
61–75	37	approximately 1 of 2, random start
76–100	42	approximately 1 of 2, random start
101–150	49	approx. every 3rd item, random start
151–200	54	approx. every 4th item, random start
201–250	57	approx. every 5th item, random start
251–300	59	approx. every 6th item, random start
301–500	64	approx. every 9th item, random start
501–750	67	approx. every 10th item, random start
751–1000	69	approx. every 15th item, random start

(3) The sampling process will begin and proceed based upon selection from a random number table.

(4) The speed of service data from each inspection form selected shall be tallied on the prescribed form, using a separate form or series of forms for each administrative area.

(d) Each form shall be summarized in the lower portion of the prescribed form, utilizing the last page of a series for the purpose.

(e) The study and summary forms shall be submitted to the Commission in "work paper" form upon completion of the studies for all administrative areas.

GENERAL PROVISIONS

§ 64.297 Company instructions to offices making studies.

Two copies of all general instructions (and of any amendments thereto) issued to field offices for the purpose of complying with § 1.804 of this chapter and §§ 64.201 to 64.298 shall be filed with the commission upon issuance.

§ 64.298 Summary reports.

The following reports shall be submitted monthly in quadruplicate, on designated forms, no later than the 25th of the month following the month under report:

(a) The results of the studies of terminal handling speed of service at the cities and installations indicated in § 64.230.

(b) The results of the computer analysis of filing time to computer output speed of service as described in § 64.285.

(c) The results of speed of answer studies at the three Central Telephone Bureaus, as described in § 64.288.

(d) The results of agency speed of service studies as described in § 64.291.

Monthly Summary of Terminal Handling Speed of Service
(Computer Output Time to Time Delivered)

The Western Union Telegraph Company

_____
Month

Location	Telephone Deliveries		Tieline Deliveries		Messenger Deliveries	
	Number Messages	Average Speed (Mins)	Number Messages	Average Speed (Mins)	Number Messages	Average Speed (Mins)
Central Telephone Burs	X	X	X	X	X	X
Bridgeton			X	X	X	X
Moorestown			X	X	X	X
Reno			X	X	X	X
Atlanta						
Baltimore						
Boston						
Chicago						
Cincinnati						
Cleveland						
Dallas						
Denver						
Detroit						
Houston						
Indianapolis						
Kansas City						
Los Angeles						
Miami						
Minneapolis						
New Orleans						
New York	X	X	X	X	X	X
PMC 1						
PMC 2						
PMC 3						
PMC 4						
PMC 5						
PMC 6						
PMC 7						
Philadelphia						
Portland						
San Francisco						
St. Louis						
Washington, DC						

Monthly Speed of Service Summary
(Filing Time to Computer Output Time)

The Western Union Telegraph Company

_____
Month

Time in Minutes	Number of Full Rate Messages Sampled	Cumulative Percent Switched
00-15		
15-30		
30-45		
45-60		
60-75		
75-90		
90-105		
105-120		
120-135		
135+		

Monthly Summary of Telephone Speed of Answer
(Central Telephone Bureaus)

The Western Union Telegraph Company

_____
Month

Days of Week	Bridgeton, Mo.			Moorestown, N. J.			Reno, Nev.		
		Pct. Ans.			Pct. Ans.			Pct. Ans.	
	Volume	20 Sec.	50 Sec.	Volume	20 Sec.	50 Sec.	Volume	20 Sec.	50 Sec.
Sundays									
Mondays									
Tuesdays									
Wednesdays									
Thursdays									
Fridays									
Saturdays									

Monthly Summary of Agency Speed of Service

The Western Union Telegraph Company

Area _____ Month _____

City	DELIVERY * Number of Messages		ORIGINATING ** Number of Messages	
	Tallied	Within 60 Minutes	Tallied	Within 30 Minutes
Total				

* Elapsed time from time received to time dispatched or telephoned
** Elapsed time from time filed to time of transmission

SUMMARY

DELIVERY

Total Agencies sampled _____
Total messages tallied _____
Total messages within 60 mins. _____
Performance percentage _____

ORIGINATING

Total agencies sampled _____
Total messages tallied _____
Total messages within 30 mins. _____
Performance percentage _____

[FR Doc.73-14350 Filed 7-13-73;8:45 am]

[47 CFR—Part 73]

[Docket No. 19690]

FM BROADCAST STATIONS

Proposed Table of Assignments; Extension of Time for Reply Comments

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Wilmington, Ill.; Many, La.; Moyock, N.C.; Lake Providence, La.; Newton, Miss.; Bay Springs, Miss.; York, Ala.; Rehoboth Beach, Del.; Canton, Tex.; Brandon, Miss.; Southport, N.C.; Harrison, Mich.; Greenfield, Mo.; Belhaven, N.C.; Ruston, La.; Shreveport, La.; and Bethany Beach, Del.). Docket No. 19690, RM-2003, RM-2027, RM-2046, RM-2051, RM-2054, RM-2057, RM-2058, RM-2144, RM-2059, RM-2062, RM-2068, RM-2085, RM-2097, RM-2098, RM-2100, RM-2002, RM-2160.

1. On May 16, 1973, a further notice of proposed rule making was adopted in the above-captioned proceeding. Publication was given in the FEDERAL REGISTER on May 24, 1973, 38 FR 13658. The dates for filing comments and reply comments were specified as June 28 and July 10, 1973, respectively.

2. Counsel for Ruston Broadcasting Company, Inc., on July 9, 1973, filed a request for additional time in which to file reply comments, to and including July 24, 1973. Counsel states that the requested extension is necessary in order to complete the preparation of replies to pleadings filed by other parties in this proceeding.

3. We feel that the additional time is warranted and would serve the public interest. *Therefore, it is ordered*, That the time for filing reply comments in this proceeding is extended to and including July 24, 1973.

4. This action is taken pursuant to authority found in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules and regulations.

Adopted: July 10, 1973.

Released: July 11, 1973.

[SEAL] HAROLD L. KASSENS,
Acting Chief,
Broadcast Bureau.

[FR Doc.73-14470 Filed 7-13-73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-10275; File No. 57-482]

DESTRUCTION OF RECORDS REQUIRED TO BE KEPT

Extension of Time for Comments

Notice is hereby given that the Securities and Exchange Commission has granted an additional period in which to comment upon a proposal to adopt a recordkeeping rule under section 17(a) of the Securities Exchange Act of 1934 ("the Act") and to amend Rule 17a-6 with regard to destruction of records. This proposal was announced in Securities Exchange Act Release No. 34-10140 (published May 17, 1973, at 38 FR 12937).

All interested persons are invited to submit their views and comments on the proposed rule. Written statements of views and comments should be addressed to Ronald F. Hunt, Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, on or before August 10, 1973. Reference should be made to file number S7-482. All such communications will be available for public inspection.

(Sections 17(a), 23(a); 48 Stat. 897, 901; as amended 49 Stat. 1379; 15 U.S.C. 78q(a), 78w(a).)

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

JULY 11, 1973.

[FR Doc.73-14448 Filed 7-13-73;8:45 am]

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 73-187]

FOREIGN CURRENCIES

Certification of Exchange Rates

JULY 5, 1973.

The appended table shows the rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), which are applicable to the currencies of the countries listed in § 16.4(d), Customs Regulations (19 CFR 16.4(d)), for the period from June 25 through June 29, 1973. This table is published for the information and use of Customs officers and others concerned, and denotes those currencies which vary by 5 per centum or more from the quarterly rate published in T.D. 73-108.

[SEAL] JOHN D. ROBISON,
Acting Director, Appraisement and Collections Division.

Country	Currency	June 25	June 26	June 27	June 28	June 29
Australia	Dollar	Q	Q	Q	Q	Q
Austria	Schilling	$0.532	$0.0530	$0.0538	$0.0546	*
Belgium	Franc	.026775	.026850	.027150	.027609	.027624
Canada	Dollar	Q	Q	Q	Q	Q
Ceylon	Rupee	.1655	.1660	.1655	Q	Q
Denmark	Krone	.1720	.1720	.1745	.1770	.1765
Finland	Markka	Q	Q	Q	Q	.2655
France	Franc	.2363	.2361	.2375	.2404	.2410
Germany	Deutsche Mark	.3915	.3940	.3972	.4045	.4115
India	Rupee	Q	Q	Q	Q	Q
Ireland	Pound	Q	Q	Q	Q	Q
Italy	Lira	Q	Q	Q	Q	Q
Japan	Yen	Q	Q	Q	Q	Q
Malaysia	Dollar	Q	Q	Q	Q	Q
Mexico	Peso	Q	Q	Q	Q	Q
Netherlands	Guilder	.3691	.3711	.3749	.3790	.3815
New Zealand	Dollar	Q	Q	Q	Q	Q
Norway	Krone	.1840	.1835	.1860	.1890	.1890
Portugal	Escudo	.0426	.042650	.0427	.0429	*
Republic of S. Africa	Rand	1.4900	1.4880	Q	1.4890	1.4890
Spain	Peseta	Q	Q	Q	Q	Q
Sweden	Krona	.2383	.2380	.2415	.2454	.2465
Switzerland	Franc	.3279	.3287	.3296	.3310	.3415
United Kingdom	Pound	Q	Q	Q	Q	Q

Q Use quarterly rate published in T.D. 73-108; daily rate did not vary by 5 per centum or more.
*No quote.

[FR Doc.73-14323 Filed 7-13-73;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

INDUSTRY ADVISORY COMMITTEE ON MARITIME POLICY

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Public Law 92-463) notice is hereby given that the Industry Advisory Committee on Maritime Policy will meet in open session at 9:30 a.m. on July 25, 1973, in Room 1E 801, Pentagon, Washington, D.C. 20301.

The meeting will be devoted to a discussion of the quantitative justification for and structure of an ocean cargo allocation system.

With respect to public participation the following requirements shall apply:

(a) Individuals desiring to submit written statements may do so by mailing ten copies thereof no later than July 20, 1973, if possible, to the Recorder, Industry Advisory Committee on Maritime Policy, Office of the Assistant Secretary of Defense (Installations and Logistics), Washington, D.C. 20301. The minutes will be kept open for ten days for the receipt of written statements for the record.

(b) Those individuals submitting a written statement in accordance with (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement.

(c) Requests for the purpose of making an oral statement shall be ruled on by the Chairman of the Committee who is empowered to apportion the time available during a period of not more than 30 minutes between 11:00 AM and 12:00 Noon. Information concerning the Chairman's ruling on requests for the opportunity to make an oral statement can be obtained by a prepaid telephone call to the Recorder of the Committee (202-697-1903) between 9:00 a.m. and 5:00 p.m. Eastern Time, on July 23, 1973.

(d) Questions may be asked only by members of the Committee and staff.

(e) Seating for the public is limited and will be available on a first-come-first-served basis. Because of building security requirements, anyone wishing to attend the meeting must advise the Recorder of the Committee in advance of the meeting at telephone 202-697-1903.

Dated: July 11, 1973.

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

[FR Doc.73-14402 Filed 7-13-73;8:45 am]

DEPARTMENT OF JUSTICE

Office of Alien Property

MRS. MIKIYE MORIKAWA

Intention To Return Vested Property

Pursuant to section 32(f) of the Trading with the Enemy Act, as amended, notice is hereby given of intention to return, on or after August 15, 1973 the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant	*Property and Location*
Mrs. Mikiye Morikawa, 2250 Miyajima - guchi, Onocho, Saikigun, Hiroshima - ken, Japan Claim No. 64041 Vesting Order Nos. 3696 and 11002	$19,244.70 in the Treasury of the United States.

Executed at Washington, D.C., on July 11, 1973.

For the Attorney General.

HARLINGTON WOOD, JR.,
Assistant Attorney General, Civil Division, Director, Office of Alien Property.

[FR Doc.73-14464 Filed 7-13-73;8:45 am]

DEPARTMENT OF AGRICULTURE

Forest Service

CHALLIS NATIONAL FOREST LIVESTOCK ADVISORY BOARD

Notice of Meeting

The Challis National Forest Livestock Advisory Board will meet at 1:00 p.m. July 27, 1973, at the Challis National Forest Supervisor's Office, Challis, Idaho.

This will be the annual meeting of the Advisory Board. The duties of the board are solely advisory and pertain generally

to the regulations and/or instructions relating to the use of National Forest lands affecting the administration of grazing in the area represented by the Board. There are no specific topics identified as yet. We will generally be discussing the past year's range management activities and the planned activities for Fiscal Year 1974.

The meeting will be open to the public. Persons who wish to attend should notify Bill Paddock, secretary, at the Challis National Forest Superisor's Office (208–879–2285).

Any member of the public who wishes to do so shall be permitted to file a written statement with the committee, before or after the meeting.

To the extent that time permits, interested persons may be permitted by the committee chairman to present oral statements at the meeting.

Dated: July 5, 1973.

RICHARD O. BENJAMIN,
Forest Supervisor.

[FR Doc.73-14458 Filed 7-13-73;8:45 am]

Soil Conservation Service

TWELVE MILE CREEK WATERSHED PROJECT, IOWA

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U. S. Department of Agriculture, has prepared a draft environmental statement for the Twelve Mile Creek Watershed Project, Union, Adair and Ringgold Counties, Iowa, USDA–SCS–ES–WS(ADM)–74–6 (D).

The environmental statement concerns a plan for watershed protection, flood prevention and municipal and industrial water supply. The planned works of improvement provide for land treatment, 11 grade stabilization structures, 22 floodwater retarding structures, and one multi-purpose reservoir with capacity for floodwater retarding and municipal and industrial water.

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

Soil Conservation Service, USDA, South Agriculture Building, Room 5227, 14th and Indepednence Avenue, S.W., Washington, D.C. 20250.

Soil Conservation Service, USDA, Room 823 Federal Building, 210 Walnut Street, Des Moines, Iowa 50309

Copies are also available from the National Technical Information Service, U. S. Department of Commerce, Springfield, Virginia 22151. Please use name and number of statement above when ordering. The estimated cost is $3.25.

Copies of the draft environmental statement have been sent for comment to various federal, state, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for additional information should be addressed to Wilson T. Moon, State Conservationist, Soil Conservation Service, 823 Federal Building 210 Walnut Street, Des Moines, Iowa 50309.

Comments must be received on or before September 20, 1973, to be considered in the preparation of the final environmental statement.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services)

Dated: July 9, 1973.

WILLIAM B. DAVEY,
Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.73-14489 Filed 7-13-73;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

YELLOWFIN TUNA FISHING IN EASTERN PACIFIC OCEAN BY PURSE SEINE VESSELS

Reversion of Incidental Catch Rate

Notice of reversion is hereby given pursuant to § 280.7(b)(2), Title 50, Code of Federal Regulations, as follows:

At 0001 hours, local time, on July 16, 1973, the incidental catch rate of yellowfin tuna for purse seine vessels of 400 short tons carrying capacity or less will revert to fifteen percent (15%). On the basis of the catch and present catch rate, as of that date, the amount of yellowfin tuna caught during the closed season by purse seine vessels of 400 short tons carrying capacity or less will have reached 4,400 short tons as provided in § 280.7(b)(2), Title 50, Code of Federal Regulations.

Issued at Washington, D.C., and dated July 13, 1973.

ROBERT W. SCHONING,
Director,
National Marine Fisheries Service.

[FR Doc.73-14593 Filed 7-13-73;10:25 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

ADVISORY COMMITTEES

Notices of Meeting

Corrections

In FR. Doc. 73-12764, appearing at page 16792 in the issue for Tuesday, June 26, 1973, in the eleventh line of the fifth paragraph of the second column on page 16793, the word which now reads "candidate" should read "candid".

PANEL ON REVIEW OF CONTRACEPTIVES AND OTHER VAGINAL DRUG PRODUCTS

Notice of Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92–463, 86 Stat. 770–776), the Food and Drug Administration announces the establishment by the Secretary, DHEW, on June 27, 1973, of the following Public Advisory Committee:

Designation. Panel on Review of Contraceptives and Other Vaginal Drug Products.

Purpose. The Panel will (1) advise the Commissioner of Food and Drugs on the safety and effectiveness of currently marketed non-prescription drug products for human use containing contraceptives or other vaginal drug products; (2) review and evaluate available data on these products, the adequacy of their labeling; (3) advise on the promulgation of monographs establishing conditions under which these over-the-counter-drug products are generally recognized as safe and effective and not misbranded; and (4) serve as a forum for the exchange of views regarding the prescription and non-prescription status of these various active ingredients and combinations thereof.

Authority for this committee will expire June 27, 1975, unless the Secretary, DHEW, formally determines that continuance is in the public interest.

Dated: July 9, 1973.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.73-14446 Filed 7-13-73;8:45 am]

Public Health Service

FOOD AND DRUG ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 6, (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare (35 FR 3685–92, dated February 25, 1970, as amended) is amended to reflect the reorganization of contracts and grants management activities: Section 6B is amended as follows:

SEC. 6B *Organization.* * * *

* * * * *

(c) *Office of the Associate Commissioner for Science.* Functions as the principal advisor to the Commissioner on scientific matters which impact on FDA policy and direction and long-range program goals.

Provides leadership and direction on scientific and environmental matters and stimulates scientific and technological achievement in FDA. Participates with the Division of Contracts and Grants Management in the development of FDA policy concerning the use of grants and contracts; develops scientific policy for the acquisition of scientific data and/or innovative scientific equipment and instrumentation under the grants and contracts mechanism.

Serves as the focal point for pre-award coordination and scientific review of FDA's extramural research, training, and fellowship activities; for the development of Agency scientific research

and environmental impact policies and procedural guidelines; and for technical liaison activities concerning scientific matters, environmental impact, research grants, and science oriented contracts.

Chairs an internal science advisory council, composed of scientists representing the Bureaus, which advises the Agency on scientific policy and environmental impact of Agency actions.

Appraises the technical aspects and relative contributions of FDA's intramural and extramural science programs. Evaluates the adequacy of scientific resources available to the Agency. Initiates action as appropriate to enhance the FDA scientific posture by promoting optimum utilization of the grants and contracts mechanism, inter-agency agreements, and international scientific collaboration under Public Law 480 and related statutes. Provides a focal point for committee management activities within FDA.

* * * * *

(f) *Office of the Associate Commissioner for Administration.* Serves as principal advisor to the Commissioner on all phases of management inherent in the operations of FDA.

Responsible for the effective utilization of all management resources and the implementation of operating programs by coordinating the funding, manpower, facilities, and equipment needs of the Agency.

Provides leadership and direction to administrative management including budget, finance, personnel, organization, methods, grants and contracts, procurement and property, records, and similar supporting activities. Assures that conduct of these efforts effectively supports program operations.

Develops and coordinates the Agency's Operational Planning System. Develops policy and procedures necessary to maintain the integrity of trade secrets and other privileged information submitted by industry to FDA; formulates Agency-wide security policy and investigates and recommends action concerning security problems.

Develops data systems policy and procedures necessary to coordinate all FDA information and data retrieval systems and ADP equipment; operates FDA's central computer facility; and provides systems analysis and programming services.

* * * * *

(f-2) *Division of General Services.* Provides leadership and guidance to headquarters staff offices, headquarters operating activities, and field activities for all general services programs, including: procurement, personal property management and accountability, real property management, space management and utilization, construction and engineering services, communications, printing and reproduction, microform management, and mail and files.

Responsible for maintaining effective liaison with the Government Printing Office, and for the centralized clearance and coordination of all printing and publication services.

Coordinates the development of Agency-wide policies and procedures for such services; and plans, executes, evaluates, and adjusts efforts in these activities.

* * * * *

(f-6) *Division of Contracts and Grants Management.* Provides leadership, direction, and staff advisory services for the FDA negotiated contracting and grants management programs. Coordinates activities of FDA Bureaus and Offices to insure proper development of grants and contracts program requirements.

Plans, develops, and coordinates the issuance of FDA-wide negotiated contracting policies and procedures.

Participates with the Associate Commissioner for Science in the development of FDA policy concerning the use of research grants and grants funds. Serves as the Agency focal point for developing, coordinating, and implementing FDA policies and procedures pertaining to grants management; serves as the primary point of liaison with the management staff of grantee institutions for the general interpretation of grants management policies.

Directs and coordinates all administrative functions associated with grants management after technical review and approval are complete. Directs and conducts negotiations with grantee institutions.

Executes all negotiated contracts and grant awards.

Analyzes, evaluates, and reports selected statistical and financial data pertaining to the grants and contracts program.

Maintains liaison with the Office of the Assistant Secretary for Administration and Management on contracts and grants management policy procedural and operating matters. Serves as FDA focal point for the processing of audit reports and for liaison with DHEW Audit Agency.

Provides price/cost analysis and related services for contracts and grants.

* * * * *

Date: July 9, 1973.

ROBERT H. MARIK,
Assistant Secretary for Administration and Management.

[FR Doc.73-14405 Filed 7-13-73;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-106]

COLORADO

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11725 of June 27, 1973; and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-73-238; and by virtue of the Act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744), as amended by Public Law 92-209 (85 Stat. 742); notice is hereby given that on July 6, 1973, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Colorado resulting from severe flooding and landslides caused by heavy rains and snowmelt runoff beginning on or about March 28, 1973, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91-606. I therefore declare that such a major disaster exists in the State of Colorado. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11725, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-73-238, to administer the Disaster Relief Act of 1970 (Public Law 91-606, as amended), I hereby appoint Mr. Donald G. Eddy, HUD Region 8, to act as the Federal Coordinating Officer to perform the duties specified by Section 201 of that Act for this disaster.

I do hereby determine the following areas in the State of Colorado to have been adversely affected by this declared major disaster:

The Counties of:

Archuleta	Mineral
Conejos	Montezuma
Costilla	Montrose
Delta	Ouray
Dolores	Rio Grande
Gunnison	San Juan
Hinsdale	San Miguel
La Plata	

(Catalog of Federal Domestic Assistance Program No. 50.002, Disaster Assistance)

Dated: July 9, 1973.

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.73-14461 Filed 7-13-73;8:45 am]

[Docket No. NFD-107]

TEXAS

Notice of Major Disaster and Related Determinations

Pursuant to the authority vested in the Secretary of Housing and Urban Development by the President under Executive Order 11725 of June 27, 1973; and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-73-238; and by virtue of the Act of December 31, 1970, entitled "Disaster Relief Act of 1970" (84 Stat. 1744), as amended by Public Law 92-209 (85 Stat. 742); notice is hereby given

that on July 11, 1973, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Texas resulting from severe storms and flooding beginning on or about June 11, 1973, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 91-606. I therefore declare that such a major disaster exists in the State of Texas. You are to determine the specific areas within the State eligible for Federal assistance under this declaration.

Notice is hereby given that pursuant to the authority vested in the Secretary of Housing and Urban Development under Executive Order 11725, and delegated to me by the Secretary under Department of Housing and Urban Development Delegation of Authority, Docket No. D-73-238, to administer the Disaster Relief Act of 1970 (Public Law 91-606, as amended), I hereby appoint Mr. Joe D. Winkle, HUD Region 6, to act as the Federal Coordinating Officer to perform the duties specified by section 201 of that Act for this disaster.

I do hereby determine the following areas in the State of Texas to have been adversely affected by this declared major disaster:

The Counties of:

Brazoria	Liberty
Galveston	Montgomery
Hardin	Polk
Harris	San Jacinto
Jasper	Tyler

Dated: July 11, 1973.

(Catalog of Federal Domestic Assistance Program No. 50.002, Disaster Assistance)

THOMAS P. DUNNE,
Administrator, Federal Disaster Assistance Administration.

[FR Doc.73-14495 Filed 7-13-73;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. RSI-1]

SAFETY OF PENN CENTRAL RAIL COMMUTER OPERATIONS IN THE STATES OF NEW YORK AND CONNECTICUT

Notice of Public Hearing

Notice is hereby given that the Federal Railroad Administration (FRA) will hold a public hearing concerning safety of Penn Central rail commuter operations on its Harlem, Hudson and New Haven lines in the States of New York and Connecticut. The hearing will commence at 9:30 a.m. Saturday, July 28, 1973, in the Little Theater of the Westchester County Center, Central Avenue at Bronx River Parkway, White Plains, New York.

Interested persons are invited to attend and participate in this hearing. The hearing will be an informal one, not a judicial or evidentiary type of hearing. There will be no cross-examination of persons making statements. A staff member of the FRA will make an opening statement outlining the matter set for a hearing. Interested persons will then have an opportunity to present their initial oral statements. At the completion of all initial oral statements, those persons who wish to make rebuttal statements will be given an opportunity to do so in the same order in which they made their initial statements. Additional procedures for conducting hearings will be announced at the hearing.

Interested persons may present oral or written statements at the hearing. All statements will be made a part of the record of the hearing and be a matter of public record. Persons who wish to make oral statements at the hearing should notify the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590, before July 27, 1973, stating the amount of time required for the initial statement.

This notice is issued under the authority of section 208, 84 Stat. 974, 45 U.S.C. 437; and § 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).

Issued in Washington, D.C., on July 12, 1973.

JOHN W. INGRAM,
Administrator.

[FR Doc.73-14516 Filed 7-13-73;8:45 am]

ATOMIC ENERGY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS—GENERAL ELECTRIC SUBCOMMITTEE

Notice of Meeting

JULY 12, 1973.

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards' Subcommittee on the General Electric Company will hold a meeting on August 1 and 2, 1973, at the Holiday Inn, 1355 N. 4th Street in San Jose, California. The purpose of this meeting will be to review various topics applicable to General Electric Company designed boiling water reactors.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

Wednesday, August 1, 1973, 9:30 a.m.-5:00 p.m.—Review of various topics generic to boiling water reactors (presentations by the AEC Regulatory Staff and GE will be made and discussions with these groups will be held.) If it becomes necessary to carry over the public session to August 2, an announcement will be made at the close of the public session on August 1, 1973.

In connection with the above agenda item, the Subcommittee will hold an executive session at 8:30 a.m. on August 1, 1973, which will involve a discussion of its preliminary views, and an executive session at the end of the day on August 2, 1973, consisting of an exchange of opinions of the Subcommittee members and internal deliberations and formulation of recommendations to the ACRS.

In addition, on August 2, the Subcommittee will hold a closed session with the Regulatory Staff and GE to discuss privileged information relating to plant design and corporate research.

I have determined, in accordance with subsection 10(d) of Public Law 92-463, that the executive sessions at the beginning and end of the meeting will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b); and that a closed session will be held to discuss certain privileged information under exemption (4) of 5 U.S.C. 552(b). It is essential to close such portions of the meeting to protect such privileged information and protect the free interchange of internal views and to avoid undue interference with agency or Committee operation.

Practical considerations may dictate alterations in the above agenda or schedule. If it is necessary to continue the public session on August 2, an announcement to that effect will be made at the close of the public session on August 1.

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.

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 item may do so by mailing 25 copies thereof, postmarked no later than July 24, 1973, to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such comments shall be based upon GE topical reports and various other documents on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, between the hours of 1:30 p.m. and 3 p.m. on August 1, 1973.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been canceled or rescheduled and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on July 30, 1973, to the office of the executive secretary of the

Committee (telephone 301–973–5651) between 8:30 a.m. and 5:15 p.m., e.d.t.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) A copy of the transcript of the open portions of the meeting will be available within approximately 24 hours at the Atomic Energy Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20545. Copies of the minutes of the meeting will be made available, on request, at the Atomic Energy Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20545, on or after October 1, 1973. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
Acting Advisory Committee Management Officer.

[FR Doc.73-14600 Filed 7-13-73;10:46 am]

[Docket No. RM-50-1]

ACCEPTANCE CRITERIA FOR EMERGENCY CORE COOLING SYSTEMS

Resumption of Hearing (Environmental Phase)

In the matter of rulemaking hearing, acceptance criteria for emergency core cooling systems for light-water-cooled nuclear power reactors.

According to Board telegraphic order, dated July 9, 1973,[1] hearing sessions in the above captioned proceeding will reconvene on Monday, July 23, 1973, in the hearing room at 8120 Woodmont Avenue, Bethesda, Maryland. The session on July 23 will begin at 10:00 a.m.; on subsequent days the hearings will convene at 9:00 a.m. The hearings will run five (5) days a week until completed, Monday through Friday, inclusive.

Issued at Washington, D.C., this 11th day of July, 1973.

NATHANIEL H. GOODRICH,
Chairman, ECCS Hearing Board.

[FR Doc.73-14462 Filed 7-13-73;8:45 am]

[Docket No. 50-363]

JERSEY CENTRAL POWER & LIGHT CO.

Issuance of Construction Permit

Notice is hereby given that, pursuant to the Initial Decision of the Atomic Safety and Licensing Board, dated July 9, 1973, the Atomic Energy Commission (the Commission) has issued Construction Permit No. CPPR-96 to Jersey Central Power & Light Company for the construction of the Forked River Nuclear Generating Station, Unit 1, a pressurized water reactor, on the applicant's site in Ocean County, New Jersey. The reactor is being designed for initial operation at 3390 megawatts thermal.

The Initial Decision and Construction Permit No. CPPR-96 are available for public inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and in the Ocean County Library, 15 Hooper Avenue, Toms River, New Jersey 08753. Copies of the construction permit may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Maryland, this 10th day of July 1973.

For the Atomic Energy Commission.

KARL R. GOLLER,
Chief, Pressurized Water Reactors, Branch No. 3, Directorate of Licensing.

[FR Doc.73-14463 Filed 7-13-73;8:45 am]

[Docket Nos. 50-324; 50-325]

CAROLINA POWER AND LIGHT CO.

Reconstitution of Board

In the matter of Carolina Power and Light Company (Brunswick Steam Electric Plant, Units 1 and 2) Docket Nos. 50-324, 50-325.

Dr. J. V. Leeds, Jr., was a member and Dr. Forrest J. Remick was an alternate member of the Atomic Safety and Licensing Board established to consider the above application. Neither Dr. Leeds nor Dr. Remick is able, because of schedule conflicts, to serve on this Board.

Accordingly, Dr. Frank F. Hooper, whose address is School of Natural Resources, University of Michigan, Ann Arbor, Michigan 48104, is appointed a member of the Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Rules of Practice, as amended.

Dated at Washington, D.C. this 10th day of July 1973.

NATHANIEL H. GOODRICH,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc.73-14450 Filed 7-13-73;8:45 am]

[Docket Nos. 50-440, 50-441]

DUQUESNE LIGHT CO. ET AL.

Notice of Receipt of Application for Construction Permits and Facility Licenses and Applicants' Environmental Report; Time for Submission of Views on Antitrust Matter

Duquesne Light Company, 435 Sixth Avenue, Pittsburgh, Pennsylvania 15219, Ohio Edison Company, 47 North Main Street, Akron, Ohio 44308, Pennsylvania Power Company, One East Washington Street, New Castle, Pennsylvania 16103, The Cleveland Electric Illuminating Company, P.O. Box 5000, Cleveland, Ohio 44101, and Toledo Edison Company, 300 Madison Avenue, Toledo, Ohio 43652 (the applicants), pursuant to section 103 of the Atomic Energy Act of 1954, as amended, have filed an application which was docketed on June 25, 1973, for authorization to construct and operate two single-cycle, forced circulation, boiling water nuclear reactors. The application was tendered on March 28, 1973. Following a preliminary review for completeness, it was rejected on May 2, 1973, for lack of sufficient information. The applicants submitted additional information on June 6, 1973 and the application was accepted for docketing.

The proposed nuclear facility, designated by the applicants as the Perry Nuclear Power Plant, Units 1 & 2 is located near Lake Erie in Lake County, Ohio, approximately 35 miles northeast of Cleveland, Ohio and is designated for initial operation at approximately 3579 megawatts (thermal) with a net electrical output of approximately 1205 megawatts.

A Notice of Hearing with opportunity for public participation is being published separately.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, on or before September 7, 1973. The request should be filed in connection with Docket 50-440A & 50-441A.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545, and at the Perry Public Library, 3753 Main Street, Perry Township, Ohio 44081.

The applicant has also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in Appendix D to 10 CFR Part 50, an environmental report dated March 28, 1973. The report has been made available for public inspection at the aforementioned locations. The report, which discusses environmental considerations related to the proposed construction of the Perry Nuclear Power Plant, Units 1 & 2 is also being made available at the Office of the Governor, State Clearinghouse, 62 East Broad Street—2nd Floor, Columbus, Ohio 43215 and at the Northeast Ohio Areawide Coordinating Agency, 439 The Arcade, Cleveland, Ohio 44114.

After the report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement will be prepared by the Commission. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, requesting comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials thereon will be made available when received.

[1] See also "Order for resumption of hearing sessions and related matters including questioning of additional direct testimony" filed July 10, 1973.

Dated at Bethesda, Md., this 28th day of June 1973.

For the Atomic Energy Commission.

WALTER R. BUTLER,
Chief, Boiling Water Reactors, Branch 1, Directorate of Licensing.

[FR Doc.73-13656 Filed 7-5-73;8:45 am]

KERR-McGEE CORP.

Notice of Hearing

The Kerr-McGee Corporation, Kerr-McGee Building, Oklahoma City, Oklahoma ("the licensee") is the holder of Source Material License No. SUB-1010 issued by the Atomic Energy Commission ("the Commission"). The license, issued on February 20, 1970, authorizes the use of source material in the production of uranium hexafluoride under certain conditions specified therein, and expires on February 28, 1975. On April 10, 1970, the licensee requested a license amendment which would permit, among other things, subsurface disposal of certain liquid radioactive wastes. By letter dated October 15, 1970, the Deputy Director for Fuels and Materials ("Deputy Director") advised the licensee that the requested amendment had been denied and specified the reasons therefor. During the thirty day period provided for in the letter within which the licensee could request a hearing, the licensee requested to be permitted to withdraw its application without prejudice. By letter dated March 18, 1971, the Deputy Director approved the licensee's request.

On May 10, 1972, the licensee again requested a license amendment which would authorize subsurface disposal of certain liquid radioactive wastes. The amendment requested would permit the licensee to utilize deep well disposal of raffinate wastes generated from its solvent extraction uranium purification process at its Sequoyah facility. By letter dated September 29, 1972, the Deputy Director advised the licensee that its amendment request had been denied and specified the reasons therefor. After consideration of additional information submitted by the licensee, the Deputy Director, by letter dated March 14, 1973, affirmed the denial of September 29, 1972. On April 5, 1973, the licensee requested a hearing on the matter of the denial, pursuant to the provisions of 10 CFR 2.103.

The Deputy Director, pursuant to the Atomic Energy Act of 1954, as amended, and 10 CFR Part 40, denied the application of May 10, 1972 after determining that issuance of the license amendment would not conform with the requirements set forth in 10 CFR 40.32(c) and (d) because:

1. Existing information is not adequate to demonstrate the presence, location, or nature of the faults that are purported to provide barriers to movement of fluid from the disposal formation, nor is there adequate information to demonstrate that known faults will act as barriers to such movement during continued operation of the proposed well.

2. The complexity of the geologic formation is such that there is no assurance as to the migration paths of the radioactive wastes and the brines which would be displaced.

3. The complexity of the geologic and hydrologic system effectively precludes emergency recovery of the injected radioactive waste.

In view of the above determination with respect to matters of radiological health and safety, no findings were made by the Deputy Director with respect to whether, pursuant to 10 CFR 40.32(e), any applicable requirements in regard to environmental matters as set out in Appendix D of 10 CFR Part 50 had been satisfied.

Pursuant to the Atomic Energy Act of 1954, as amended, and the regulations in Title 10, Code of Federal Regulations, Part 2, rules of practice, notice is hereby given that a hearing will be held, at a time and place to be set in the future by an Atomic Safety and Licensing Board ("the Board") to consider the May 10, 1972 application for amendment of Source Material License No. SUB-1010 held by the licensee. The Board will be designated by the Chairman of the Atomic Safety and Licensing Board Panel. Notice as to its membership will be published in the FEDERAL REGISTER.

The Board will consider and initially decide, as the issues in this proceeding, whether, pursuant to the Atomic Energy Act of 1954, as amended, and in accordance with 10 CFR 40.32(c) and (d):

1. The licensee's equipment, facilities, and procedures proposed for use pursuant to the requested amendment are adequate to protect health and minimize danger to life or property; and

2. The issuance of the amendment will be inimical to the health and safety of the public.

If, upon consideration of the record developed in this proceeding, the Board makes an affirmative finding with respect to Item 1 and a negative finding with respect to Item 2, the application shall be remanded to the Deputy Director for such further action on environmental matters as may be required by 10 CFR 40.32(e).

A prehearing conference or conferences will be held by the Board, at a date and place to be set by it, to consider pertinent matters in accordance with the Commission's rules of practice. The date and place of the hearing will be set by the Board at or after the prehearing conference. Notices as to the dates and places of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705, must be filed by the licensee not later than August 6, 1973.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708, an original and twenty (20) conformed copies of each such paper with the Commission.

Pursuant to 10 CFR 2.785, the Commission authorizes an Atomic Safety and Licensing Appeal Board to exercise the authority and perform the review functions which would otherwise be exercised and performed by the Commission. The Appeal Board will be designated pursuant to 10 CFR 2.787, and notice as to its membership will be published in the FEDERAL REGISTER.

Dated at Germantown, Maryland this 10th day of July 1973.

For the Atomic Energy Commission.

GORDON M. GRANT,
Acting Secretary of the Commission.

[FR Doc.73-14451 Filed 7-13-73;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

EFFLUENT STANDARDS AND WATER QUALITY INFORMATION ADVISORY COMMITTEE

Notice and Agenda of Meeting

1. *Notice of meeting.* Notice is hereby given that meetings of the Effluent Standards and Water Quality Information Advisory Committee ("the Committee") established under section 515 of the Federal Water Pollution Control Act ("the Act"; 33 U.S.C. 1373; Public Law 92-500), will be held beginning at 9 a.m. on each day, July 23, 1973 through July 27, 1973, in Room 1112, Crystal City, Building 2, Arlington, Virginia. These are regularly scheduled meetings of the Committee.

During the week of July 23, 1973 through July 27, 1973, the Committee intends to consider scientific and technical information pertinent to the determination required to be made by the Administrator of the Environmental Protection Agency when proposing regulations providing effluent limitations guidelines and standards of performance for new sources under the Act, including guidelines and standards for the following categories of sources: pulp and paper mills; paperboard, builders paper and board mills; meat product and rendering processing; dairy product processing; grain mills; canned and preserved fruits and vegetables processing; canned and preserved seafood processing; sugar processing; textile mills; inorganic chemicals manufacturing; soap and detergent manufacturing; fertilizer manufacturing; petroleum refining; nonferrous metals manufacturing; phosphate manufacturing; steam electric powerplants; ferroalloy manufacturing; leather tanning and finishing; glass and asbestos manufacturing; and rubber processing.

The meetings will be open to the public. The Committee does not intend to receive oral statements or hold informal workshops. However, written statements may be submitted to the Committee in

accordance with the procedures outlined below. Any member of the public planning to attend or wishing to obtain additional information should contact Dr. Martha Sager, Chairman, ES&WQIAC at 703/557-7390. Any changes in the above planned schedule will be announced at the Committee meetings.

2. *Written statements.* Section 515(b)(3) of the Act provides that scientific and technical information in the Committee's possession, including that which is presented at public hearings, is to be transmitted by the Committee to the Administrator and "shall constitute a part of the administrative record and comments on my proposed regulations or standards as information to be considered with other comments and information in making any final determinations." When public hearings are held by the Committee, transcripts of these hearings will be prepared and included within the administrative record. Minutes of Committee meetings will also be prepared and included in the record; however, verbatim transcripts of the discussions at such meetings will not be prepared.

A public hearing will not be held during the July 23 through July 27, 1973 meetings. Parties desiring to submit scientific and technical information to the Committee should submit such information in writing to the Committee, rather than rely upon minutes of the Committee meetings for the transmission of such information. (The Committee, of course, does not view this as the sole means of inclusion of public comments in the administrative record. See, e.g., Administrative Procedure Act, 5 U.S.C. 553 and 706.) Written statements or comments may be transmitted to the Committee at any meeting of the Committee or by mail to Dr. Martha Sager, Chairman, Effluent Standards and Water Quality Information Advisory Committee, Environmental Protection Agency, Room 821, Crystal Mall, Building 2, Washington, D.C. 20460.

ROBERT L. SANSOM,
Assistant Administrator for Air and Water Programs.

JULY 9, 1973.

[FR Doc.73-14478 Filed 7-13-73;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

EQUIPMENT STANDARDS FOR NON-BARRIER PBX TASK GROUP

Notice of Meeting

JULY 10, 1973.

In accordance with Public Law 92-463, announcement is made of a public meeting of the Equipment Standards for Non-Barrier PBX Task Group of the PBX Standards Advisory Committee. The meeting is to be held on July 23, and 24, 1973, at the Franklin D. Roosevelt Post Office Building, G.T.E. office, 23rd Floor at 909 Third Avenue, New York, New York. The meeting will start on July 23 at 1:00 p.m.

1. *Purpose.* The purpose of the PBX Standards Advisory Committee is to prepare recommended standards to permit the interconnection of customer provided and maintained PBX equipment to the public switched network. The purpose of this Task Group is to prepare recommendations to the PBX Standards Advisory Committee regarding Equipment Standards for the Non-Barrier repeat coil PBX. The results of this meeting will supply material to be included in the Advisory Committee's August status report.

2. *Activities.* As at prior meetings, Task Group members and observers present their suggestions and recommendations regarding the various technical criteria and standards that should be considered as part of the Equipment Standards.

3. *Agenda.* The agenda for the July 23, 24, 1973 meeting will be as follows:

a. Update of the Equipment Standards based upon the recent changes in Interface Criteria

b. Review of Hazardous voltages

4. *Public participation.* The public is invited to attend this meeting. Any member of the public wishing to file a written statement with the Committee, may do so before or after the meeting.

It is suggested that those desiring more specific information, contact the Domestic Rates Division on (202) 632-6457.

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

[FR Doc.73-14467 Filed 7-13-73;8:45 am]

FEDERAL MARITIME COMMISSION

AMERICAN GREAT LAKES-MEDITERRANEAN EASTBOUND FREIGHT CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street, N.W., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before August 6, 1973. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Eric G. Brown, Secretary American Great Lakes-Mediterranean Eastbound Freight Conference 10, Place de la Joliette (2me) Marseilles, France

Agreement No. 9000-6 among member lines of the above-named conference adds a provision to the basic agreement providing that member lines may charter tramp vessels within the scope of the conference to Black Sea ports, for full homogeneous cargo, excluding relief cargo. In addition it adds Black Sea Canada Line as a conference member and deletes from membership Zim Israel Navigation Co., Ltd.

By order of the Federal Maritime Commission.

Dated: July 10, 1973.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-14484 Filed 7-13-73;8:45 am]

HENRY E. KLOCH & CO., INC., ET AL.

Applicants for Independent Ocean Freight Forwarder License

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573

Henry E. Kloch & Co., Inc.
327 So. LaSalle Street
Chicago, Illinois 60604

Officers. Henry E. Kloch, President Sandra V. Kloch, Secretary/Treasurer Gerald T. Nawrock, Exec. Vice President Hermilo Mendoza, Vice President

Peter J. Caputo
107 Washington Street
New York, New York 10006

Yusen Air & Sea Service (U.S.A.), Inc.
60 East 42nd Street
New York, New York 10017

Officers and directors. Morio Saegusa, President Susumu Yamashita, Exec. Vice President/Secretary Yusuke Nakano, Vice President/Treasurer Itaru Takatori, Director Toshio Okamura, Director

By the Commission.

Dated: July 9, 1973.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-14483 Filed 7-13-73;8:45 am]

ITALPACIFIC LINE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street, N.W., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before August 6, 1973. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Robert H. Huey, Esq.
Mudge Rose Guthrie & Alexander
1701 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Agreement No. 9557–2 among the member corporations of the above joint service agreement provides for withdrawal of Rubystone Shipping Corporation, Lodestone Shipping Corporation, Coralstone Shipping Corporation and Pearlstone Shipping Corporation, collectively known as the New Stone Corporations, from the agreement.

By order of the Federal Maritime Commission.

Dated: July 10, 1973.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-14485 Filed 7-13-73;8:45 am]

JAPAN-ATLANTIC AND GULF FREIGHT CONFERENCE

Notice of a Petition Filed

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 814).

Interested parties may inspect a copy of the proposed contract form and of the petition at the Washington office of the Federal Maritime Commission, 1405 I Street, N.W., room 1015 or at the field offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments with reference to the proposed contract form and the petition including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, 1405 I Street, N.W., Washington, D.C. 20573, on or before August 6, 1973. Any person desiring a hearing on the proposed contract system shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the proposed contract form and the petition (as indicated hereinafter), and the statement should indicate that this has been done.

Notice of agreement filed by:

Charles F. Warren, Esq.
1100 Connecticut Avenue, N.W.
Washington, D.C. 20036

The member lines of the Japan-Atlantic & Gulf Freight Conference (Agreement No. 3103, as amended) have filed with the Commission under Section 146 an application to modify its approved Dual Rate Contract, which has been assigned Federal Maritime Commission Number 3103 DR–3. The application adds currency devaluation to those governmental activities contained in Article 15(a) of the contract which, if occur, permits the conference to suspend, or in lieu of suspension, to increase rates under the contract on not less than 15 days written notice to the merchant who retains the right to notify the conference in writing of his intent to suspend the contract insofar as such increase is concerned.

By order of the Federal Maritime Commission.

Dated: July 9, 1973.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.73-14481 Filed 7-13-73;8:45 am]

PACIFIC WESTBOUND CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street, N.W., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before August 6, 1973, of this notice in the Federal Register. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

D. D. Day, Jr., Chairman
Pacific Westbound Conference
635 Sacramento Street
San Francisco, California 94111

Agreement No. 57–99, entered into by the member lines of the Pacific Westbound Conference, amends the approved agreement of that conference to (1) provide that all changes in the Rules and Regulations, appended to and made a part of the conference agreement, shall be by two-thirds vote of the member lines entitled to vote; (2) delete subparagraph 1, Article 10, of the Appendix entitled "Rates to Major Ports"; (3) change the designation of sub-paragraph 2, Article 10, entitled "Rates to Differential Ports" to sub-paragraph 1, "Foundation for Rates", and substitute new language with respect to the authority to establish rates and arbitraries to outports in Korea, the Philippines, Vietnam and Taiwan; (4) change the designation of sub-paragraph 3, Article 10, to sub-paragraph 2; (5) delete Article 11 of the Appendix entitled "Rates to Differential Ports"; and (6) designate present Articles 12 and 13 of the Appendix as Articles 11 and 12, respectively.

By order of the Federal Maritime Commission.

Dated: July 6, 1973.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 73-14482 Filed 7-13-73;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CP72-292]

PENNZOIL OFFSHORE TRANSMISSION CO.

Amendment to Application

JULY 11, 1973.

Take notice that on July 3, 1973, Pennzoil Offshore Transmission Company

(Applicant), 1500 Southwest Tower, Houston, Texas 77002, filed in Docket No. CP72-292 an amendment to its application filed June 20, 1972, in said docket pursuant to section 7(c) of the Natural Gas Act providing for the construction and operation of facilities offshore and onshore Louisiana and to take into the proposed facilities volumes of gas in interstate commerce to be purchased from this area for resale and delivery to others, all as more fully set forth in the application as amended, which is on file with the Commission and open to public inspection.

The original application in this docket requested authorization to construct and operate approximately 10.6 miles of 30-inch pipeline extending from Block 587 in the West Cameron Area south addition, offshore Louisiana, to Block 548 in the same area; approximately 121.1 miles of 36-inch pipeline extending from a platform in Block 548 to a point onshore near Sweet Lake, Cameron Parish, Louisiana; and approximately 139 miles of 30-inch pipeline extending from Sweet Lake to a point near Clarence, Nachitoches Parish, Louisiana, all at a cost of $126,000,000. Applicant also requested authorization to transport through the proposed facilities and sell up to 40,000 Mcf of gas per day to United Gas Pipe Line Company (United) of which Applicant is a wholly owned subsidiary, at a monthly contract demand rate of $6.18 per Mcf and a commodity charge based on Applicant's average cost of purchased gas, subject to a 100 percent load factor and adjusted to reflect the effect of changes in the interest payable on its outstanding debt.

Applicant now proposes to construct and operate approximately 22.8 miles of 24-inch lateral pipeline extending from Blocks 532 and 533 in the West Cameron Area, South Addition, to a platform at Block 548 in the same area; approximately 11.2 miles of 30-inch pipeline from Block 590 in the West Cameron Area, South Addition, to a platform in Block 548 in the same area; approximately 10.6 miles of 30-inch pipeline from Block 587 in West Cameron Area, South Addition, to the platform in Block 548 in the same area; aproximately 120.8 miles of 36-inch pipeline from Block 548 to a point near Sweet Lake, Louisiana; and approximately 369 miles of 30-inch pipeline extending from Sweet Lake to a point in Allen Parish, Louisiana. Applicant also proposes to construct and operate a dehydration facility near Sweet Lake and certain measurement and regulation facilities.

Applicant also now proposes to sell for 20 years to United for delivery to others aproximately 400,000 Mcf of gas per day produced from Blocks 548, 572, 532, 533, and 590 all in the West Cameron Area, South Addition, upon completion of the proposed facilities pursuant to the June 15, 1972, agreement with United, as supplemented June 29, 1973. Applicant further proposes to deliver the sale gas through the proposed facilities, for United's account, in volumes of up to 150,000 Mcf per day to Transcontinental Gas Pipe Line Corporation and up to 250,000 Mcf of gas per day to Texas Eastern Transmission Corporation both delivered at points in Allen Parish, Louisiana. Applicant proposes to charge United a monthly contract demand rate of $5.51 per Mcf and a commodity charge based on Applicant's average cost of purchased gas. It is stated that Applicant has not yet been able to execute contracts for the purchase of gas from the West Cameron Area; therefore, throughout its application Applicant has assumed a price of 50.0 cents per Mcf for illustrative purposes. Based on that assumption Applicant estimates that the effect of delivering 400,000 Mcf per day of sale gas on United's cost of gas will be 4.4 cents per Mcf.

Applicant states that the total cost of the proposed construction and operation is $113,000,000 which will be financed by United's purchase of approximately $20,000,000 of Applicant's common stock, the private or public sale of approximately $20,000,000 of non-voting, preferred stock bearing a probable 9 percent dividend rate, and the private or public sale of approximately $75,000,000 of long-term debt at an estimated 8.5 percent interest rate with a ten or twelve-year maturity date. Interim financing would be through short-term construction loans. Applicant proposes to establish a 10 percent depreciation rate.

Applicant states that the facilities for which authorization is sought will be designed and operated by or under the supervision of United pursuant to a service agreement between the parties. United will participate in the negotiation of any construction contracts and will supervise the construction on behalf of Applicant.

Any person desiring to be heard or, as amended, to make any protest with reference to said application should on or before July 27, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons who have heretofore filed protests and petitions to intervene need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.73-14399 Filed 7-13-73;8:45 am]

FEDERAL RESERVE SYSTEM

FIRST BANCSHARES OF FLORIDA, INC.

Order Approving Acquisition of Bank

First Bancshares of Florida, Inc., Boca Raton, Florida, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of First National Bank of Fort Pierce, Fort Pierce, Florida ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the sixteenth largest banking organization in Florida, controls six subsidiary banks with aggregate deposits of $224.7 million, representing 1.1 per cent of the commercial bank deposits in the State. (Banking data are as of December 31, 1972, and reflect holding company formations and acquisitions approved by the Board through May 31, 1973.) Approval of the acquisition would increase Applicant's percentage share of State deposits by less than two-tenths of a percentage point.

Bank (deposits of $31.1 million) is the second largest of four banks located in St. Lucie County, the relevant market. The largest bank in the market holds approximately 54 percent of market deposits, while Bank and the third and fourth largest banks hold approximately 30, 14 and 2 per cent, respectively. The three competing banks are controlled by bank holding companies, including the third largest in the State. Applicant's closest banking office is located 15 miles south of Bank, and there is no significant competition between any of Applicant's subsidiary banks and Bank. Furthermore, in view of the distances separating the banks and the prohibition against branch banking in Florida, it appears unlikely that any meaningful competition would develop between these offices in the future. The Board concludes that consummation of the proposal would not eliminate existing or potential competition, nor would it have adverse effects on any competing bank.

Considerations relating to the financial and managerial resources and future propsects of Applicant, its subsidiary banks and Bank are generally satisfactory and consistent with approval of the application, particularly in view of Applicant's commitment to inject additional equity capital into certain of its subsidiary banks. While it appears that major banking needs in the area are being met, considerations relating to the convenience and needs of the communities to be served are consistent with approval of the application. It is the

Board's judgment that the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before August 6, 1973 or (b) later than October 6, 1973, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[3] effective July 6, 1973.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.73-14415 Filed 7-13-73;8:45 am]

FIRST NATIONAL CHARTER CORP.

Order Approving Acquisition of Bank

First National Charter Corporation, Kansas City, Missouri, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1841(a)(3)) to acquire 90 percent or more of the voting shares of Commercial Bank of Lexington, Lexington, Missouri ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls 10 banks with aggregate deposits of $693.9 million, representing 5 percent of the total commercial deposits in Missouri, and is the fourth largest bank holding company in the State.[1] Acquisition of Bank (deposits of $16.6 million) would increase Applicant's share of deposits in Missouri insignificantly and its ranking among banking organizations in the State would be unchanged.

Bank is the larger of two banks[2] in the city of Lexington, Missouri (population of 5,400) and holds 63 percent of total commercial deposits therein. It is the second largest of 11 banks in its relevant banking market (approximated by the southeastern portion of Ray County and the northwestern portion of Lafayette County) controlling 18.5 percent of deposits in that area. Applicant's nearest subsidiary and lead bank is located in Kansas City, Missouri, 55 miles west of Lexington. The record indicates that there is no significant existing competition between Bank and any of Applicant's subsidiaries. Furthermore, it is not likely that significant future competition would develop in view of the distances involved, the numerous banking alternatives, and Missouri's restrictive branching laws. Competitive considerations are, therefore, consistent with approval of the application.

The financial and managerial resources of Applicant, its subsidiary banks, and Bank are regarded as satisfactory; future prospects for all are favorable. The banking needs in the Lexington area are, for the most part, being met; however, inasmuch as Applicant will offer expanded services, such as improvement of Bank's loan operations and management training programs, considerations relating to the convenience and needs of the community to be served are consistent with approval of this acquisition. It is the Board's judgment that consummation of the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before August 6, 1973 or (b) later than October 6, 1973, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[3] effective July 6, 1973.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.73-14419 Filed 7-13-73;8:45 am]

FIRST UNION, INC.

Order Approving Acquisition of Bank

First Union, Incorporated, St. Louis, Missouri, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 90.45 per cent or more of the voting shares of Bank of Kennett, Kennett, Missouri ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the second largest bank holding company in Missouri, controls 14 banks with aggregate deposits of $1,059 million, representing 8.4 per cent of total deposits of commercial banks in the State. (Unless otherwise indicated, banking data are as of June 30, 1972, and reflect holding company formations and acquisitions approved through March 30, 1973.)[1] Consummation of the proposed acquisition of Bank ($28.9 million of deposits as of December 31, 1972) would increase Applicant's share of deposits in commercial banks in the State by .2 percentage points and would not significantly increase concentration of banking resources in Missouri.

Bank is the largest of three banks in Kennett, Missouri, and is the largest of 17 banks in the Dunklin County banking market, which includes also portions of Pemiscot County and Clay County (Arkansas), controlling 18 per cent of deposits of commercial banks in this market area. Applicant's closest subsidiary bank is located approximately 100 miles north of Bank. No competition exists between Bank and any of Applicant's subsidiary banks. In view of the distances between Applicant's subsidiary banks and Bank and the restrictive Missouri branching laws, it is unlikely that significant competition would develop in the future.

The population of Dunklin County has declined in recent years. The population per banking office ratio of the county is approximately one-third less than the average for Missouri counties of comparable size. Although the city of Kennett is experiencing some increased economic growth in non-agricultural fields, it appears unlikely, in view of the declining population of the area in general, that Applicant would enter this area *de novo*. In addition, acquisition of Bank by Applicant would not have an adverse effect on present or future competition among banks in the Dunklin County banking market. Bank has consistently had a low percentage of loans to total assets.[2] Consummation of the proposal could result in greater aggressiveness on the part of Bank in seeking loan customers, thereby stimulating competition among financial institutions and economic growth in its market. The Board concludes that consummation of Applicant's proposal would not have an adverse effect on competition in any relevant area.

The financial condition, managerial resources and future prospects of Applicant, its subsidiaries and Bank appear generally satisfactory. Although there is no evidence in the record to indicate that the banking needs of the residents of the Dunklin County market are not currently being met, affiliation with Applicant would enable Bank to compete over a wider range of banking services, including trust and automatic teller services. In addition, acquisition by Applicant should provide Bank with a pool of experienced managerial resources necessary to provide additional and expanded banking services. These factors, as they

[3] Voting for this action: Vice Chairman Mitchell and Governors Brimmer, Sheehan and Holland. Absent and not voting: Chairman Burns and Governors Daane and Bucher.

[1] All banking data are as of December 31, 1972 and reflect bank holding company formations and acquisitions approved by the Board through May 31, 1973.

[2] The smaller bank is a recently acquired subsidiary of the third largest multi-bank holding company in the State.

[3] Voting for this action: Vice Chairman Mitchell and Governors Brimmer, Sheehan and Holland. Absent and not voting: Chairman Burns and Governors Daane and Bucher.

[1] On June 8, 1973, the Board announced its approval of Applicant's application to acquire Chesterfield Bank, Chesterfield, Missouri ($14.7 million of deposits).

[2] For example, as of June 30, 1972, Bank's percentage of loans to total deposits equalled 35.7 per cent compared with percentages of 56.7 and 58.6 per cent for the two other banks in Kennett.

relate to the convenience and needs of the communities to be served, lend some weight for approval of the application. It is the Board's judgment that the proposed acquisition is in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before August 6, 1973, (b) later than October 6, 1973, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of St. Louis pursuant to delegated authority.

By order of the Board of Governors,[2] effective July 6, 1973.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.73-14418 Filed 7-13-73;8:45 am]

IRON CITY EAGLE COAL, INC.

Order Approving Formation of Bank Holding Company

Iron City Eagle Coal, Inc., Lockwood, West Virginia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 87.49 per cent or more of the voting shares of The Gauley National Bank of Gauley Bridge, Gauley Bridge, West Virginia ("Bank").[1]

Notice of the application, affording opportunities for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant (wholly owned by its organizers) was incorporated in 1962 and has engaged in the business of mining coal and selling mining machinery and equipment. Such activities were discontinued in 1972 and its assets now consist entirely of cash.

Bank (deposits of approximately $11 million) is the only bank in Gauley Bridge and the third largest of five banks in the northern half of Fayette County, the relevant market, where it controls 15.6 per cent of market deposits.[3] As Applicant has no present operations or subsidiaries, the proposal essentially involves only a change from individual to corporate ownership. Therefore, consummation of the proposal herein would eliminate neither existing nor potential competition.

The management, financial condition, and prospects of Bank are all considered satisfactory. The management of Applicant is essentially the same as that of Bank; the financial condition of Applicant and its prospects, which will depend largely upon Bank, appear to be satisfactory. The ability of Bank to extend or improve the range of financial services for this area may be enhanced as a result of the flexibility afforded by the holding company structure. Hence, considerations relating to the convenience and needs of the communities to be served are consistent with approval. It is the Board's judgment that the proposed transaction would be in the public interest, and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before August 6, 1973 or (b) later than October 6, 1973, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Board of Governors,[2] effective July 6, 1973.

[SEAL] CHESTER B. FELDBERG,
Secretary of the Board.

[FR Doc.73-14414 Filed 7-13-73;8:45 am]

MIDLANTIC BANKS, INC.

Acquisition of Bank

Midlantic Banks, Inc., Newark, New Jersey, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of Midlantic National Bank of Somerset, Bernardsville, New Jersey, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than July 26, 1973.

Board of Governors of the Federal Reserve System, July 6, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-14413 Filed 7-13-73;8:45 am]

UNION BANCSHARES COMPANY

Acquisition of Bank

JULY 6, 1973.

Union Bancshares Company, Steubenville, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent (less directors' qualifying shares) of the voting shares of the successor by merger to The Peoples-Merchants Trust Company, Canton, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than July 25, 1973.

Board of Governors of the Federal Reserve System, July 6, 1973.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.73-14412 Filed 7-13-73;8:45 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

PETER CAVE COAL CO.

Application for Renewal Permit; Opportunity for Public Hearing

Application for Renewal Permit for Noncompliance with the Interim Mandatory Dust Standard (2.0 mg/m³) has been received as follows:

ICP Docket No. 20404, PETER CAVE COAL COMPANY No. 1 Mine, USBM ID No. 15 02060 0, Lovely, Kentucky.

In accordance with the provisions of section 202(b)(4) (30 U.S.C. 842(b)(4)) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 Fed. Reg. 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street, N.W., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

JULY 10, 1973.

[FR Doc.73-14410 Filed 7-13-73;8:45 am]

[2] Voting for this action: Vice Chairman Mitchell and Governors Brimmer, Sheehan and Holland. Absent and not voting: Chairman Burns and Governors Daane and Bucher.

[1] The issue of whether State law permits the formation of a bank holding company in West Virginia has not been raised with respect to this application. However, in its consideration of the instant application, the Board has noted, and relied upon, an opinion by the Attorney General of West Virginia issued September 25, 1972, to the effect that section 31A-8-12(b) of the West Virginia Code does not prohibit the formation of bank holding companies within the State.

[3] All banking data are as of December 31, 1972.

[2] Voting for this action: Vice Chairman Mitchell and Governors Brimmer, Sheehan, and Holland. Absent and not voting: Chairman Burns and Governors Daane and Bucher.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 73-54]

MEDICAL ISOTOPES ADVISORY SUBCOMMITTEE OF THE JOHNSON SPACE CENTER RADIATION SAFETY COMMITTEE

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given that a meeting of the Medical Isotopes Advisory Subcommittee will be held on July 20, 1973, from 2:00 p.m. to 3:30 p.m., in Room 120, Building 1, Johnson Space Center, Houston, Texas 77058.

This is the second meeting of the Subcommittee for calendar year 1973. The meeting agenda includes a review of changes to experiment protocols of the First Skylab Mission and a review of protocols for the Second Skylab Mission. The Subcommittee will formulate recommendations to the JSC Radiation Safety Committee.

The meeting will be open to the public; however, a limited number of seats will be available. Any member of the public wishing to attend the meeting should contact Mr. J. Vernon Bailey, Executive Secretary, 713/483-3419.

GEORGE M. LOW,
Deputy Administrator, National Aeronautics and Space Administration.

[FR Doc.73-14460 Filed 7-13-73;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-10274]

CONSOLIDATED TAPE PLAN

Extension of Deadline for Response to Comments

The Securities and Exchange Commission has extended from July 10, 1973 until August 10, 1973 the deadline by which sponsors may respond to and interested parties may comment on the Commission's letter of comments, dated June 13, 1973 and published at 38 FR 15999, June 19, 1973, to the sponsors of the consolidated tape plan filed pursuant to Rule 17a-15 under the Securities Exchange Act of 1934.[1] Rule 17a-15 provides for the reporting of prices and volume of completed transactions in listed securities.

The Commission has received several requests for such an extension and has determined to extend the deadline in view of the complexity and importance of some of the relevant issues and its desire to afford sufficient time for all interested persons to respond thereto or comment thereon.

(Secs. 10(b), 15(c), 17(a), 23(a), 48 Stat. 891, 895, 897, 901, 49 Stat. 1377, 1379, 52 Stat. 1075, 1076, 78 Stat. 570, 84 Stat. 1653, 15 U.S.C. 78j(b), 78o(c), 78q, 78w)

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

JULY 10, 1973.

[FR Doc.73-14447 Filed 7-13-73;8:45 am]

[File No. 500-1]

AADAN CORP.

Order Suspending Trading

JULY 6, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.10 par value, and all other securities of Aadan Corporation, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from July 7, 1973 through July 16, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Recording Secretary.

[FR Doc.73-14428 Filed 7-13-73;8:45 am]

[File No. 500-1]

ACCURATE CALCULATOR CORP.

Order Suspending Trading

JULY 3, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.01 par value, and all other securities of Accurate Calculator Corporation, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from July 4, 1973 through July 13, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Recording Secretary.

[FR Doc.73-14434 Filed 7-13-73;8:45 am]

[70-5363]

AMERICAN NATURAL GAS CO. AND MICHIGAN WISCONSIN PIPELINE CO.

Proposed Issue and Sale of First Mortgage Bonds

JULY 10, 1973.

Notice is hereby given that American Natural Gas Company (American Natural), 50 Rockefeller Plaza, Suite 4545, New York, N.Y. 10020, a registered holding company, and Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), One Woodward Avenue, Detroit, MI 48226, a wholly-owned subsidiary company of American Natural, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6, 7, 9, 10 and 12(f) of the Act and Rules 43 and 50 thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Michigan Wisconsin proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $50,000,000 principal amount of its First Mortgage Pipe Line Bonds ("New Bonds"), __ percent Series, due 1993. The interest rate on the New Bonds (which shall be a multiple of ⅛th of 1 percent) and the price to be received by Michigan Wisconsin for the New Bonds (which price, exclusive of accrued interest, shall be not less than 98½ percent of the principal amount and not more than 101½ percent of the principal amount) are to be determined by competitive bidding. The New Bonds will be issued under a Mortgage and Deed of Trust, dated as of September 1, 1948, as heretofore supplemented and as to be further supplemented by a Twenty-sixth Supplemental Indenture, to be dated as of August 15, 1973, between Michigan Wisconsin and First National City Bank and Peter A. Armenia, as Trustees ("Indenture"), which includes a prohibition until August 15, 1978 against refunding the New Bonds with the proceeds of funds borrowed at a lower effective interest cost. A sinking fund will be commenced on August 15, 1978 to retire the issue by maturity. The Indenture provides that sinking fund payments shall be accelerated under certain circumstances relating to annual reports which are required to be submitted to the Indenture Trustees regarding estimated dates of exhaustion of firm gas supply.

Michigan Wisconsin also proposes to sell, and American Natural proposes to acquire, an additional 400,000 shares of Michigan Wisconsin's common stock ("Common Stock"), par value $100 per share, for a cash consideration of $40,000,000. Accordingly, Michigan Wisconsin proposes to amend its Certificate of Incorporation to increase its authorized capital stock from 2,045,000 to 2,445,000 shares. Prior to or concurrently with the sale of the Common Stock, Michigan Wisconsin will pay to American Natural a special cash dividend in the amount of $15,000,000, the effect of the two transactions being to convert $15,000,000 of Michigan Wisconsin's existing retained earnings into common stock.

To provide the funds necessary for making the additional $25,000,000 investment in the Common Stock of Michigan

[1] The text of the Commission's letter was contained in Securities Exchange Act Release No. 10218 (June 13, 1973).

Wisconsin, American Natural proposes to borrow from banks under lines of credit an aggregate of $22,000,000 on its promissory notes ("Notes") maturing July 1, 1974 and to utilize cash on hand. American Natural has obtained lines of credit from banks (herein collectively referred to as "Banks") providing for this borrowing. The Banks and their respective commitments are as follows:

First National City Bank, New York, N.Y.	$13,000,000
Manufacturers Hanover Trust Company, New York, N.Y.	9,000,000
	22,000,000

The Notes will be unsecured and will be issued on or about August 22, 1973. There is no commitment fee, closing or other related charges payable to the Banks in connection with the borrowing. The Notes may be prepaid at any time without penalty. The Notes will bear interest at the prime rate in effect at the lending bank on the date of borrowing and will be adjusted to the prime rate effective with any change in said rate. Interest shall be payable at the end of each 90-day period subsequent to the date of the first borrowing and at maturity. As a condition of these lines of credit, American Natural is required to maintain compensating balances with the Banks. The effective interest cost is thereby increased by approximately one and one-half percent above the stated prime rate.

Michigan Wisconsin will apply the net proceeds from the proposed sale of the New Bonds and Common Stock to retire outstanding notes payable to banks under its $75,000,000 line of credit at the date of sale (See Holding Company Act Release No. 17679), and to pay, in part, 1973 construction costs (estimated at $100,400,000), and advance payments for gas.

It is stated that no State commission and no Federal commission, other than than this Commission, has jurisdiction over the proposed transactions. An estimate of the fees and expenses expected to be incurred in connection with the proposed transactions will be filed by amendment.

Notice is further given that any interested person may, not later than August 2, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, 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 notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulations, pursuant to delegated authority.

[SEAL] SHIRLEY E. HOLLIS,
Recording Secretary.

[FR Doc.73-14431 Filed 7-13-73;8:45 am]

[File No. 500-1]

AZTEC PRODUCTS, INC.

Order Suspending Trading

JULY 3, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.05 par value, and all other securities of Aztec Products, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 3:00 p.m. (EDT) July 3, 1973 through July 12, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Recording Secretary.

[FR Doc.73-14425 Filed 7-13-73;8:45 am]

[File No. 500-1]

BISI, INC.

Order Suspending Trading

JULY 6, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.10 par value, and all other securities of BISI, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 10:00 a.m. (EDT) July 6, 1973 through July 15, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Recording Secretary.

[FR Doc.73-14440 Filed 7-13-73;8:45 am]

[File No. 500-1]

CHRIS McGUIRE, INC.

Order Suspending Trading

JULY 2, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.10 par value, and all other securities of Chris McGuire, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 2:30 p.m. July 2, 1973 through July 11, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Recording Secretary.

[FR Doc.73-14424 Filed 7-13-73;8:45 am]

[File No. 500-1]

COASTAL STATES GAS CORP.

Order Suspending Trading

JULY 5, 1973.

The common stock, $.33⅓ par value; $1.19 cumulative convertible preferred Series A, $.33⅓ par value; and $1.83 cumulative convertible preferred Series B, $.33⅓ par value of Coastal States Gas Corporation being trade on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Coastal States Gas Corporation being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from July 5, 1973 through July 14, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Recording Secretary.

[FR Doc.73-14437 Filed 7-13-73;8:45 am]

[File No. 500-1]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

JULY 6, 1973.

It appearing to the Securities and Exchange Commission that the summary

suspension of trading in the common stock, 10¢ par value, of Continental Vending Machine Corporation, and the 6% convertible subordinated debentures due September 1, 1976 being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period July 9, 1973 through July 18, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Recording Secretary.

[FR Doc.73-14426 Filed 7-13-73;8:45 am]

[File No. 500-1]

DATAMEDIA INTERNATIONAL INC.

Order Suspending Trading

JULY 5, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, no par value, and all other securities of Datamedia International Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 10:00 a.m. (EDT) on July 5, 1973 and continuing through July 14, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Recording Secretary.

[FR Doc.73-14441 Filed 7-13-73;8:45 am]

[File No. 500-1]

DISPLAY SCIENCES, INC.

Order Suspending Trading

JULY 6, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.01 par value, and all other securities of Display Sciences, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 10:00 a.m. (EDT) July 6, 1973 through July 15, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Recording Secretary.

[FR Doc.73-14436 Filed 7-13-73;8:45 am]

[811-1693]

DREXEL HEDGE FUND, INC.

Notice of Application

JULY 10, 1973.

Notice is hereby given that Drexel Hedge Fund, Inc. 1500 Walnut Street Philadelphia PA 19101 ("Applicant"), a diversified, open-end management investment company registered under the Investment Company Act of 1940 (the "Act"), has filed an application 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 contained therein which are summarized below.

On February 6, 1973, the Board of Directors of Applicant approved an Agreement and Plan of Reorganization between Applicant and Standard & Poor's Intercapital Dynamics Fund, Inc. ("S&P"), a registered non-diversified, openend management investment company, and on May 3, 1973, the plan was approved by a majority of Applicant's shareholders. Pursuant to the plan, Applicant's portfolio securities and cash (except $18,000 in cash retained by Applicant to satisfy its liabilities and the expenses of dissolution) have been transferred to S&P in exchange for a number of shares of S&P having an aggregate adjusted net asset value equal to the adjusted value of the assets of Applicant so transferred, and the shares of S&P transferred to Applicant have been assigned to Applicant's shareholders on a pro rata basis. The shareholders of Applicant have thus become shareholders of S&P. The First Jersey National Bank, acting as transfer agent for S&P, is in the process of distributing these shares of S&P to Applicant's shareholders upon their surrender for cancellation of their shares of Applicant. Applicant is required to complete its dissolution within one year and to remit to S&P any portion of the retained cash not used by Applicant in winding up its affairs and settling its remaining liabilities.

Applicant states that, as a result of the execution and implementation of the plan, it presently has assets of less than $18,000 and is in the process of liquidating all shareholder interests in Applicant. For these reasons, it submits that it is no longer engaged in any activities which would bring it within any of the definitions of an investment company contained in section 3(a) of the Act.

Section 8(f) of the Act provides, in pertinent part, that whenever 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 taking effect 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 August 6, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for a hearing upon said application shall be issued 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 notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] SHIRLEY E. HOLLIS,
Recording Secretary.

[FR Doc.73-14421 Filed 7-13-73;8:45 am]

[File No. 500-1]

EQUITY FUNDING CORP.

Order Suspending Trading

JULY 6, 1973.

The common stock, $.30 par value, of Equity Funding Corporation of America being traded on the New York Stock Exchange, the Midwest Stock Exchange, the Pacific-Coast Stock Exchange, the Philadelphia-Baltimore-Washington Stock Exchange, the Boston Stock Exchange; warrants to purchase the $.30 par value common stock being traded on the American Stock Exchange and the Philadelphia-Baltimore-Washington Stock Exchange; 9½ percent debentures due 1990 being traded on the New York Stock Exchange; and 5½ percent convertible subordinated debentures due 1991 being traded on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Equity Funding Corporation of America being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 19(a)(4) and 15(c)(5) of the Securities

Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from July 6, 1973 through July 15, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Recording Secretary.

[FR Doc.73-14438 Filed 7-13-73;8:45 am]

[File No. 500-1]

FIRST LEISURE CORP.

Order Suspending Trading

JUNE 3, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.10 par value and all other securities of First Leisure Corporation, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15 (c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from July 5, 1973 through July 14, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Recording Secretary.

[FR Doc.73-14433 Filed 7-13-73;8:45 am]

[File No. 500-1]

GIANT STORES CORP.

Order Suspending Trading

JULY 6, 1973.

The common stock, $.10 par value, of Giant Stores Corp. being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Giant Stores Corp. being traded otherwise than on a national securities; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15 (c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from July 6, 1973 through July 15, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Recording Secretary.

[FR Doc.73-14430 Filed 7-13-73;8:45 am]

[File No. 500-1]

GOODWAY INC.

Order Suspending Trading

JULY 6, 1973.

The common stock, $.10 par value of Goodway Inc. being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Goodway Inc. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 19 (a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from July 7, 1973 through July 16, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Recording Secretary.

[FR Doc.73-14429 Filed 7-13-73;8:45 am]

[File No. 500-1]

HETRA COMPUTER & COMMUNICATIONS INDUSTRIES, INC.

Order Suspending Trading

JULY 6, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.01 par value, and all other securities of Hetra Computer & Communications Industries, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15 (c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 10:00 a.m. (EDT) July 6, 1973 through July 15, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Recording Secretary.

[FR Doc. 73-14435 Filed 7-13-73;8:45 am]

[811-1390]

INDUSTRIES EXCHANGE FUND, INC.

Filing of Application

JULY 10, 1973.

Notice Is Hereby Given that Industries Exchange Fund, Inc. ("Applicant"), 711 Polk St., Houston TX 77002, a Texas corporation registered as an open-end diversified management investment company under the Investment Company Act of 1940 ("Act"), has filed an application 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.

Pursuant to an Agreement and Plan of Reorganization ("Plan"), dated July 10, 1972, between Applicant and Commerce Fund, Inc. ("Commerce"), which Plan was approved by the shareholders of Applicant on February 23, 1973, Applicant transferred substantially all of its assets to Commerce on April 2, 1973 in exchange for shares of Commerce's common stock, which shares were thereupon distributed to Applicant's shareholders.

Applicant represents that it has retained assets of $375.43 for payment of expenses incurred by Applicant in connection with the Plan and Applicant's subsequent dissolution. Applicant further represents that subsequent to the payment of such expenses, it will distribute any remaining assets to its shareholders and will file Articles of Dissolution pursuant to the Texas Business Corporation Act.

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 taking effect 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 August 3, 1973, 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 should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after that date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the matter herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for a hearing upon said application shall be issued 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 notice of further developments in this matter.

including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] SHIRLEY E. HOLLIS,
Recording Secretary.

[FR Doc.73-14423 Filed 7-13-73;8:45 am]

[File No. 500-1]

INDUSTRIES INTERNATIONAL, INC.

Order Suspending Trading

JULY 6, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, and all other securities of Industries International, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from July 6, 1973 through July 15, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Recording Secretary.

[FR Doc.73-14432 Filed 7-13-73;8:45 am]

[File No. 500-1]

JEFFERSON NATIONAL TRUST

Order Suspending Trading

JULY 5, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, and all other securities of Jefferson National Trust being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 10:00 a.m. (EDT) on July 5, 1973 and continuing through July 14, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Recording Secretary.

[FR Doc.73-14439 Filed 7-13-73;8:45 am]

[File No. 500-1]

JEROME MACKEY'S JUDO, INC.

Order Suspending Trading

JULY 6, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.01 par value, and all other securities of Jerome Mackey's Judo, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from July 9, 1973 through July 18, 1973.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
Recording Secretary.

[FR Doc.73-14427 Filed 7-13-73;8:45 am]

[811-1914]

WISCONSIN LIFE FUND, INC.

Filing of Application

JULY 10, 1973.

Notice is hereby given that Wisconsin Life Fund, Inc. ("Applicant"), 709 N. Segoe Rd., Madison WI 43705, a Maryland corporation registered as a diversified, open-end management investment company under the Investment Company Act of 1940 ("Act"), has filed an application 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 contained therein, which are summarized below.

Applicant has requested withdrawal of its registration statement on Form S-5 under the Securities Act of 1933 which it filed in 1969 and which has never become effective. Applicant represents that no securities have ever been offered or sold to the public, and that current business conditions do not warrant offering its securities at this time. Applicant further represents that it is a dormant corporation engaging in no business activities.

Section 3(c)(1) of the Act excepts from the definition of investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons, and which is not making and does not presently propose to make a public offering of its securities.

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 taking effect 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 August 6, 1973, 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 he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date as provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued 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 notice of further developments in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation pursuant to delegated authority.

[SEAL] SHIRLEY E. HOLLIS,
Recording Secretary.

[FR Doc.73-14422 Filed 7-13-73;8:45 am]

TARIFF COMMISSION

[AA1921-125]

GERMANIUM POINT CONTACT DIODES FROM JAPAN

Notice of Investigation and Hearing

Having received advice from the Treasury Department on June 26, 1973, that germanium point contact diodes from Japan are being, or are likely to be, sold at less than fair value, the United States Tariff Commission on July 10, 1973, instituted investigation No. AA1921-125 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 the Tariff Commission's Hearing Room, Tariff Commission Building, 8th and E Streets, N.W., Washington, D.C. 20436, beginning at 10 a.m., E.D.S.T., on Tuesday, August 14, 1973. All parties will be given an opportunity to be present, to produce evidence, and to be heard at such hearing. Requests to appear at the public hearing should be received by the Secretary of the Tariff Commission, in writing, at its office in Washington, D.C., not later than noon, Thursday, August 9, 1973.

Issued: July 11, 1973.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.73-14477 Filed 7-13-73;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 296]

Assignment of Hearings

JULY 11, 1973.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 97310 Sub 11, Bell Transfer Company, Inc., MC 97310 Sub 12, Bell Transfer Company, Inc., now being assigned continued hearing August 13, 1973, at Department of Labor Conference Room, 2nd Floor, 908 South 20th Street, Birmingham, Ala.

MC 138185, F. Robert McDonald, Dba Auto Delivery Service, now assigned September 13, 1973, at San Francisco, Calif., is postponed indefinitely.

MC-1263 Sub 17, McCarty Truck Line, Inc., now assigned September 10, 1973, at Jefferson City, Mo., is cancelled and transferred to Modified Procedure.

MC 108411 Sub 5, Stearly's Motor Freight, Inc., Extension-Cranes, now assigned July 18, 1973, at Washington, D.C., is postponed indefinitely.

MC-113855 Sub 269, International Transport, Inc., now assigned August 13, 1973, at Washington, D.C., is postponed to October 29, 1973, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC 128273 Sub 135, Midwestern Express, Inc., now assigned July 24, 1973, at Washington, D.C., is postponed indefinitely.

MC 74321 sub 73, B. F. Walker, Inc., now assigned July 13, 1973, at Denver, Colorado, hearing is cancelled and application dismissed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-14471 Filed 7-13-73;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

JULY 11, 1973.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed on or before July 31, 1973.

FSA No. 42712—*Sulphuric and Spent Sulphuric Acid from and to Chicago, Illinois.* Filed by Louisville and Nashville Railroad Company (No. 1), for interested rail carriers. Rates on sulphuric acid and spent sulphuric acid, in tank-car loads, as described in the application, from Chicago, Illinois, to Lafayette, Indiana; also from Lafayette, Indiana, to Chicago, Illinois.

Grounds for relief—Motor-truck competition.

Tariff—Supplement 77 to Louisville and Nashville Railroad Company tariff 203-A, I.C.C. No. 63 (Monon Series). Rates are published to become effective on August 10, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.73-14472 Filed 7-13-73;8:45 am]

COST OF LIVING COUNCIL

FOOD INDUSTRY ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given that meetings of the Food Industry Advisory Committee, created by section 7(b) of Executive Order 11695, will be held on July 23 and July 24, 1973, at 9 a.m., at 2000 M Street, NW., Washington, D.C.

The morning portion of the July 23 meeting, which will be open to the public, will be held in Room 2105 (Auditorium). The agenda will consist of a discussion of the new farm legislation and the feasibility of standardizing cuts of meat. This is subject to change depending on new developments in the future.

The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Only members of the Committee, and its staff, may question the witnesses. Due to space limitations, it is possible that there will not be enough seating. In that event, only those persons will be admitted who have reserved a seat by phoning Mr. Michael Caughlin (202) 254-3008 prior to 5:30 P.M., Friday, July 20th. The seats will be reserved on a first-come, first-served basis.

While no unscheduled oral presentations will be entertained, anyone may submit a written statement by mailing it to Michael Caughlin, Room 8014, 2000 M Street, NW., Washington, DC 20508.

Any statements received by Monday, July 23, will be made available to the Committee before it adjourns on July 24. Any statement over three pages in length should be submitted in twenty copies.

Since the afternoon portion of the July 23 meeting and the meeting on July 24 will be used to discuss sensitive policy issues and possible governmental actions in connection therewith, I have determined that the meeting will fall within exemption (5) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with the operation of the Committee.

Issued in Washington, D.C. on July 13, 1973.

WILLIAM N. WALKER,
General Counsel,
Cost of Living Council.

[FR Doc.73-14594 Filed 7-13-73;10:25 am]

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PART II

ENVIRONMENTAL PROTECTION AGENCY

■

AIR QUALITY IMPLEMENTATION PLANS

Proposed Rulemaking for Certain States

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

ALASKA

Approval and Promulgation of Implementation Plans

Background. On July 27, 1972 (37 FR 15080), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved with specific exceptions the State of Alaska implementation plan for attainment and maintenance of national ambient air quality standards. Specifically, the Administrator disapproved Alaska's plan for the attainment and maintenance of the national ambient air quality standards for carbon monoxide in the Northern Alaska Intrastate Air Quality Control Region. The State of Alaska was required to submit a transportation control plan to assure attainment and maintenance of the standards for the Northern Alaska Region to EPA by February 15, 1973.

On January 31, the U.S. Circuit Court of Appeals for the District of Columbia found that the Administrator did not strictly conform to the requirements of the Clean Air Act in his July 27, 1972, decision. The Court ordered that the required transportation control plans be submitted to EPA by April 15, 1973.

On February 20, 1973, William A. Egan, Governor of Alaska, requested assistance from the Administrator in developing the necessary transportation control measures for the Fairbanks area to achieve the national ambient air quality standards. The Governor felt that State and local resources were not adequate to accomplish this task by April 15, 1973.

Summary

The State of Alaska has not held public hearings to consider alternative transportation and land use control strategies as part of their implementation plan for the Region, nor has the State indicated that it will submit a plan in compliance with EPA requirements. As a result, this notice of proposed rule making sets forth proposed regulations that in the Administrator's judgment can be implemented to attain the carbon monoxide standards in the Northern Alaska Intrastate Region.

If, prior to Federal promulgation, the State of Alaska submits a transportation control plan which will assure attainment of national standards by May 31, 1977, and which the Administrator determines is acceptable, these proposed Federal regulations will be withdrawn. If the State plan is submitted and determined to be approvable after promulgation of Federal regulations, then these regulations will be rescinded. It is the desire of the Environmental Protection Agency that the plan to attain and maintain national standards in the Region be a State plan carried out by the State or by authorized local governments.

To the greatest extent feasible, the proposed Federal regulations are designed to implement transportation control measures that are acceptable to the State and/or that have received public support.

Pollution in the Northern Alaska Region

The Northern Alaska Intrastate Region comprises the entire northern half of the State of Alaska from the Arctic Ocean to approximately the crest of the Alaska Range and along an irregular boundary extending westward to the delta of the Yukon River. The geographic and meteorologic characteristics of the Fairbanks portion of the Region in which the carbon monoxide problem exists contribute to the build-up of pollution. The encircling hills and frequent thermal inversions inhibit dispersion of pollutants; the rigorous winter climate complicates the use of ordinary modes of transportation.

Between October 1, 1972, and March 31, 1973, the 8-hour national ambient air quality standard for carbon monoxide of 9 parts per million (10 milligrams per cubic meter), not to be exceeded more than once per year, was exceeded on at least 112 days. The maximum 8-hour average concentration recorded in Fairbanks during the winter of 1972–73 was 28 parts per million. The highest 1-hour concentration of carbon monoxide, recorded at two locations, was 48 parts per million compared to the 1-hour ambient air quality standard of 35 parts per million.

The reductions in motor vehicle carbon monoxide emissions necessary to attain the carbon monoxide standards by 1975 were determined by forecasting the emission densities for that year using a proportional mathematical model and subtracting the allowable emission densities. The estimates of 1975 emissions were forecasted using data for traffic analysis districts in the Fairbanks North Star Borough. An estimated 65 percent reduction in motor vehicle carbon monoxide emissions, in addition to the reduction achieved by implementation of the Federal emission standards for new motor vehicles, is required to attain the 8-hour national ambient air quality standard for carbon monoxide in Fairbanks by 1975. The 8-hour carbon monoxide standard is the more restrictive of the two standards for that pollutant; attainment of the 8-hour standard will assure attainment of the 1-hour standard.

Proposed Federal Regulations

To attain national standards for carbon monoxide in the Northern Alaska Intrastate Region, Federal regulations are proposed to implement the following transportation control measures:

1. An annual inspection and maintenance program, using an idle emission test, to determine emissions from light-duty vehicles.

2. A retrofit program requiring installation of air bleed to intake manifold retrofit devices on vehicles of model years prior to 1968 and of oxidizing catalytic converters on vehicles of model years 1968 through 1974.

3. A parking management program that (a) requires a permit from the Administrator to construct, modify, or enlarge off-street parking facilities, (b) requires owners and operators of parking facilities to make provisions for heating vehicle engines and interiors, and (c) requires the prohibition of on-street parking on public streets in the Fairbanks central business district.

4. An idling limitation that restricts to 5 minutes the time vehicles are permited to idle following start-up.

These Federally proposed measures are necessary, in the absence of a State-adopted transportation control plan, to attain and maintain national standards for carbon monoxide in the Northern Alaska Intrastate Region. The proposed regulations take into account testimony and comments presented at EPA-sponsored public meetings held in Fairbanks on May 3 and June 13, 1973. Other measures are available to EPA and to the State that will, if implemented, assist in achieving a reduction in vehicle emissions equivalent to that resulting from the four proposed measures. The final selection of measures to be implemented will be based to the greatest extent possible on testimony presented at the public hearing held prior to Federal promulgation.

If the proposed inspection and maintenance program is implemented, exhaust emissions from all light-duty gasoline-powered vehicles will be analyzed yearly using an idle-mode emission test. The results of the test will be compared with a set of in-use vehicle emission standards. Those vehicles having emissions in excess of the standards will be required to have maintenance performed. Based on a cooperative study by the Fairbanks North Star Borough, the EPA Arctic Environmental Research Laboratory, and the Atlantic Richfield Company, an inspection and maintenance program can provide an effective means of reducing emissions at low (sub-freezing) ambient temperatures and will reduce vehicle carbon monoxide emissions in the Fairbanks area by at least 17 percent. The proposed regulation specifies that beginning in 1975 emissions from all vehicles will be inspected by an agency designated by the State and that any necessary maintenance will be performed. The State will not be permitted to register, nor will anyone be permitted to operate, any vehicle that has not undergone emission testing and met the established emission standards. The Administrator is continuing to assess the earliest practicable date on which the inspection and maintenance program can be fully implemented. He may revise this date based on results of this assessment.

The proposed retrofit program requires that two types of emission reduction devices be installed on motor vehicles registered in the Fairbanks North Star Borough. Installation of an air bleed to intake manifold retrofit device will be required on all vehicles of model years prior to 1968; oxidizing catalytic converters will be required on vehicles of model years 1968 through 1974. Although both the air bleed to intake manifold device and the oxidizing catalytic con-

verter are believed to be technologically feasible by 1975, the Administrator recognizes that it will not be possible to implement a retrofit program in the Northern Alaska Intrastate Region by that date. Consequently, the Administrator proposes to grant an extension of approximately 1 year beyond the May 31, 1975, attainment date for requiring installation of the air bleed to intake manifold retrofit and an extension of 2 years beyond the attainment date for requiring the installation of oxidizing catalytic converters. By June 30, 1976, all vehicles of model years prior to 1968 will be required to be equipped with the air bleed to intake manifold devices. By May 31, 1977, all 1968 through 1974 model year vehicles must be equipped with oxidizing catalytic converters. A retrofit program employed in 1975 would reduce vehicle carbon monoxide emissions by about 23 percent. In 1977 the emission reduction attributable to retrofit is reduced to 16.6 percent because of the lesser number of vehicles of model years 1974 and earlier.

The proposed regulation requiring that a permit be obtained from the Administrator prior to the construction, modification, or enlargement of a parking facility is intended to stabilize the supply of parking in areas of the Northern Alaska Intrastate Region where transportation control measures are necessary for attainment of national standards. Existing or proposed parking facilities to which the regulation is applicable will be reviewed to ascertain whether modification/enlargement or construction of the respective facilities will prevent the attainment and/or maintenance of national standards.

A regulation is also proposed to require owners and operators of parking facilities to make provisions for heating vehicle engines and interiors. Implementation of this requirement will reduce the necessity for vehicle idling and the pollutant emissions resulting from the idling. The proposed regulation restricting on-street parking will encourage the use of heated off-street parking facilities. Removal of on-street parking will also assist in improving traffic flow. If the parking regulations are implemented, the cumulative reduction in carbon monoxide emissions will be approximately 11 percent.

The proposed idling limitation prohibits the idling of any vehicle for more than 5 minutes after start-up. Estimates of emission reductions range from 5 percent to 25 percent and perhaps higher. Data acquired from the idle test inspection control measure will help refine the estimated degree of emission reductions which occur as a result of the idle limitation.

Three transportation control measures in addition to those contained in the Federal proposal will, when implemented, provide significant carbon monoxide emissions reductions. These measures include traffic flow improvements, a system of public transportation, and the opening of a north-south bypass highway, referred to as the Steese cut-off. Emission reductions were attributed to these measures although they are not included among proposed Federal regulations. Implementation of these measures will assist in reducing emissions of carbon monoxide within the central business district of Fairbanks.

Traffic flow improvements will result from actions such as better traffic signal timing and institution of additional one-way couplets. These measures, when implemented, will provide an increase in average vehicular speed and, as a result, a decrease in carbon monoxide emissions. These improvements will also provide a significant reduction in traffic congestion. These measures can be implemented as early as mid-1975.

The development of a system of public transportation in Fairbanks is essential to mitigate the disruptions and inconveniences which may result from inhibiting automobile use. Any system of public transportation that is implemented must be tailored to the individual characteristics of Fairbanks. The design of the system must consider the extreme cold of the winter months, and the low and dispersed residential population densities must be considered.

The construction and opening of the proposed Steese cut-off will provide a bypass highway that will eliminate a portion of the traffic that now enters and leaves the central business district with no interim stops. If provision is made for no exits from the highway between Gaffney Road and the north side of the bridge across the Chena River, the highway will be used primarily for moderate speed traffic with destinations other than downtown Fairbanks. Switching this traffic from the downtown area should have a significant impact on air quality in the central business district. The long-term air quality impact of a bypass with and without exits to the central business district should be evaluated prior to construction. In either case, it may be difficult to complete construction of this facility by the end of 1976.

COMPILATION OF CONTROL STRATEGY EFFECTS CO % REDUCTION

	1975	1976	1977
Traffic flow + parking	6.8		
Idling	3.9		
Inspection/Maintenance	12.7		
Air Bleed Retrofit		6.2	
New Highway		8.2	
Oxidizing Catalyst Retrofit			16.6
Federal Motor Vehicle Control Program			17.1
Percent Reduction Attained	23.4	37.8	71.5
Percent Reduction Required	64.6	64.6	64.6

SOCIAL AND ECONOMIC IMPACTS

A quantitative assessment of the economic and social impacts of the proposed Federal transportation control measures on the Northern Alaska Intrastate Region has not been possible due to the short time available for development of the measures and the innate complexities of the issues involved. However, an attempt has been made to identify some of the more important impacts that will result if the proposed Federal measures are promulgated and implemented.

First, if the proposed inspection/maintenance and retrofit programs are implemented, vehicle owners will probably have to assume directly some of the costs of vehicle inspection, all of the costs of any vehicle maintenance required to meet the emission-inspection standards, and all of the costs of the purchase and installation of retrofit devices. If a failure rate of 50 percent is set for the inspection/maintenance program, the annual cost for each vehicle inspected is estimated to average $15. Owners of light-duty vehicles of model years earlier than 1968 will have to pay approximately $35 to $60 for purchase and installation of an air bleed to intake manifold retrofit device. Owners of light-duty vehicles of model years 1968 through 1974 will have to pay approximately $160 to $200 for the installation of oxidizing catalytic converters. The costs for inspection of vehicles for emissions, for performing the vehicle maintenance required to meet emission inspection standards, and for purchase and installation of retrofit devices will fall most heavily on low-income families because they will have to spend a larger percentage of their disposable incomes for inspection and any resultant maintenance.

The portion of the parking management program limiting development of additional off-street parking spaces will cause inconveniences to those traveling to downtown Fairbanks. The extent of the inconvenience will depend on the adequacy of the public transportation system developed. The portion of the program dealing with provision of electrical outlets and heating units will cause some increase in parking fees; however, this cost may be mitigated by the savings resulting from short idling periods. The removal of on-street parking will result in some loss of revenue to the City from short-term metered parking, but will result in increased utilization of off-street parking facilities and increased revenues for owners of both public and private parking facilities. The idling limitation will provide savings to the vehicle operator in reduced fuel consumption and engine maintenance.

EPA EFFORTS TO MITIGATE THE EFFECTS OF PROPOSED REGULATIONS

The proposed Federal regulations will eliminate the danger to human health and welfare that exists in the Northern Alaska Intrastate Region as a result of air pollution from motor vehicles. The regulations may, however, have adverse economic and social impacts. The Administrator will make every effort to mitigate the adverse effects of his final promulgation. He will be in contact with the Department of Transportation and other departments as necessary. The Administrator will request that these departments give special attention to the need for funding of programs necessary to offset any adverse effects resulting from the implementation of transportation control measures.

PUBLIC COMMENTS SOLICITED

The Administrator intends that any Federal regulations which must be pro-

mulgated be as responsive as possible to the needs of the Northern Alaska Intrastate Region; he therefore desires to obtain the comments and suggestions of the public on the proposed regulations and on any other measures that may be taken by Federal, State, or local governments to strengthen, supplement, or replace the proposed measures. Public hearings will be held on this and any alternative proposals in Fairbanks at 7:30 p.m. on August 6, 1973. In any promulgation of regulations necessary, the Administrator will consider all comments and testimony he receives, as well as any additional strategies submitted by the State.

SUBMITTAL OF WRITTEN COMMENTS

Interested persons may participate in this rulemaking by submitting written comments, preferably in triplicate, to the Administrator, EPA, Region X, 1200 Sixth Avenue, Seattle, Washington 98101, Attention: Ms. Betty Weise. All relevant comments received within 30 days of this date will be considered. Receipt of comments will be acknowledged, but substantive responses to individual comments will not be provided. Comments received will be available for public inspection during normal business hours at the library of EPA Region X. The changes proposed by this notice, with appropriate modification, will be effective as noted. This notice of proposed rulemaking is issued under the authority of sections 110(c) and 301(a) of the Clean Air Act.

(42 U.S.C. 1857c et seq)

Dated: July 6, 1973.

ROBERT W. FRI,
Acting Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40, of the Code of Federal Regulations as follows:

Subpart O—Alaska

1. Subpart O is amended by adding §§ 52.77, 52.78, 52.79, 52.80, 52.81, and 52.82 as follows:

§ 52.77 Idling limitations.

(a) Definition:

(1) "Idling" means the operation of a motor vehicle engine while the motor vehicle is attended or unattended, while not in the process of moving from one place to another.

(b) This regulation is applicable in the City of Fairbanks in the State of Alaska.

(c) Commencing May 31, 1975, the State of Alaska, Fairbanks North Star Borough, and the City of Fairbanks shall each prohibit for more than 5 minutes the idling of all motor vehicles while parked or operated on streets or highways within the City of Fairbanks over which each has ownership or control.

(d) After May 31, 1975, no person shall cause, permit, or allow for more than 5 minutes the idling of any motor vehicle where prohibited pursuant to paragraph (c) of this section.

(e) On or before October 1, 1973, the State of Alaska, Fairbanks North Star Borough, and the City of Fairbanks shall each submit a detailed compliance schedule showing the steps necessary to carry out the restrictions contained in paragraph (c) of this section. Such statement shall include:

(1) Identification of elements necessary to assure enforceability which may be a statement of present authority and implementing regulations, or, if needed, drafts of proposed legislation, ordinances, or regulations.

(2) Designation of agencies responsible for enforcing the prohibition.

(3) A program for State and local enforcement of the idling restrictions including but not limited to towing away those vehicles idling over 5 minutes in violation of a prohibition or subjecting the owner to a fine of up to $100, or both.

(f) Failure to comply with any provisions of this paragraph shall render such person or governmental entity in violation of a requirement of an applicable implementation plan and subject to enforcement action under section 113 of the Clean Air Act.

§ 52.78 Regulation for an inspection and maintenance program.

(a) Definitions:

(1) "Inspection and maintenance program" means a program for reducing emissions from in-use gasoline-powered vehicles through identifying vehicles which need emission-control-related maintenance and requiring that maintenance be performed.

(2) All other terms used in this section which are defined in Part 51, Appendix N of this chapter, are used herein with the meanings so defined.

(b) This regulation is applicable in the City of Fairbanks and the Fairbanks North Star Borough within the Northern Alaska Intrastate Air Quality Control Region in the State of Alaska.

(c) The State of Alaska shall establish an inspection and maintenance program applicable to all light-duty gasoline-powered motor vehicles which operate on public streets or highways within the area defined in paragraph (b) of this section. No later than March 1, 1974, the State shall submit to EPA legally adopted regulations to establish such a program. The regulations shall include:

(1) Provisions for inspection of all light-duty gasoline-powered motor vehicles at periodic intervals no more than 1 year apart by means of an idle emission test.

(2) Provisions for inspection failure criteria consistent with the emission reductions claimed in the plan for the strategy. These criteria shall include failure of 50 percent of the vehicles in the first inspection cycle.

(3) Provisions to ensure that failed vehicles receive the maintenance necessary to achieve compliance with the inspection standards. These shall include sanctions against individual owners and repair facilities; retest of failed vehicles following maintenance; use of a certification program to ensure that repair facilities performing the required maintenance have the necessary equipment, parts, and knowledge to perform the tasks satisfactorily; and such other measures as may be necessary or appropriate.

(4) A program of enforcement to ensure that vehicles are not intentionally readjusted or modified subsequent to the inspection and/or maintenance in such a way as would cause them to no longer comply with the inspection standards. This enforcement program might include spot checks of idle adjustments and/or a suitable type of physical tagging.

(5) Provisions for beginning the first inspection cycle by June 1, 1975, and completing it by December 31, 1975.

(6) Designation of an agency or agencies responsible for conducting, overseeing, and enforcing the inspection and maintenance program.

(d) After December 31, 1975, the State shall not register or allow to operate on public streets or highways any light-duty gasoline-powered vehicle which does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section. This shall not apply to the initial registration of a new motor vehicle.

(e) After December 31, 1975, no owner of a light-duty gasoline powered vehicle shall operate or allow the operation of such vehicle which does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section.

(f) The State of Alaska shall submit, no later than October 1, 1973, a detailed compliance schedule showing the steps it will take to establish and enforce an inspection and maintenance program pursuant to paragraph (c) of this section, including:

(1) The text of needed statutory proposals and needed regulations which it will propose for adoption.

(2) The date by which the State will recommend needed legislation to the State legislature.

(3) The date by which necessary equipment will be ordered.

(4) A signed statement from the Governor or his designee identifying the sources and amounts of funds for the program. If funds cannot legally be obligated under existing statutory authority, the text of needed legislation shall be submitted.

(g) Failure to comply with any provisions of this paragraph shall render such person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under section 113 of the Clean Air Act. With regard to compliance schedules, the State will be considered to have failed to comply with the requirements of this section if it fails to timely submit any required compliance schedule, or if the compliance schedule

when submitted does not contain in satisfactory form each of the elements it is required to contain.

§ 52.79 Off-street parking management.

(a) Definitions:

(1) "Construction" means fabrication, erection, or installation of a parking facility, or any conversion of land to use as a parking facility.

(2) "Modification" means any change to a parking facility which increases the vehicle capacity of such facility.

(3) "Enlargement" means any physical change or addition to a parking facility which increases the vehicle capacity of such facility.

(4) "Commenced" means that an owner or operator has undertaken a continuous program of construction, modification, or enlargement.

(5) "Off-street parking facility" (also called "facility") means any facility, building, structure, or lot or portion thereof used primarily for temporary storage of motor vehicles.

(6) "Major off-street parking facility" means an off-street parking facility for 5 or more motor vehicles.

(b) This regulation is applicable in the City of Fairbanks.

(c) No person or governmental entity, after August 15, 1973, shall commence construction of any new parking facility or modification or enlargement of any existing parking facility until he has first received from the Administrator or from an agency approved by the Administrator a permit stating the construction, modification or enlargement of such facility will not interfere with the attainment or maintenance of applicable Federal air quality standards.

(d) In order for any agency to be approved by the Administrator for purposes of issuing permits for construction of any new parking facility or any modification or enlargement of any existing parking facility, such agency shall demonstrate to the satisfaction of the Administrator that:

(1) Requirements for permit applications and issuance have been established. Such requirements shall include, but not be limited to, a requirement that before a permit may be issued the following findings of fact or factually supported projections must be made:

(i) The location of the facility.

(ii) The total motor vehicle capacity before and after the construction, modification, or enlargement of the facility.

(iii) The normal hours of operation of the facility and the enterprises and activities which it serves.

(iv) The number of people using or engaging in any enterprises or activities which the facility will serve.

(v) The number of motor vehicles using the facility on an average hourly basis and a peak hour basis.

(vi) A projection of the geographic areas in the community from which people and motor vehicles will be drawn to the facility. Such projections shall include data concerning the availability of public transit from such areas.

(2) Criteria for issuance of permits have been established and published. Such criteria shall include, but shall not be limited to:

(i) Full consideration of all facts contained in the application.

(ii) Provisions that no permit shall be issued if such permit will result in the increase of vehicle miles of travel within any area the air quality of which fails to meet applicable Federal air quality standards.

(3) Agency procedures provide that no permit for the construction, enlargement or modification of a parking facility covered by this section shall be issued without notice and opportunity for public hearing. The public hearing may be of the legislative type; the notice shall conform to the requirements of Part 51.4(b) of this chapter; and the agency rules of procedure may provide that if no notice of intent to participate in the hearing is received from any member of the public (other than the applicant) prior to 7 days before the scheduled hearing date, no hearing need be held. Such a requirement, if imposed, shall be noted prominently in the required notice of hearing.

(e) After October 1, 1974, no major off-street parking facilities shall be operated between October and April unless the following measures are taken by the owner or operator of the off-street parking facility:

(1) Electrical outlets are installed for each parking place for head bolt heaters or equivalent heating device.

(2) Heating units are provided for each parking place to heat vehicle interiors.

(3) No metering charges for heater or outlet are made above the standard parking charge for use of the off-street parking facility. These measures need not be taken if the interior of the building or structure is heated to at least 40°F, to remove the necessity for extended idling to warm either the vehicle or engine or passenger interior. One thermometer in working condition shall be prominently displayed for each 1200 square feet of parking space.

§ 52.80 On-street parking management.

(a) Definitions:

(1) "On-street parking" means stopping a motor vehicle on a street or sidewalk, whether or not a person remains in the vehicle.

(2) "Off-street parking facility" means any facility, building, structure, or lot or portion thereof used primarily for temporary storage of motor vehicles.

(3) "Central business district" means that area of downtown Fairbanks which is bounded by the Chena River on the north; Dunkle Street on the east; Fifth Avenue, Cushman Street, and Seventh Avenue on the south; and Barnette Street, Third Avenue, and Wickersham Street on the west.

(b) This section is applicable in the Fairbanks central business district.

(c) Beginning January 1, 1974, the City of Fairbanks, the Fairbanks North Star Borough, and the State of Alaska shall prohibit on-street parking on the streets or highways over which it has ownership or control within the Fairbanks central business district, with the exception that persons residing within the central business district shall be issued one permit per vehicle by the City of Fairbanks before January 1, 1974, to be prominently affixed to the vehicle if it can be demonstrated that there is no alternative off-street parking available. The prohibition shall state that vehicles parked in violation shall either be towed away, or the owner shall be subject to a fine of up to $100, or both.

(d) On or before October 31, 1973, the Governor shall submit legally adopted regulations to EPA as provided for in paragraph (c) of this section and shall submit a detailed schedule showing the steps that will be taken and the respective implementation dates to effect the prohibition, exceptions, and penalties provided for in paragraph (c) of this section and to assure compliance by January 1, 1974. Such schedule shall include:

(1) Designation of the agency responsible for the administration and enforcement of the program.

(2) The procedures by which the designated agency will rule on exceptions for residents of the Fairbanks central business district and enforce the prohibition provided for in paragraph (c) of this section.

(e) Failure to comply with any provision of this section shall render each person so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under section 113 of the Clean Air Act. A State will be considered to have failed to comply with the requirements of this regulation if it fails to timely submit the required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

§ 52.81 Air bleed to intake manifold retrofit.

(a) Definitions:

(1) The term "air bleed to intake manifold retrofit" as used in this section means a device in the intake system of the vehicle which enables the air/fuel ratio to be increased by metering additional air to the intake manifold in accordance with intake manifold vacuum advance to reduce emissions of hydrocarbons and carbon monoxide to the atmosphere.

(2) All other terms used in this section which are defined in Part 51, Appendix N of this chapter, are used herein with the meanings so defined.

(b) This section is applicable in the City of Fairbanks and the Fairbanks North Star Borough within the Northern Alaska Intrastate Air Quality Control Region in the State of Alaska.

(c) The State of Alaska shall establish a retrofit program to ensure that on or before June 30, 1976, all gasoline-powered light-duty vehicles of model years prior

to 1968, subject under presently existing legal requirements to registration in the area defined in paragraph (b) of this section, are equipped with an appropriate air bleed to intake manifold device. No later than March 1, 1974, the State shall submit legally adopted regulations to EPA establishing such a program. The regulations shall include:

(1) Designation of an agency responsible for evaluating and approving such devices for use on vehicles subject to this section.

(2) Designation of an agency responsible for ensuring that the provisions of subparagraph (3) of this paragraph are enforced.

(3) Provisions for beginning the installation of the air bleed devices by July 1, 1975, and completing the installation of the devices on all vehicles subject to this section no later than June 30, 1976.

(4) A provision that starting no later than June 30, 1976, no vehicle of which retrofit is required under this section passes the annual emission tests provided for by § 52.78 unless it has been first equipped with an approved air bleed to intake manifold device which the test has shown to be installed and operating correctly. The regulations shall include test procedures and failure criteria for implementing this provision.

(5) Methods and proposed procedures for ensuring that those installing the retrofit devices have the training and ability to perform the needed tasks satisfactorily and will have an adequate supply of retrofit components.

(d) After June 30, 1976, the State shall not register or allow to operate on its streets or highways any light-duty vehicle which does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section.

(e) After June 30, 1976, no owner of a vehicle subject to this section shall operate or allow the operation of any such vehicle which does not comply with the applicable standards and procedures implementing this section.

(f) The State of Alaska shall submit, no later than October 1, 1973, a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to paragraph (c) of this section, including the text of statutory proposals and regulations which the State proposes for adoption. The compliance schedules shall also include a date by which the State shall evaluate and approve devices for use in this program. Such date shall be no later than September 30, 1974.

(g) Failure to comply with any provision of this section shall render each person so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under section 113 of the Clean Air Act. A State will be considered to have failed to comply with the requirements of this regulation if it fails to timely submit the required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

§ 52.82 Oxidizing catalyst retrofit.

(a) Definitions:

(1) "Oxidizing catalyst" means a device installed in the exhaust system of the vehicle that utilizes a catalyst and, if necessary, an air pump to reduce emissions of hydrocarbons and carbon monoxide from that vehicle.

(2) All other terms used in this section which are defined in Part 51, Appendix N of this chapter, are used herein with the meanings so defined.

(b) This section is applicable in the City of Fairbanks and the Fairbanks North Star Borough within the Northern Alaska Intrastate Air Quality Control Region in the State of Alaska.

(c) The State of Alaska shall establish a retrofit program to ensure that on or before May 31, 1977, gasoline-powered light-duty vehicles of model years 1968 through 1974, subject under presently existing legal requirements to registration in the area defined in paragraph (b) of this section, are equipped with an appropriate oxidizing catalyst retrofit device. No later than October 30, 1974, the State shall submit legally adopted regulations to EPA establishing such a program. The regulations shall include:

(1) Designation of an agency responsible for evaluating and approving such devices for use on vehicles subject to this section.

(2) Designation of an agency responsible for ensuring that provisions of paragraph (c)(3) of this section are enforced.

(3) A provision that starting no later than May 31, 1976, the State of Alaska shall require those light-duty vehicles of 1974 model year and earlier which are able to operate on 91 RON (research octane number) gasoline to be retrofitted with an oxidizing catalytic converter. The installation shall be completed by May 31, 1977.

(4) Methods and proposed procedures for ensuring that those installing the retrofits have the training and ability to perform the needed tasks satisfactorily and will have an adequate supply of retrofit components.

(d) After June 1, 1977, the State shall not register or allow to operate on its streets or highways any light-duty vehicle which does not comply with applicable standards and procedures adopted pursuant to paragraph (c) of this section.

(e) The State of Alaska shall submit, no later than October 1, 1973, a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to paragraph (c) of this section, including the text of needed statutory proposals and needed regulations which it will propose for adoption. The compliance schedule shall also include a date by which the State shall evaluate and approve devices for use in this program. Such date shall be no later than September 30, 1975.

(f) Failure to comply with any provisions of this section shall render the person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under section 113 of the Clean Air Act. A State will be considered to have failed to comply with the requirements of this regulation if it fails to timely submit the required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

[FR Doc.73-14265 Filed 7-13-73;8:45 am]

[40 CFR Part 52]

ARIZONA

Approval and Promulgation of Implementation Plans

Background. In accordance with an order of the U.S. Court of Appeals for the District of Columbia Circuit, several States were required to submit transportation control plans on April 15, 1973. Most State plans submitted on April 15 relied on extensive use of common control measures such as inspection/maintenance and installation of retrofit emission control devices. As a result of EPA evaluation of the State plans, applicability, effectiveness, and minimum time required for complete implementation of the control strategies on a nationwide basis were established. After reviewing the Arizona plan in light of the data consolidated from the evaluation of all State plans, the Administrator concluded that the plan was partially approvable. Namely, the strategy for attainment of the national standard for photochemical oxidants was approved while the attainment of the carbon monoxide standards was not approved. The evaluation of the Arizona plan is available for inspection at U.S. Environmental Protection Agency, Region IX, 100 California Street, San Francisco, California 94111, and the U.S. Environmental Protection Agency, Freedom of Information Center, Room 329, 401 M Street SW., Washington, D.C. 20460.

Since the Administrator disapproved a portion of the Arizona transportation plan, the Administrator is required, under section 110(c) of the Act, to propose and subsequently promulgate regulations setting forth a substitute portion of such plan. Proposed regulations for the attainment and maintenance of the national standards for carbon monoxide are herewith proposed.

PUBLIC HEARINGS

The Administrator will hold public hearings on the proposed regulations in order to provide the general public ample opportunity to comment. Two hearings will be held in Arizona as follows: in Phoenix on August 6, 1973, at 9:30 a.m. in the Phoenix Civic Plaza Flagstaff Room, 225 East Adams Street, and in Tucson on August 8, 1973, at 9:30 a.m. in the Tucson Community Center Theater, 260 Church Street. Persons wishing to participate in the hearing are requested (but not required) to submit three copies of their statements at least

five days prior to the date of the hearing to: Cassandra Dunn, Regional Counsel, U.S. Environmental Protection Agency, Region IX, 100 California Street, San Francisco, California 94111.

SUMMARY

Studies by the Agency indicate that a reduction on the order of 54 percent would be necessary in projected 1975 emissions of carbon monoxide in order to attain the national primary ambient air quality standards in the Phoenix-Tucson Intrastate Region. It should be noted that a reduction of 68 percent would have been necessary to attain the standards in 1971. The difference in the needed reductions is due to control measures on stationary sources submitted by the State and already approved, and reductions achieved through reduced automobile emissions resulting from the Federal Motor Vehicle Control Program. The Administrator will herewith propose control measures to show attainment, but the Administrator has concluded that an extension of the deadline for achieving the standards to 1977, under section 110(e) of the Act, is justified because the necessary technology or other alternatives are not available and will not be available soon enough to permit full compliance. In reaching this conclusion, the Administrator has considered and applied as part of the plan reasonably available alternative means for attaining the primary standards. The control measures proposed herein reflect what EPA considers to be the most feasible approach for meeting the national standards in the Region. However, these measures are subject to change prior to promulgation as a result of written comments, testimony presented at the public hearings or further study by EPA.

The Administrator recognizes the commitment the State of Arizona has made to periodic vehicle inspection and retrofit of emission control devices for light-duty vehicles and commends the State's efforts and progress in their development. Even though the Administrator finds that the plan submitted by the State of Arizona does not provide sufficient emission reduction, these individual control measures are acceptable means for reducing vehicle emissions. Therefore, the Administrator is proposing these measures, in accordance with the schedule set forth in the State's plan, supplemented by additional controls. The additional controls include reasonable and apparently available means of reducing carbon monoxide. These means include bus/carpool lanes on freeways and major streets, reduction in off-street public parking, and limitations on the construction of additional parking facilties, supplemented by the required availability of computer-aided carpool and bus matching system. The intent of these measures is to reduce VMT (vehicle miles traveled) by discouraging individual use of private vehicles and encouraging use of carpools and existing transit systems, and to stimulate new and/or expanded transit systems. These control measures will be implemented prior to 1975. Less attractive and more severe measures are ultimately required to show attainment by 1977. These are also proposed and would be instituted in 1974 and fully implemented by May 31, 1977. These measures include a ceiling on further increases in gasoline consumption beyond 1973 levels accompanied by a limit on motorcycle registration to the projected 1975 level. The primary guideline the Agency has used in proposing these control measures for VMT reduction is that sufficient alternative transportation capacity is presently or potentially available in the metropolitan area of the Phoenix-Tucson Region to achieve a 10–15 percent VMT reduction by 1975 with an additional similar reduction by 1977.

The Agency also encourages close examination of such measures as replacement of on-street parking with bicycle lanes on major streets, fare reduction, provision of a jitney service and use of mini-buses, fringe parking lots for transfer to buses and carpools, special parking privileges for carpools, on-street parking prohibition for nonresidents, State taxes to encourage VMT reduction or to raise revenue to benefit mass transit, and provision of bus tokens in place of free parking privileges.

The Administrator encourages the State to adopt and resubmit transportation control strategies identical or equivalent to the strategies proposed below together with an adequately documented justification for an extension of the attainment date for the carbon monoxide standards.

STATE AND LOCAL IMPLEMENTATION OF CONTROL MEASURES

In order to preserve the intent of the Clean Air Act whereby local pollution problems will be dealt with primarily at the local level, the Agency will require State and local governments to take action wherever possible, and will not involve the Federal government in the administration of local programs and in direct enforcement against individual citizens. Requirements of this sort are applicable to bus/carpool lanes, motorcycle control, public parking facilities, inspection/maintenance, retrofit, and gas limitations. Appropriate governments will also be required to submit compliance schedules for these programs, with complete details for their implementation.

If the State submits adequate control measures or substitute control measures which will achieve comparable reductions in pollution, then the Administrator can approve the State's measures rather than promulgate his own. However, the requirement to submit adequate compliance schedules and take other actions will be enforced on a timely basis if the Agency's measures are promulgated. Therefore, it is suggested that plans to comply with these measures not be delayed.

REVISED CONTROL STRATEGIES

The State of Arizona is proceeding with a mandatory periodic vehicle inspection for light-duty vehicles which, if implemented as planned, will serve as an outstanding example of a loaded emission test for other States. In addition, the State has proposed to investigate mandatory inspections of motorcycles and heavy-duty vehicles. The proposal herein will require mandatory periodic vehicle inspection for light-duty vehicles only. EPA does not currently have information on the effectiveness or time required for implementation of an inspection program for heavy-duty vehicles and, therefore, cannot propose this control measure. Catalytic converters would be required in 1976–77 for many vehicles in the 1968 through 1974 model years. It is estimated that catalytic converters can only be retrofitted on 20 percent of the 1968–1970 vehicles and 75 percent of the 1971–1974 vehicles because of potential lubricity and octane problems associated with the use of 91 octane lead-free fuel. It cannot be concluded at present that the technology for retrofit converters has developed to the point that they could be installed effectively as retrofit devices in 1975. However, the Agency will monitor the status of development of this technology and accelerate the dates if feasible. This strategy was an acceptable control measure in the plan submitted by Arizona. Another retrofit control measure will be the requirement for retrofit of air bleed devices on many pre-1968 light-duty vehicles. This retrofit measure was also an acceptable control measure in the proposed Arizona plan.

The remainder of the strategies proposed are directed toward a 32 percent reduction in VMT by light-duty vehicles which would be accomplished by 1977. A 10–15 percent VMT reduction can be achieved by 1975 by increasing the occupancy factor for work-oriented trips by 50–75 percent. The present estimated occupancy factor is 1.2 persons per vehicle. The goal would be to raise this factor to between 1.8 and 2.1 persons per vehicle for work-oriented trips. (These estimates are based on the estimate that 40 percent of urban travel is work-oriented, as stated in the Maricopa Association of Government report, "Transit and the Phoenix Metropolitan Area.") This is proposed to be accomplished by bus/carpool lanes on freeways and major streets, reductions in off-street public parking, and limitations on the construction of additional parking facilities, supplemented by the required availability of computer-aided bus and carpool matching system. The measures proposed herein will require conversion of some motor vehicle lanes on all major streets and highways, and it is expected that a widespread network of bus/carpool lanes will provide substantial incentive to the use of buses and carpools while making private vehicle travel by single drivers relatively less attractive. Planning for specific motor vehicle lanes is expected to take place at the local level, under the overall requirements herein. Exceptions to or modifications of the broad requirements will be approved when specifically justified. Because sufficient numbers of buses are not presently available to carry

the passengers currently using these lanes in private cars, these proposed regulations would reserve the use of these lanes for carpools with three or more persons in each vehicle.

To assist commuters who desire to form carpools, it is proposed to require the availability of a computer-aided bus/carpool matching system. Participation in this program would be voluntary. The system would provide each participant with a listing of names, home locations, and work phone numbers of all other participants whose working hours most nearly match theirs.

Publicly owned off-street parking facilities will be required to reduce their number of parking spaces in an effort to reduce the high number of low-occupancy private vehicles entering the central business districts and other congested areas, and to promote voluntary carpooling and the use of bus transit. Comment is invited on the possibility of extending this control to privately owned parking facilities, either by outright reductions in spaces or by imposing regulatory fees. Another provision would limit further construction of new parking facilities in the metropolitan area.

It is estimated that the above control measures can achieve a 10–15 percent VMT reduction by 1975. To assure that this VMT is achieved and to achieve an additional 15 percent reduction between 1975 and 1977, it is proposed to limit further increases in gasoline consumption beyond 1972–1973 levels accompanied by a limit on motorcycle registration to the projected 1975 level. Initiation of the gasoline limitation in mid-1974 is expected to have relatively light impact until 1975 due to the reduced demand for gasoline consumption resulting from the aforementioned VMT reduction measures. Subsequent to 1975, the continuing growth in VMT within the Region will be retarded by limiting the continued growth in gasoline consumption. Gasoline consumption has been increasing approximately 6.6 percent per year. It is proposed that distributors not be permitted to deliver to retail outlets any more gasoline than is distributed during the base year of July 1, 1972–June 30, 1975. No requirements will be placed on the individual motorist. The gasoline limitation and motorcycle registration limitation would be eliminated when they are no longer required to maintain the carbon monoxide standards. It is expected that this will occur during the 1977–1980 time period.

In addition, an overall ceiling on the increase in numbers of motorcycles and scooters is proposed to prevent counterproductive shifts from auomobiles to motorcycles as a result of gasoline limitation or parking bans. It should be noted that at the time the ceiling on motorcycle registrations would be implemented, motorcycle carbon monoxide emissions would be 14 to 20 times greater than the new 1976 automobile emissions on a grams-per-mile basis. Thus, any shift in usage from automobiles to motorcycles to counter gas limitations would result in a large increase in emissions.

In an attempt to remove the ceiling on motorcycle registration, the Agency will evaluate the feasibility of establishing emission standards for new motorcycles and will evaluate the availability of motorcycle emission control technology for meeting emission standards and for retrofit.

Compilation of Control Strategy Effects

Table I shows the relative importance of each control measure in 1977. Table II shows a compilation of control strategy effects. As can be seen, the national standards for carbon monoxide are attained by 1977.

Table I

	Percent
Percentage reduction needed for attainment in 1977	44.5
Amount attributed to control measures:	
Inspection/maintenance	8.0
Retrofit devices:	
Oxidizing catalytic converter	11.9
Air bleed	9.9
VMT reduction	9.7
Gasoline/motorcycle limitation	9.0
Percentage reduction attained	48.5

Table II

Source and Control Measures	Emissions and Reductions, tons/day		
	1975	1977	1980
Mobile Source Emissions without Proposed Control Measures	612.7	488.0	338.3
Expected Reductions: Inspection/Maintenance		−48.0	−33.8
Retrofit Devices			
Oxidizing Catalytic Converter		−72.5	−45.8
Air Bleed		−60.8	−39.0
VMT Reduction Measures	−73.6	−59.6	−40.6
Gasoline Limitation*		−54.7	
Motorcycles	14.0	14.0	18.6
Heavy-duty Vehicles	69.6	80.3	98.6
Other (Stationary, Aircraft, etc)	25.7	28.7	31.5
Total Emissions Remaining	648.4	314.6	327.8
Allowable Emissions for Attainment of CO Standards	333.1	333.1	333.1

*Gasoline limitation and motorcycle registration limitation are only required between 1974–1975 and 1977 to attain and maintain the CO standard.

Submittal of Written Comments

Interested persons may participate in this rule making by submitting written comments, preferably in triplicate, to the Regional Administrator, EPA, 100 California Street, San Francisco, California 94111. All relevant comments received within 30 days of this date will be considered. Receipt of comments will be acknowledged, but substantive responses to individual comments will not be provided. Comments received will be available for public inspection at the Regional Office. Copies of the proposal will also be available for inspection at the following locations: Arizona Division of Air Pollution Control, 1740 W. Adams Street, Phoenix, Arizona, 85007, and the Pima County Air Pollution Control Division, 151 West Congress Street, Tucson, Arizona 85701. The final promulgation of regulations for the Phoenix-Tucson Intrastate Region will take place on August 15, 1973. This notice of proposed rule making is issued under the authority of section 110(c) and section 301(a) of the Clean Air Act.

(42 U.S.C. 1857c-5)

Dated: July 6, 1973.

Robert W. Fri,
Acting Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40, of the Code of Federal Regulations as follows:

Subpart D—Arizona

1. Subpart D is amended by adding §§ 52.136, 52.137, 52.138, 52.139, 52.140, 52.141, 52.142, 52.143, and 52.144 as follows:

§ 52.136 Gasoline limitations.

(a) Definitions:

(1) The term "base year" means the consecutive 12-month period commencing on July 1, 1972, and ending June 30, 1973.

(2) The term "distributor" means any corporation, partnership, or sole proprietorship which transports or stores or causes the transportation or storage of gasoline between any refinery and any retail outlet.

(3) The term "retail outlet" means any establishment at which gasoline is sold or offered for sale to the public, or introduced into any vehicle.

(b) This section is applicable in the Phoenix-Tucson Intrastate Air Quality Control Region (hereafter referred to as the Region), to all distributors of gasoline to any retail outlet in this area and to the owners or operators of all retail outlets in this area.

(c) Beginning July 1, 1974, the State of Arizona shall implement regulations limiting the total gallonage delivered to retail outlets in the Region to the amount delivered to such outlets during the base year.

(d) In order for the State to determine the amount of gasoline delivered during the base year and years during which control is in effect, all distributors to which this section applies shall provide the State with a detailed accounting of the amount of gasoline delivered to each retail outlet in the Region during the base year and years during which control is in effect. For each year during which control is in effect, the owner or operator of each retail outlet to which this section applies shall provide the State with a detailed accounting of gasoline received from each distributor, including the total amount of gasoline received from each distributor, the total amount of gasoline sold during the year, and the amount of gasoline on hand at the beginning and end of the year. The State may require any other reports as it may deem necessary for the implementation of this section.

(e) The State of Arizona shall submit no later than October 1, 1973, a detailed compliance schedule showing steps it will take to establish and enforce the limitation program specified in paragraphs (c) and (d) of this section, including:

(1) The text of needed statutory proposals and needed regulations which it will propose for adoption.

(2) A date by which the State shall adopt procedures to ensure that no more than the amount of gasoline specified in paragraph (c) of this section is delivered to retail outlets in the Region. Such date shall be no later than March 30, 1974.

(3) A date by which any report necessary for establishing such procedures will be furnished to the State by the distributors. Such date shall be no later than January 1, 1974.

(4) Designation of an agency responsible for implementation and monitoring of this program.

(f) Failure to comply with any provisions of this section shall render the person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under section 113 of the Clean Air Act. With regard to compliance schedules, a State will be considered to have failed to comply with the requirements of this section if it fails to timely submit any required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

§ 52.137 Inspection and maintenance program.

(a) Definitions:

(1) "Inspection and maintenance program" means a program to reduce emissions from in-use vehicles through identifying vehicles which need emission control related maintenance and requiring that maintenance be performed.

(2) All other terms used in this section which are defined in Part 51, Appendix N of this chapter, are used herein with the meanings so defined.

(b) This section is applicable in the Phoenix-Tucson Intrastate Air Quality Region (hereafter referred to as the Region).

(c) The State of Arizona shall establish an inspection and maintenance program applicable to all light-duty vehicles which operate on streets or highways over which it has ownership or control. No later than October 30, 1974, the State shall submit legally adopted regulations to EPA establishing such a program. The regulations shall include:

(1) Provisions for inspection of all light-duty motor vehicles at periodic intervals no more than one year apart by means of a loaded test.

(2) Provisions for inspection failure criteria consistent with the emission reductions claimed in the plan for the strategy. These criteria shall include failure of 50 percent of the vehicles in the first inspection cycle.

(3) Provisions to ensure that failed vehicles receive the maintenance necessary to achieve compliance with the inspection standards. This shall include sanctions against individual owners and repair facilities, retest of failed vehicles following maintenance, a certification program to ensure that repair facilities performing the required maintenance have the necessary equipment, parts and knowledge to perform the tasks satisfactorily, and such other measures as may be necessary or appropriate.

(4) A program of enforcement to ensure that vehicles are not intentionally readjusted or modified subsequent to the inspection and/or maintenance in such a way as would cause them to no longer comply with the inspection standards. This might include spot checks of idle adjustments and/or a suitable type of physical tagging.

(5) Provisions for beginning the first inspection cycle by July 1, 1975, and completing it by July 1, 1976.

(6) Designation of any agency or agencies responsible for conducting, overseeing, and enforcing the inspection and maintenance program.

(d) After July 1, 1976, the State shall not register or allow to operate on its streets or highways any light-duty vehicle which has not complied with the applicable standards and procedures adopted pursuant to paragraph (c) of this section. This shall not apply to the initial registration of a new motor vehicle.

(e) After July 1, 1976, no owner of a light-duty vehicle shall operate or allow the operation of such vehicle which does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section.

(f) The State of Arizona shall submit, no later than October 1, 1973, a detailed compliance schedule showing the steps it will take to establish and enforce an inspection and maintenance program pursuant to paragraph (c) of this section, including:

(1) The text of needed statutory proposals and needed regulations which it will propose for adoption.

(2) The date by which the State will recommend needed legislation to the State legislature.

(3) The date by which necessary equipment will be ordered.

(4) A signed statement from the Governor or his designee identifying the sources and amounts of funds for the program. If funds cannot legally be obligated under existing statutory authority, the text of needed legislation will be submitted.

(g) Failure to comply with any provisions of this section shall render the person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under section 113 of the Clean Air Act. With regard to compliance schedules, the State will be considered to have failed to comply with the requirements of this section if it fails to timely submit any required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

§ 52.138 Bus/carpool lanes.

(a) Definitions:

(1) "Carpool" means a vehicle containing three or more persons.

(2) "Bus/carpool lane" means a motor vehicle lane on a street or highway open only to buses (or buses and carpools), whether constructed specially for that purpose or converted from existing lanes.

(3) "Major street or highway" means any street or highway which meets the criteria given in paragraphs (b)(4)(ii) or (iii) of this section.

(b) This regulation is applicable in the Phoenix-Tucson Intrastate Air Quality Control Region (hereafter referred to as the Region).

(1) Each incorporated city within the Region shall establish bus/carpool lanes on the major streets and highways over which it has ownership or control, according to the schedule in paragraph (b)(4)(v) of this section.

(2) Each county within the Region shall establish bus/carpool lanes on the major streets and highways within the Region over which it has ownership or control, according to the schedule in paragraph (b)(4)(v) of this section.

(3) The State of Arizona shall establish bus/carpool lanes on the major streets and highways within the Region over which it has ownership or control, according to the schedule in paragraph (b)(4)(v) of this section.

(4) Each of the governmental entities named in paragraph (b) of this section shall submit, no later than October 1, 1973, a detailed compliance schedule showing the steps which it will take to establish these bus/carpool lanes and to enforce the limitations on their use, with each schedule to include the following:

(i) Each major street and highway which will have bus/carpool lanes must be identified with a schedule for the establishment of the lanes.

(ii) If a major street or highway has four or more motor vehicle lanes in one direction, at least one of these lanes must be open only to buses (or buses and carpools) at all times. If only one lane is open to buses (or buses and carpools) at all times, a second lane must be open only to buses (or buses and carpools) from 6:30 a.m. to 9:30 a.m. and from 3:30 p.m. to 6:30 p.m.

(iii) If a major street or highway has three motor vehicle lanes in one direction, at least one of these lanes must be open only to buses (or buses and carpools) from 6:30 a.m. to 9:30 a.m. and from 3:30 p.m. to 6:30 p.m.

(iv) In unusual situations, a major street or highway, or a motor vehicle lane or segment thereof, may be exempt from these requirements if an approval of the exemption is obtained from the Administrator. The application for exemption shall not be submitted and will not be accepted after September 1, 1973. Special circumstances justifying the need for an exemption or modification (such as inappropriateness of use by buses, designation of bicycle lanes instead, or desire to allow bus/carpool lanes to be entered briefly by other vehicles for the

purpose of crossing a motor vehicle lane or making a right turn) must be given in detail with the application.

(v) Bus/carpool lanes must be prominently indicated by overhead signs at least once every mile, and at each intersection or entry ramp. Of the bus/carpool lane mileage for each of the governmental entities, 25 percent must be established and needed signs must be installed by March 1, 1974; 50 percent by June 1, 1974; 75 percent by September 1, 1974; and 100 percent by December 1, 1974.

(vi) Bus/carpool lanes must be prominently indicated by distinctive painted lines, pylons, or physical barriers.

(vii) A signed statement by the chief executive officer of each governmental entity or his designee shall identify the sources and amounts of funds for all projects.

(5) Buses shall have the right-of-way whenever changing lanes on major streets and highways with bus lanes. This shall take effect as each bus/carpool lane is established and identified.

(6) Buses shall be permitted to make left turns whether or not the intersection is posted for "No Left Turn" (except when a one-way street would be entered from the wrong direction). This shall take effect January 1, 1974.

(7) None of the governmental entities named in paragraph (b) of this section shall convert existing on-street parking spaces to use as motor vehicle lanes unless the effect will be to increase the number of bus/carpool lanes on the affected street beyond the number otherwise required by paragraph (b) of this section, or unless the effect will be to create a bicycle lane in place of the parking spaces.

(c) Failure to comply with any provisions of this section shall render the person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under section 113 of the Clean Air Act. With regard to compliance schedules, a governmental entity will be considered to have failed to comply with the requirements of this section if it fails to timely submit any required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

§ 52.139 Management of parking supply.

(a) Definitions:

(1) "Construction" means fabrication, erection, or installation of a parking facility, or any conversion of land to use as a parking facility.

(2) "Modification" means any change to a parking facility which increases the vehicle capacity of such facility.

(3) "Enlargement" means any physical change or addition to a parking facility which increases the vehicle capacity of such facility.

(4) "Commenced" means that an owner or operator has undertaken a continuous program of construction, modification, or enlargement.

(5) "Parking facility" (also called "facility") means any facility, building, structure, or lot or portion thereof used primarily for temporary storage of motor vehicles.

(b) This regulation is applicable in the Phoenix-Tucson Intrastate Air Quality Control Region (hereafter referred to as the Region).

(c) No person, after August 15, 1973 shall commence construction of any new parking facility or modification or enlargement of any existing parking facility until he has first received from the Administrator or from an agency approved by the Administrator a permit stating the construction, modification or enlargement of such facility will not interfere with the attainment or maintenance of applicable Federal air quality standards.

(d) In order for any agency to be approved by the Administrator for purposes of issuing permits for construction of any new parking facility or any modification or enlargement of any existing parking facility, such agency shall demonstrate to the satisfaction of the Administrator that:

(1) Requirements for permit applications and issuance have been established. Such requirements shall include, but not be limited to, a requirement that before a permit may be issued, the following findings of fact or factually supported projections must be made:

(i) The location of the facility.

(ii) The total motor vehicle capacity before and after the construction, modification, or enlargement of the facility.

(iii) The normal hours of operation of the facility and the enterprises and activities which it serves.

(iv) The number of people using or engaging in any enterprises or activities which the facility will serve.

(v) The number of motor vehicles using the facility on an average hourly basis and a peak hour basis.

(vi) A projection of the geographic areas in the community from which people and motor vehicles will be drawn to the facility. Such projections shall include data concerning the availability of public transit from such areas.

(2) Criteria for issuance of permits have been established and published. Such criteria shall include, but shall not be limited to:

(i) Full consideration of all facts contained in the application.

(ii) Provisions that no permit shall be issued if such permit will result in the increase of VMT within any area, the air quality of which fails to meet applicable Federal air quality standards.

(3) Agency procedures provide that no permit for the construction, enlargement or modification of a parking facility covered by this section shall be issued without notice and opportunity for public hearing. The public hearing may be of the legislative type; the notice shall conform to the requirements of § Part 51.4 (b) of this chapter; and the Agency rules of procedure may provide that if no notice of intent to participate in the hearing is received from any member of the public (other than the applicant) prior to 7 days before the scheduled hearing date, no hearing need be held. If notice of intent to participate is required, that fact shall be noted prominently in the required notice of hearing.

§ 52.140 Limitation of public parking.

(a) The term "off-street parking facility" means any land or building or portion of a building set aside for the purpose of storing a maximum capacity of 10 or more vehicles on a temporary basis.

(b) Each governmental entity or public agency owning or operating an off-street parking facility located within the Phoenix-Tucson Intrastate Air Quality Control Region shall, by October 1, 1973, report to the Administrator the number of parking spaces in each such facility under its ownership or control. The number used solely for the storage of vehicles of persons who reside within ¼ mile of the facility shall not be counted.

(c) Each such owner or operator of any off-street parking facility located within the area specified in paragraph (b) of this section shall reduce the number of affected parking spaces in each such facility from the number in existence as of October 1, 1973, according to the following schedule:

By January 31, 1974—a reduction of 5 percent
By July 31, 1974—a reduction of 10 percent
By December 31, 1974—a reduction of 15 percent
By April 30, 1975—a reduction of 20 percent

(d) Each such owner or operator of an off-street parking facility subject to the requirements of paragraph (c) of this section shall submit to the Administrator, no later than October 31, 1973, a detailed compliance schedule showing the steps it will take to achieve the required reduction in parking spaces. Such schedule shall provide for the marking in some manner obvious to the public (such as painting over, roping off, or the like) of the eliminated spaces on which parking is not permitted pursuant to this section.

(e) Failure to submit a compliance schedule as required by this section shall render the person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under section 113 of the Clean Air Act. Any owner or operator of an off-street parking facility who allows any vehicle to be parked on any parking space which has been eliminated pursuant to this section, or who fails to mark clearly those spaces which have been eliminated, shall likewise be in violation and subject to enforcement.

§ 52.141 Motorcycle limitation program.

(a) Definitions:

(1) "Motorcycle" means any self-propelled two or three-wheeled motor vehicle capable of carrying one or more persons.

(2) "Registration" means the action of a State allowing a vehicle to be operated on the streets and highways in that State during a defined period of time.

(3) "Registration period" means that period of time for which a vehicle is allowed to be used within the State.

(b) This section is applicable in the Phoenix-Tucson Intrastate Air Quality Control Region (hereafter referred to as the Region).

(c) As of January 1, 1975, or during any registration period which commences in the calendar year 1975, the State of Arizona shall not register in the Region more motorcycles than the total number of motorcycles projected for that period based on ordinary growth trends in the period 1971–1974. This requirement shall remain in effect until July 1, 1977.

(d) After July 1, 1974, no person shall operate on the streets and highways of the State within the Region any motorcycle which is not validly registered by the State of Arizona or by another State.

(e) No later than October 1, 1973, the State shall submit a detailed compliance schedule showing the steps it will take to implement and enforce these requirements, and the text of needed statutory proposals and needed regulations which it will propose for adoption. Each schedule shall also include the following:

(1) A date by which the State will adopt procedures necessary to limit the number of motorcycles registered as required by paragraph (c) of this section.

(2) Proposed procedures to ensure that no motorcycle will be registered by the State in a county other than that of the owner's legal residence.

(3) A date by which such procedures will go into effect. Such date shall be no later than July 1, 1974.

(f) Failure to comply with any provisions of this section shall render the person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under section 113 of the Clean Air Act. With regard to compliance schedules, the State will be considered to have failed to comply with the requirements of this section if it fails to timely submit any required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

§ 52.142 Oxidizing catalyst retrofit.

(a) Definitions:

(1) "Oxidizing catalyst" means a device installed in the exhaust system of the vehicle that utilizes a catalyst and, if necessary, an air pump to reduce emissions of hydrocarbons and carbon monoxide from that vehicle.

(2) All other terms used in this section which are defined in Part 51, Appendix N of this chapter, are used herein with the meanings so defined.

(b) This section is applicable to the Phoenix-Tucson Intrastate Air Quality Control Region.

(c) The State of Arizona shall establish a retrofit program to ensure that on or before May 1, 1977, gasoline-powered light-duty vehicles of model years 1968 through 1974, subject under presently existing legal requirements to registration in the area defined in paragraph (b) of this section, are equipped with an appropriate oxidizing catalyst retrofit device. No later than October 30, 1974, the State shall submit legally adopted regulations to EPA establishing such a program. The regulations shall include:

(1) Designation of an agency responsible for evaluating and approving such devices for use on vehicles subject to this section.

(2) Designation of an agency responsible for ensuring that the provisions of subparagraph (3) of this paragraph are enforced.

(3) A provision that starting no later than May 31, 1976, the State of Arizona shall require those light-duty vehicles of 1974 model year and earlier which are able to operate on 91 RON (research octane number) gasoline to be retrofitted with an oxidizing catalytic converter. The installation shall be completed by May 31, 1977.

(4) A method and proposed procedures for ensuring that those installing the retrofits have the training and ability to perform the needed tasks satisfactorily and will have an adequate supply of retrofit components.

(d) After June 1, 1977, the State shall not register or allow to operate on its streets or highways any light-duty vehicle which does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section.

(e) After June 1, 1977, no owner of a vehicle subject to this section shall operate or allow the operation of any such vehicle which does not comply with the applicable standards and procedures implementing this section.

(f) The State of Arizona shall submit, no later than October 1, 1973, a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to paragraph (c) of this section, including the text of needed statutory proposals and needed regulations which it will propose for adoption. The compliance schedule shall also include a date by which the State shall evaluate and approve devices for use in this program. Such date shall be no later than September 30, 1975.

(g) Failure to comply with any provisions of this section shall render the person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under section 113 of the Clean Air Act. A State will be considered to have failed to comply with the requirements of this regulation if its fails to timely submit the required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

§ 52.143 Air bleed to intake manifold retrofit.

(a) Definitions:

(1) The term "air bleed to intake manifold retrofit" as used in this section means a device in the intake system of the vehicle which enables the air/fuel ratio to be increased by metering additional air to the intake manifold in accordance with intake manifold vacuum advance to reduce emissions of hydrocarbons and carbon monoxide to the atmosphere.

(2) All other terms used in this section which are defined in Part 51, Appendix N of this section, are used herein with the meanings so defined.

(b) This section is applicable in the Phoenix-Tucson Intrastate Air Quality Control Region.

(c) The State of Arizona shall establish a retrofit program to ensure that on or before June 30, 1976, all gasoline-powered light-duty vehicles of model years prior to 1968, subject under presently existing legal requirements to registration in the area defined in paragraph (b) of this section, are equipped with an appropriate air bleed to intake manifold device. No later than March 1, 1974, the State shall submit legally adopted regulations to EPA establishing such a program. The regulations shall include:

(1) Designation of an agency responsible for evaluating and approving such devices for use on vehicles subject to this section.

(2) Designation of any agency responsible for ensuring that the provisions of paragraph (c)(4) of this section are enforced.

(3) Provisions for beginning the installation of the air bleed devices by July 1, 1975, and installation of the devices on all vehicles subject to this section no later than June 30, 1976.

(4) A provision that starting no later than June 30, 1975, no vehicle of which retrofit is required under this section passes the annual emission tests provided for by § 52.137 unless it has been first equipped with an approved air bleed to intake manifold device which the test has shown to be installed and operating correctly. The regulations shall include test procedures and failure criteria for implementing this provision.

(5) Method and proposed procedures for ensuring that those installing the retrofit devices have the training and ability to perform the needed tasks satisfactorily and will have an adequate supply of retrofit components.

(d) After June 30, 1976, the State shall not register or allow to operate on its streets or highways any light-duty vehicle which does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section.

(e) After June 30, 1976, no owner of a vehicle subject to this section shall operate or allow the operation of any such vehicle which does not comply with the applicable standards and procedures implementing this section.

(f) The State of Arizona shall submit, no later than October 1, 1973, a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to paragraph (c) of this section, including the text of statutory proposals and regulations which the State proposes for adoption.

The compliance schedules shall also include a date by which the State shall evaluate and approve devices for use in this program. Such date shall be no later than September 30, 1974.

(g) Failure to comply with any provision of this section shall render each person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under section 113 of the Clean Air Act. A State will be considered to have failed to comply with the requirements of this regulation if it fails to timely submit the required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

§ 52.144 Bus/carpool computer matching system.

(a) Definitions:

(1) "Bus/carpool matching" means assembling lists of commuters sharing similar travel needs. The number of commuters on each list identifies potential bus/carpools.

(2) "Time-origin-destination (TOD) information" means information that identifies a commuter's work schedule, home and work location.

(3) All other terms used in this section which are defined in Part 51, Appendix N, of this chapter, are used herein with the meanings so defined.

(b) This section is applicable in the Phoenix-Tucson Intrastate Air Quality Control Region (hereafter referred to as the Region).

(c) Beginning March 1, 1974, the State of Arizona shall establish a computer-aided bus/carpool matching system which is conveniently available to all employees in businesses having more than 10 employees within the Region who operate light-duty vehicles on streets or highways over which it has ownership or control. No later than December 1, 1973, the State shall submit legally adopted regulations to EPA establishing such a system. The regulations shall include:

(1) A method of collecting information which will include the following as a minimum:

(i) Provisions for each affected employee receiving an application form with a cover letter describing the matching program.

(ii) Provisions on each application for applicant identification of time, origin, and destination, and the applicant's desire to drive only, ride only, or share driving.

(2) A computer method of matching information that will have provisions for locating each applicant's origin and destination within a grid system in the urban area and semi-rural region surrounding the Phoenix and Tucson metropolitan areas and matching applicants with identical origin and destination grids and compatible work schedules.

(3) A method for providing continuing service such that the master list of all applicants is retained and available for use by new applicants; applications are currently available; and the master list is periodically updated to remove applicants who have moved from the area served.

(4) An agency or agencies responsible for operating, overseeing and maintaining the bus/carpool computer matching system.

(d) Failure to comply with any provisions of this section shall render the person so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under section 113 of the Clean Air Act.

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[40 CFR Part 52]

CALIFORNIA

Approval and Promulgation of Implementation Plans

This notice of proposed rulemaking sets forth transportation control plans for the following California Intrastate Regions (hereafter referred to also as Regions): San Francisco Bay Area, Sacramento Valley, San Diego, San Joaquin Valley, and Southeast Desert. A Federally proposed plan for the Los Angeles Intrastate Region was announced on January 15, 1973, and a revision of that plan was announced on June 15, 1973.

BACKGROUND

On May 31, 1972, the State of California was granted, pursuant to section 110(e) of the Act, an extension of 2 years for the attainment of the national standards for photochemical oxidants (hydrocarbons) in the San Francisco Bay Area, Sacramento Valley, and Southeast Desert Intrastate regions and for carbon monoxide in the Sacramento Valley Intrastate Region.

In accordance with the court decision on the NRDC v. EPA suit, this extension was rescinded and California was directed to submit a transportation strategy by April 15, 1973, that would provide for the attainment and maintenance of the standards as noted above by May 31, 1975. The court required each of the states that had originally been given an extension of time for submitting transportation control plans to submit such a plan by April 15, 1973, for each region that required it, and required the Administrator to approve or disapprove such plans by June 15, 1973. The court also ordered each of the 2-year extensions that had been granted for achieving the standards for automobile-related pollutants in these regions to be rescinded, with the proviso that they could be granted again if, on reexamination, EPA concluded that each of the statutory tests had been met.

In addition, California was directed to submit a transportation strategy for photochemical oxidants (hydrocarbon) in the San Diego and San Joaquin Valley Intrastate Regions and for carbon monoxide in the San Francisco Bay Area, San Diego, and San Joaquin Valley Intrastate Regions. The Administrator disapproved those portions of the California plan that were required to be submitted. That disapproval was announced on June 15, 1973, and published in the FEDERAL REGISTER on June 22, 1973. The disapproval was based solely upon the lack of timely submittal of California's plan. The Environmental Protection Agency, will, when the plan is received, acknowledge its receipt in the FEDERAL REGISTER and will provide opportunity for the public to comment on the plan. After evaluation of the plan that is to be submitted by the State and consideration of all comments, this notice of proposed rule making will be revised accordingly. A transportation control plan will be promulgated by the Administrator if the State fails to submit its own plan. Upon submission of an acceptable plan by the State, the EPA plan, or portions thereof, will be rescinded.

SUMMARY

Studies available to the Administrator at present indicate that a significant reduction of reactive hydrocarbons will have to occur in all regions covered by this proposal if the ambient air quality standards for photochemical oxidants are to be attained. In all cases, the controls proposed will affect the required reduction in reactive hydrocarbons; attainment of the oxidant standards will ensure attainment of the carbon monoxide and nitrogen oxide standards as well.

The proposed control measures reflect what EPA considers to be the most feasible approach for meeting the national standards in each region. However, these measures are subject to change prior to promulgation as a result of written comments, testimony presented at the public hearings, or further study conducted by EPA.

Much of the reduction in photochemical oxidant levels will result from measures submitted by the State and already approved, but these measures are not enough to meet the standards. The Administrator has concluded that an extension of the deadline for achieving the standards to 1977 under section 110(e) of the Act is justified because the necessary technology or other alternatives are not available and will not be available soon enough to permit full compliance. The extension applies to all Regions covered by this proposal for photochemical oxidants and for carbon monoxide. In reaching this conclusion, the Agency has considered, and applied as part of its plan, reasonably available alternative means of attaining the primary standard.

The plan set forth herein provides for the application of the requirements to all emission sources other than motor vehicles not later than May 31, 1975, as required by section 110(e)(2)(A), and provides for the application of reasonable interim measures for control of motor vehicle emissions prior to 1977.

Most of the plan utilizes reasonable and apparently available means of reducing photochemical oxidants, carbon monoxide, and nitrogen dioxide, including requirements for establishing bus and car-pool lanes on freeways and major streets. Other measures, to be required prior to 1975 in most cases, include: reductions in off-street public parking; limits on the construction of additional parking facilities; limitations on motorcycles; mandatory inspection and maintenance of light-duty vehicles; and the prevention of further increases in gasoline consumption.

Portions of the plan utilize measures which appear reasonable but do not appear to be applicable by 1975 because of technical problems related to devices such as catalytic retrofits. These measures will be required beginning in 1976, with full implementation to be achieved by 1977; they will be required earlier if they become available. Even if all the reasonable measures mentioned above are imposed, it is possible that the national standards for photochemical oxidants will not be met in the Regions by 1977 except in the San Joaquin Valley. Under the Clean Air Act, the Agency has no choice but to include in the plan a measure which can achieve the standards by 1977 even if it appears impractical and unworkable. Consequently gasoline limitations of whatever degree necessary have been included for 1977. If implemented, these limitations would achieve the standards for photochemical oxidants; however, the Agency will utilize every means available to avoid imposing impractical measures in order to meet the standards by 1977. It should be noted that grounds for a 1-year extension of the compliance date for certain sources under section 110(f) of the Clean Air Act may arise so that certain requirements of this plan may not be imposed until May 31, 1978.

Need for Mass Transit

The development of large-scale mass transit facilities in each Region is essential to any effort to reduce automotive pollution. The planning, acquisition, and operation of mass transit systems is and should remain a local responsibility. However, the automobile problem does not follow the boundaries of counties or cities. Current planning and operating agencies for mass transit do not appear to have sufficient authority to provide for adequate public transit with the notable exception of the San Francisco Bay Area's Metropolitan Transportation Commission. Consequently, the Environmental Protection Agency strongly endorses the concept of a region-wide transportation planning and operating authority.

The Agency also actively encourages the immediate large-scale purchase of additional public transportation facilities, specifically, additional buses, and encourages further examination of the feasibility of rail transit. To create conditions conducive to rapid bus transit, several of the measures in this plan give preferential treatment to buses. The Agency also encourages close examination of such measures as fare reductions; provision of jitney service; provision of more minibuses; fringe parking lots for buses and car pools; special parking privileges for car pools; on-street parking prohibition for nonresidents; State taxes to encourage reductions in vehicle miles of travel (VMT) while raising revenue to benefit mass transit; provisions for establishment of additional bicycle lanes throughout the metropolitan areas such as this proposal sets forth; and provisions for free bus tokens in place of free parking privileges.

State and Local Implementation of Control Measures

In order to preserve the intent of the Clean Air Act that pollution problems be dealt with primarily at the local level, the Agency will require State and local governments to take action wherever possible, and will not involve the Federal Government in the administration of local programs or in direct enforcement against individual citizens. Requirements of this sort are proposed with regard to expansion of a State motor vehicle retrofit program and establishment of bicycle lanes, bus/car-pool lanes, motorcycle control, public parking facilities, inspection/maintenance programs and gas limitations. Appropriate governmental entities will be required to submit compliance schedules for these programs with complete details on their implementation.

If the State submits adequate control measures in any of these areas or substitute control measures which will achieve comparable reductions in pollution, then the Administrator can approve the State's measures rather than promulgating his own. However, the requirements to submit adequate compliance schedules and take other actions will be enforced on a timely basis if the Agency's measures are promulgated. Therefore, it is suggested that plans to comply with these measures not be delayed.

Proposed Mobile Source Controls

Moderate VMT reductions

EPA is proposing moderate VMT reduction measures in several regions to facilitate achievement of the standards.

The information available is incomplete. It is as true today as it was a year ago that, "states have had practically no experience with transportation control measures as a means of dealing with air quality problems." Nobody really knows what the public response to significant measures to reduce VMT will be. The studies that have been made on this point are inadequate and necessarily hypothetical until the measures have actually been put into effect. In addition, public attitudes in major urban areas appear to be changing and becoming less favorable to the continued use of automobiles on the present scale. Finally, even the question of the ability of different modes of transportation to accommodate the passengers diverted from automobiles as a result of significant VMT reductions will vary greatly with the individual region. No firm projection of what alternative transportation is available can be made without a detailed traffic study of each individual region, and, for the most part, such studies have not been made.

It is clear, however, that the authors of the Clean Air Act Amendments of 1970 anticipated that substantial VMT reductions might be necessary to achieve the standards. The Senate Report on the Act states that until the vehicle population is largely made up of cars that meet the 1975–76 standards, "as much as seventy-five percent of the traffic may have to be restricted in certain large metropolitan areas if health standards are to be achieved within the time required by this bill." It is also clear from the January 31, 1973, court of appeals opinion that if VMT reduction measures are "reasonably available" by 1975, and if the standards cannot be achieved without them, they must be put into effect. Consequently, it is proposed that the continuing growth in VMT within the air quality control regions covered by this proposal be stopped by limiting the continued growth in gasoline consumption. Gasoline consumption has been increasing by approximately 4.5 percent per year throughout the State of California. It is proposed that distributors not be permitted to deliver to retail outlets any more gasoline than is distributed during the period of July 1972 through June 1973. No rationing requirement will be placed on individual motorists unless the State of California chooses to do so.

Against this background, EPA has reexamined the question of VMT reduction and has arrived at some conclusions which have influenced the actions being taken. Comment on these is invited, both generally and with respect to specific regions. No significant reduction in the use of private automobiles can be expected to result from measures to increase the attractiveness of other means of transportation, such as buying more buses and improving bus service, building bicycle paths, and, in the long run, building new rail rapid transit systems. Reductions in VMT can only be assured through the use of some form of restraint on or disincentives to vehicle use.

A measure cannot be considered "reasonably available," however, if implementing it would cause severe economic and social disruption. Although some reduction in personal travel could certainly be absorbed without this result, to achieve a significant VMT reduction it will be necessary for the bulk of the travel displaced from single-passenger automobiles to be absorbed by such other modes of transportation as car pools, walking, bicycling, or public transit.

The only significant expansion of public transit facilities that can be accomplished by 1975 is the upgrading and physical expansion of bus services. Much,

however, can be done in this regard. Scheduling and service can be improved and optimized. Individual lanes of freeways and other major roads can be set aside for the exclusive use of buses and/or car pools. Significant numbers of new buses can be purchased and put into service by 1975. According to Department of Transportation figures, 2,500 transit buses were sold in this country in 1972, but the transit industry's production capacity is estimated to be more than 6,000 buses a year by 1975. Financial assistance from the Department of Transportation will be available to most communities for improving public transit facilities.

In the California Regions, sufficient alternative transportation capacity is presently or potentially available by 1975 to make reasonable VMT reductions (on the order of 10 to 15 percent) available by 1975. In part, this capacity is contained in present mass transit facilities, or can be created through the expansion of bus service as outlined above. It is also a possibility that many short trips now made by car could be made by bicycle or walking. Car pooling, however, may be the only strategy for reducing VMT which is both implementable by 1975 and capable of substantially reducing emissions without restricting personal mobility. Private automobiles, which are designed to carry four to six persons, carry an average of one and one-half persons per trip in major urban areas, and thus represent the largest unused pool of transportation capacity currently available.

EPA cannot directly require the use of car pools. It can be expected, however, that as measures to make the use of private automobiles less convenient are imposed, increased reliance on car pools will develop naturally as a matter of private initiative. It is proposed herein that the State provide a bus- and car-pool computer matching system to assist employees in establishing bus and car pools.

The measure proposed herein will require conversion of some lanes on major streets and highways for the exclusive use of buses and car pools, and it is expected that such a widespread network of bus/car-pool lanes will provide substantial incentive for use of buses and car pools while making private vehicle travel by single drivers relatively less attractive. Identification of specific lanes is expected to be made at the local level under the overall requirements herein. Exceptions to or modifications of the broad requirements will be approved when specifically justified since it will take some time before sufficient buses are available to carry the passengers currently traveling these lanes in private cars. These proposed regulations would permit the use of the lanes by car pools with three or more persons in the vehicle.

Due to the very high pollution potential of the 2-stroke motorcycles, the regulations herein proposed essentially ban the use of such vehicles during daylight hours in the summer smog season. The average 2-stroke motorcycle emits approximately 31 times as much exhaust hydrocarbons per mile as will a new California 1975 automobile. Consequently, prevention of increases in the number of motorcycles is proposed to prevent counter-productive shifts from automobiles to motorcycles as a result of other elements of the control strategy. The Agency will evaluate the feasibility of establishing emission standards for new motorcycles and will evaluate the availability of motorcycle emission control technology, including retrofits, for meeting emission standards.

Governmental entities will be required to reduce the number of parking spaces in publicly owned off-street parking facilities in an effort to reduce the number of low-occupancy private vehicles entering the central business districts and other congested areas and to promote voluntary car-pooling and the use of bus transit. Comment is invited on the possibility of extending this control to privately owned parking facilities, either by outright reduction in spaces or by imposing regulatory fees.

INSPECTION AND MAINTENANCE PROGRAMS

Considerable reductions in motor vehicle emissions can be achieved by requiring all vehicles in an area to be tested annually for emissions, by failing those emitting pollutants that exceed a certain level, and by requiring maintenance on those which fail in order to bring them into compliance. This process is called "inspection and maintenance" throughout this proposal.

Three different types of tests are possible. The car can be tested while running in gear on a treadmill-like device called a "dynamometer" (a "loaded test"); it can be tested while running in neutral (an "idle test"); or certain emission-related engine components can simply be examined to make sure they are in good working order ("parameter" inspection). A loaded test is the most effective and most expensive; parameter inspection is the least effective and least expensive. Since an inspection and maintenance program cannot be expected to achieve maximum effectiveness in reducing emissions unless a loaded test is adopted, EPA is proposing its adoption.

The State of California is proceeding with a loaded mode inspection system which will result in emission reductions. The proposal herein will require that this inspection system be expanded to require mandatory inspection and maintenance of all light-duty motor vehicles in Regions covered by this proposal. The inspection and maintenance program which the State is currently evaluating and proposing will be applicable to the Los Angeles Intrastate Region only.

RETROFITS

Until recently, much of the discussion of transportation control strategies centered on whether it was feasible to require the installation ("retrofit") of additional pollution control devices on motor vehicles currently in use. The most controversial of these devices has been the catalytic converter.

In his decision of April 11, 1973, to suspend the 1975 automobile emission standards for 1 year, the Administrator concluded that the problems involved in attempting to scale-up production of catalytic converters for new cars from near zero to 10 million units in a single model year, combined with the problem of adapting assembly lines to do this work, would probably result in economic dislocation if catalytic retrofits were required. The problems that would be encountered in any attempt to retrofit large numbers of existing vehicles with catalytic mufflers by mid-1975 are far more formidable than those generated by the attempt to put them on new cars.

Far less developmental work has been done on catalytic retrofits than on catalysts for new cars. The construction of production facilities for new-car catalysts has been largely funded by the major auto companies under requirements contracts; no such support has been available where retrofits are concerned. Finally, and most important of all, new-car catalysts would be installed by a few major companies through addition of another process to their assembly lines. To retrofit large numbers of in-use cars, it would be necessary to get them off the road into many different repair shops and to train a considerable number of mechanics how to install the catalysts once the cars had been made ready to receive them. In light of these difficulties, it is unrealistic to expect that significant progress toward the catalytic retrofit of large numbers of cars can be made by May 31, 1975. Accordingly, EPA is not proposing the retrofit of any vehicles with catalytic mufflers prior to 1975.

Cars with catalysts must be run on lead-free gasoline if the catalyst is to retain its efficiency. Current EPA regulations set forth on January 10, 1973 (38 FR 1254), provide for such gasoline to be made generally available by the beginning of the 1975 model year, but only in a relatively low octane. It is not anticipated that higher octane gasoline with the extremely low lead levels that catalysts require will be generally available by 1977 even if EPA decides that lead in gasoline is a health hazard and should be phased out. Accordingly, it will only be feasible to retrofit catalysts on certain model year cars, since only these models have been designed to run on low-octane gasoline. Catalytic converters would be required in 1976–1977 for many pre-1975 vehicles. It cannot be concluded at present that the technology for retrofit converters has developed to the point that they could be installed effectively by 1975. However, the Agency will monitor the status of development of this technology and will accelerate the date if feasible.

It is proposed that the California nitrogen oxide reduction device program for used cars be expanded. This device consists of a vacuum spark advance disconnect and/or an exhaust gas recirculation system.

This regulation requires application of the State's present program for 1955–1965 model year vehicles to the Sacra-

mento and San Joaquin Regions. The current State program exempts these regions from this retrofit program.

STATIONARY SOURCE CONTROLS

Even though in most of the regions covered by this proposal the automobile is by far the major source of hydrocarbon and carbon monoxide emissions, substantial amounts are also emitted by both major and minor stationary sources. Major sources include oil and gasoline storage facilities and refineries; minor sources, which may be important factors in air pollution because of their numbers, include dry-cleaning shops, gas stations, incinerators, and any place where solvent-based paints are used.

EPA looked first to the reductions that might be achieved by further control of stationary sources for a variety of reasons. The nature of the controls available, their cost, and their effectiveness are relatively well known, and both States and EPA have had significant experience in enforcing similar measures. It can be predicted with confidence that none of these measures will cause any noticeable economic or social disruption. Since almost without exception they will be limited to requiring commercial enterprises to make investments or changes in their modes of operation, the only effect is likely to be some rise in the price of the goods or services produced by the affected enterprises.

Regulations are herein proposed to further limit emissions from stationary sources. They include requiring installation of vapor recovery systems at gasoline stations (the San Francisco Bay Area and San Diego Regions already have such a regulation and therefore no such proposal is made for these areas); additional control of dry-cleaning emissions; elimination of certain industrial solvent compounds; improved control on painting operation solvent loss; and additional restrictions on the loss of organic solvents in general industrial use. The Federal regulations dealing with the development by the State of a "complex source" review procedure were promulgated June 11, 1973, by the Environmental Protection Agency. These regulations provide guidelines on the procedure by which the State must review the construction permits of such indirect emission sources as shopping centers, housing complexes, and sports arenas, which in themselves are not major sources of pollution but tend to increase the amount of vehicle traffic in areas where they are located, and therefore cause an increase in motor vehicle related emissions. The review procedure developed by the State must be submitted to the Environmental Protection Agency by August 15, 1973, for approval. This point source review currently being done by some local districts and the Environmental Protection Agency should further reduce growth-induced emissions.

CONTROL STRATEGY FOR THE SAN FRANCISCO BAY INTRASTATE AIR QUALITY CONTROL REGION

The San Francisco Bay Intrastate Region is comprised of all of seven counties, namely Alameda, Contra Costa, Marin, San Francisco, San Mateo, Santa Clara, and Napa, and portions of two others, southwestern Solano and southern Sonoma. Geographically, the region covers approximately 5,600 square miles and has within its bounds approximately 4.6 million people and 2.7 million motor vehicles. Air pollution control in the region falls under the jurisdiction of the Bay Area Air Pollution Control District created by the California Legislature in 1955. During 1971, the Region experienced numerous violations of both Federal and State air quality standards. Based upon a linear rollback model and a maximum 1-hour oxidant reading at San Leandro of 0.36 ppm, a 78 percent reduction in reactive hydrocarbon emissions is required a achieve the ambient air quality standards for photochemical oxidants. Of the total emissions in the Region, 58 percent of the hydrocarbons, 70 percent of the nitrogen oxides, and 96 percent of the carbon monoxide emissions come from mobile sources. Although mobile sources presently account for the majority of the emissions, their control alone will not be sufficient to allow for attainment of national ambient air quality standards. Table I below shows the impact the proposed measures will have on the total emissions in the Region.

TABLE I—SUMMARY OF IMPACT OF CONTROL STRATEGIES IN SAN FRANCISCO BAY REGION IN 1977

Source of pollutant and control measures	*Emissions and reductions, tons/day of reactive hydrocarbons*
Stationary source emissions without control strategy.	225
Expected reductions	
1. Gasoline marketing vapor recovery.	—138
2. Surface coating improvements	—23
3. Dry-cleaning controls	—4
4. Degreasing controls	—10
Stationary source emissions remaining	50
Mobile source emissions without proposed control strategy.	201
Expected reductions	
1. Light-duty motor vehicle inspection and maintenance and catalytic converter retrofit.	—38
2. Motorcycle controls	—17
3. Reduction in private automobile use (20%).	—17
Mobile emissions remaining	129
Gasoline reduction (additional 64% VMT reduction).	—54
Total emissions remaining	125
Allowable emissions to attain standards.	125

Studies available to EPA indicate that a VMT reduction on the order of 20 percent can be achieved by means other than gas rationing. The remainder of the VMT reduction needed will be achieved through gas rationing.

It is hoped that in the process of developing a regional transportation plan, the Metropolitan Transportation Commission will be able to determine the effect of their plan upon the air quality generally, and specifically, upon the miles traveled by automobiles.

SOUTHEAST DESERT INTRASTATE AIR QUALITY CONTROL REGION CONTROL STRATEGY

The Southeast Desert Intrastate Region, also known as the Southeast Desert Air Basin, is located in the southeast portion of the State of California. It is comprised of all of Imperial County and the eastern portions of San Bernardino, Riverside, Kern, Los Angeles, and San Diego Counties. Geographically, this Region covers 33,600 square miles and is separated from the coastal regions by a series of mountain ranges. Elevations vary from 235 feet below sea level to 11,000 feet above sea level.

Air quality monitoring stations in the Region, in particular, those in the Coachella Valley, record photochemical oxidant levels up to five times the national ambient air quality standards. The overall 1971 maximum readings in the Region are 0.38 part per million oxidants (recorded in Palm Springs) and 17 parts per million carbon monoxide (recorded in Indio). Using simple rollback and assuming a linear relationship between reactive hydrocarbons and oxidant concentrations, the reductions required to achieve the national standards are 70 percent of the reactive hydrocarbons and 47 percent of the carbon monoxide.

There are significant data which support the hypothesis that air pollution from the Metropolitan Los Angeles Intrastate Region is transported to and contributes substantially to high oxidant levels in the desert areas east of Los Angeles. It is expected that the emission controls proposed by the Administrator, in addition to State and local emission controls for the Metropolitan Los Angeles Region will provide for attainment of the carbon monoxide and photochemical oxidant standards in the Southeast Desert Region by July 1977. Any delay experienced in attaining the oxidant and carbon monoxide standards in the Los Angeles Region will cause a corresponding delay in attainment of the standards in the Southeast Desert Region.

A discussion of studies relating the air quality in the Southeast Desert Region to that in the Los Angeles Region can be found in "Development of Emission Control Strategies for Reducing the Air Pollution in Critical California Air Quality Control Regions," prepared under contract for the Environmental Protection Agency and available from the EPA Region IX office at 100 California Street, San Francisco, California 94111.

Because of the dependence of air quality in the Southeast Desert Region upon that in the Los Angeles Region, and because of the very small impact that emissions in the Southeast Desert Region have upon air quality there, no transportation controls are proposed for this Region.

TRANSPORTATION CONTROL STRATEGY FOR SACRAMENTO VALLEY INTRASTATE AIR QUALITY CONTROL REGION

The Sacramento Valley Intrastate Region, also known as the Sacramento Valley Air Basin, lies in the center of Northern California, bounded on the west by the Coast Range, on the north and east by the Cascade Range and the Sierra-Nevada Range, and on the south by the San Joaquin Valley. This Region is comprised of portions of 15 counties. Geographically, the Region consists of 21,300 square miles, 1.2 million people, and

840,000 motor vehicles. Air pollution control in the Region falls under the jurisdiction of the local air pollution control districts.

TABLE II—SUMMARY OF IMPACT OF CONTROL STRATEGIES IN SACRAMENTO "REGIONAL AREA" IN 1977

Source of pollutant and control measures	*Emissions and of reactive tons/day reductions, hydrocarbons*
control strategy	40.6
Expected reductions	
1. Gasoline marketing vapor recovery	−26.0
2. Surface coating improvements	−1.1
3. Dry-cleaning controls	−0.7
4. Degreasing controls	−1.9
5. State limitations on burning	2.1
Stationary emissions remaining	8.8
Mobile source emissions without proposed control strategy	54.1
Expected reductions	
1. Catalyst retrofit	−5.2
2. Inspection/maintenance program	−4.1
3. Motorcycle controls	−5.9
4. Reduction in private auto use (20%)	−5.2
5. Vacuum spark advance program	−1.0
Mobile emissions remaining	32.7
Gasoline reduction (additional 29% VMT reduction)	−7.5
Total emissions remaining	34.0
Allowable emissions to attain standards for photochemical oxidants	34.5

As in the rest of the State, the local and regional organizations deal primarily with stationary source controls, leaving mobile source controls to the California Air Resources Board.

During the period 1970 to 1972, the Sacramento Valley Region experienced numerous violations of both Federal and State air quality standards. Photochemical oxidants are the predominant problem, and it appears from the limited data evaluated that the problem has increased in recent years, both in number of violations which occur and the maximum oxidant level experienced. Based on a 1-hour maximum oxidant reading during 1971 in Sacramento of 0.24 ppm and using a proportional rollback model, a 67 percent reduction in reactive hydrocarbons would be required to meet the national ambient air quality standards for oxidants. The annual arithmetic means for NO_x from 1963 to 1971 show that the NO_x standard has never been exceeded within the given time period. In Sacramento County, mobile sources account for 71 percent of the hydrocarbon, 89 percent of the nitrogen oxides, and 88 percent of the carbon monoxide. Since the air quality levels are most severe for Sacramento County, it appears appropriate to attempt to solve the airshed problem by developing a control strategy specifically for Sacramento County and its immediate vicinity. In the Sacramento Valley and San Joaquin Valley Regions, vast areas are sparsely populated but others are highly urbanized and have high emission densities in comparison with the rural areas.

The Agency has therefore determined that it is appropriate to reduce emissions from the urbanized areas which experience the high pollution levels. The Sacramento Region has been redefined to include only the 6 counties in the immediate vicinity of the City of Sacramento in an area which roughly approximates the Sacramento Regional Area Planning Commission. The following table summarizes the effects of the proposed control strategies. On the basis of very limited current information, no more than 20 percent VMT reduction could be expected to occur under the proposed VMT reduction measures. The remainder of the VMT reduction needed will be achieved through gasoline rationing.

TRANSPORTATION CONTROL STRATEGY FOR SAN JOAQUIN VALLEY INTRASTATE AIR QUALITY CONTROL REGION

The San Joaquin Valley Intrastate Region, also known as the San Joaquin Air Basin, consists of all of the Counties of Amador, Calaveras, Fresno, Kings, Madera, Mariposa, Merced, San Joaquin, Stanislaus, Tulare, and Tuolumne, and the western portion of Kern County. This Region lies in the southern portion of the Great Valley and extends into the neighboring mountain slopes. It is bounded on the west by the Coastal Range, on the east and south by the Sierra-Nevada and Tehachapi Mountains, respectively, and on the north by the Sacramento Valley Intrastate Region. The Region includes 30,200 square miles of land area and had a population of over 1.6 million people in 1970, which is a 16 percent increase since 1960. Although it contains 19 percent of the State's land area, the Region has only 8 percent of the State's population. National ambient air quality standards have been exceeded in seven cities in the San Joaquin Valley Region: Stockton, Fresno, Bakersfield, Modesto, Visalia, Parlier, and Five Point. Each of the areas surrounding the cities have unique characteristics with regard to air quality, meteorology, stationary sources, population distribution, and transportation. The transportation control strategy proposed herein recognizes this fact. A thorough analysis was made of Kern County (Bakersfield), Fresno County (Fresno), and San Joaquin County (Stockton). Insufficient data exist for an adequate analysis of Parlier and Five Point (both in Fresno County), but it is expected that the proposed transportation controls as applied to Fresno will be adequate for attainment of the national ambient air quality standards for photochemical oxidants in these two other cities as well.

The table below presents the maximum photochemical oxidant readings in the five counties of concern:

County	*Maximum oxidant concentration, ppm*
San Joaquin (Stockton)	0.20
Kern (Bakersfield)	0.22
Fresno (Fresno)	0.21
Tulare (Visalia)	0.19
Stanislaus (Modesto)	0.24

Reductions in emissions of reactive hydrocarbons of up to 65 percent (for Modesto) will be required in these counties by 1977 in order for the air quality standards to be met.

The table below shows the approximate effect that the proposed control strategies will have in Kern County.

TABLE III—SUMMARY OF IMPACT OF CONTROL STRATEGIES IN THE KERN COUNTY PORTION OF THE SAN JOAQUIN VALLEY REGION IN 1977

Source and control measures	*Emissions and reductions of reactive hydrocarbons, tons/days*
Stationary source emission without proposed control strategy.	11.3
Expected Reductions	
1. Vapor recovery at gasoline stations.	−5.8
2. Surface coating restrictions, dry-cleaning controls, and degreasing controls.	−0.7
Stationary source emissions remaining.	4.8
Mobile source emissions without the proposed control strategy.	21.4
Expected reductions	
1. Catalyst retrofit, expansion of State NO_x program, and mandatory inspection and maintenance.	−4.2
2. Motorcycle limitations	−2.5
3. Reduction in auto usage (23%)	−2.4
Mobile emissions remaining	12.3
Total emissions remaining	17.1
Allowable emissions for attainment of standards for photochemical oxidants.	17.2

As can be seen from the table for Kern County, a 23 percent VMT reduction is necessary by 1977 for attainment of the standards. In Stanislaus County, a similar situation exists, with a corresponding need for VMT reduction. In Fresno County, present studies indicate that a 16 percent VMT reduction by 1975 would provide for attainment of the standards, with a zero VMT reduction necessary for 1977. In San Joaquin County, a 32 percent VMT reduction is necessary in 1975 for attainment of the standards, but only 8 percent in 1977.

TRANSPORTATION CONTROL STRATEGY FOR SAN DIEGO INTRASTATE AIR QUALITY CONTROL REGION

The San Diego Intrastate Region, also known as the San Diego Air Basin, is located in the southwest corner of the State and consists of the western two-thirds of San Diego County. It is bounded on the east by the summit of the Peninsular Range, on the north by Orange County, on the south and west by Mexico and the Pacific Ocean, respectively. The airshed has a land area of approximately 3,040 square miles, and, as of 1970, a population of some 1.24 million people. It is estimated that the motor vehicle population in 1972 was approximately 715,000. The Region's population is concentrated primarily in the City of San Diego and in the incorporated areas along the coast. The mountainous terrain and frequent inversions hold in pollutants, and the southern California climate provides ample sunshine to aid in the formation of photochemical oxidants. The automobile is presently the dominant mode of transportation, and accounts for the majority of the hydrocarbon and carbon

monoxide emissions. Air pollution control in the Region is the local responsibility of the San Diego County Air Pollution Control District. Since the airshed is contained within one county, no additional regional coordinating council is required for stationary source controls. As in the rest of the State, mobile source emission controls are the responsibility of the California Air Resources Board.

The national ambient air quality standards for photochemical oxidants and carbon monoxide have been exceeded in the Region. In 1970, the maximum 1-hour oxidant reading recorded in the Region was 0.40 ppm at the Oceanside station. The use of this oxidant reading for air planning purposes was rejected on the basis that the reading was the result of a unique traffic stoppage caused by highway construction, combined with unusually heavy volume that day. In addition, there is some evidence of pollutant transport into the Region from the Los Angeles Region. The next highest 1-hour oxidant reading that occurred in the Region was 0.32 ppm at the Escondido Station in 1972, and this reading is being used for oxidant air planning purposes. A high 8-hour carbon monoxide reading of 18 ppm recorded in 1972 is being used for carbon monoxide air planning purposes. As in many areas of California, the predominant air pollution problem is photochemical oxidants. a review of air quality data for 1970–1972 shows that both oxidant and carbon monoxide standards were frequently exceeded. Both the frequency of violations and the maximum levels of oxidant experienced indicate the need for extensive mobile and stationary source control if the national air quality standards are to be achieved. The oxidant problem is the main obstacle to attainment of the standards.

Recent EPA analysis indicates that emissions must be lowered to the following levels to meet the photochemical oxidant and 8-hour carbon monoxide standards: the reactive hydrocarbon emissions must be lowered to 25 percent of 1972 emission levels in order to meet the oxidant standard, and the carbon monoxide emissions must be lowered to 50 percent of 1972 emission levels in order to meet the carbon monoxide standard, using proportional rollback.

The majority of the carbon monoxide and reactive hydrocarbon emissions in the Region are attributable to motor vehicles. Information available indicates that, in addition to stringent controls for stationary sources and requirements for limiting the emissions of motor vehicles, a reduction in VMT by gasoline-powered motor vehicles of 45 percent will have to be effected in order to meet the oxidant standard in 1977. It should be pointed out that it is estimated by EPA that one of the proposed technical strategies, catalyst retrofit, cannot be implemented before 1977.

Table IV shows the impact the proposed measures will have on total emissions in the San Diego Region.

TABLE IV—SUMMARY OF IMPACT OF CONTROL STRATEGIES IN THE SAN DIEGO REGION IN 1977

Source and control measures	*Emissions and reductions of reactive hydrocarbons, tons/day*
Stationary source emissions without proposed control strategy.	52.5
Expected reductions	
1. Vapor recovery at gasoline stations.	−31.9
2. Surface coating restrictions, dry-cleaning coptrols, and degreasing controls.	−15.6
Stationary emissions remaining	4.8
Mobile source emissions without proposed control strategy.	86.4
Expected reductions	
1. Catalyst retrofit, and mandatory inspection and maintenance.	−14.5
2. Motorcycle limitations	−5.8
3. Reduction in VMT (20%)	−8.9
Mobile emissions remaining	57.2
Gasoline reduction (additional 25% reduction).	−11.0
Total emissions remaining	51.0
Allowable emissions for attainment of standards for photochemical oxidants.	51.0

Studies available to EPA indicate that a VMT reduction on the order of 20 percent can be achieved by means other than gas rationing. The remainder of the VMT reduction needed will be achieved through gas rationing.

It is assumed by EPA, and is implicit in the control strategy calculations, that all Federal facilities will comply with State, local Air Pollution Control District, and EPA air pollution emission rules and regulations. Due to the extensive military activities in the San Diego Region and the significant harm to air quality that emissions from these activities could produce, it is particularly important that military vehicles, operations and facilities follow Presidential Executive Order 11507 by conforming to State, local, and EPA rules and regulations.

There is presently underway in the San Diego Region a study of possible strategies for meeting the national ambient air quality standards. This study is being conducted by Rand Corporation of Santa Monica, California, and is part of the San Diego Clean Air Project, "Regional Analysis for Meeting Air Quality Standards," being performed by the Integrated Environmental Development Agency under contract number 6704–0270–E. The Clean Air Project is supported by a grant to San Diego County from the Environmental Protection Agency and by a matching contribution from local sources. It is anticipated that the results of this study will be available in time to assist in promulgation of the final EPA plan for the San Diego Region.

The stationary source emissions of hydrocarbons and carbon monoxide projected for 1977 are EPA estimates based on Rand-IREM projections. The Rand-IREM projections used are those that take into account EPA evaluations of hydrocarbon reactivities where possible and the effects of strategies that are now in effect or will be implemented by 1975–77 under the State and San Diego APCD regulations and proposed EPA regulations. It is anticipated that the final Rand-IREM report analysis may provide a basis for the promulgation of more emission reductions and/or cost effective control strategies in the final EPA plan. EPA and representatives of the solvent and paint industries are currently investigating the adequacy of the local air pollution control district regulations exempting certain organic compounds from control. It is anticipated that these regulations (such as Rule 66 of San Diego County) will be reevaluated prior to 1975 after extensive additional experimental studies.

AIRCRAFT EMISSIONS

Emissions from aircraft engines in 1977 are expected to be approximately 30 percent less than the emissions projected by means of current emission factors. This reduction is due to lower-emission engines that are expected to replace and supplement engines currently in use. Although a reduction is anticipated, the emissions from aircraft are still quite significant. For example, in San Francisco, aircraft emissions are projected to account for 34 tons/day of reactive hydrocarbons in 1977. The total allowable emissions of reactive hydrocarbons from all sources must be less than 125 tons/day if the national standards for oxidants are to be achieved. Aircraft emissions therefore will account for 27 percent of the allowable emissions in 1977.

Studies have indicated that modification of ground and flight procedures can result in reduced emissions but, the Federal Aviation Administration asserts implementation of these procedures may affect safety. This requires further investigation, and EPA is funding on this matter. There are also other means for reducing aircraft emissions, such as limiting the number of takeoffs and landings and/or percentage of seats occupied on individual flights. The Administrator invites public comment on the potential for reducing aircraft emissions.

TECHNICAL SUPPORT DOCUMENT

A discussion of the transportation control strategies proposed for the San Diego, San Joaquin Valley, Sacramento Valley, and San Francisco Bay Area Air Quality Control Regions is contained in "Development of Emission Control Strategies for Reducing Emissions in the Air Quality Control Regions of California," prepared under contract to the Environmental Protection Agency and available from the EPA Region IX office at 100 California Street, San Francisco, California 94111.

PUBLIC HEARINGS AND SUBMITTAL OF WRITTEN COMMENTS

Public hearings will be held on the proposed transportation control strategies contained herein. Dates and places of the public hearings are:

AUGUST 6, 1973

Fresno Convention Center,
700 M Street,
Exhibit Hall Wine Room,
Fresno, California.

AUGUST 7, 1973

California State Building,
1350 Front Street,
Room B109, Auditorium,
Basement,
San Diego, California.

AUGUST 8, 1973

Federal Building
450 Golden Gate Avenue
Ceremonial Court Room
19th Floor
San Francisco, California

AUGUST 10, 1973

Resources Building
1416 9th Street
Auditorium
Sacramento, California

Times. 9:30 a.m. to 12:00 a.m.; 1:30 p.m. to 4:30 p.m.; and 7:00 p.m. until all witness have been heard.

NOTE: Evening sessions will be held only if witnesses indicate that they can only attend evening sessions or if adequate time is not available during day sessions to hear all witnesses.

The Administrator's final promulgation of transportation controls for all affected air quality control regions in California will be profoundly influenced by the comments and testimony he receives. Persons wishing to give testimony at any of these hearings may do so by stating such intent at the hearing. Although it is not required, persons giving testimony should submit a copy of the testimony to the Region IX Office of the Environmental Protection Agency prior to the hearing date. Interested persons may also participate in this rule making by submitting written comments, preferably in triplicate, to the Regional Administrator, Environmental Protection Agency, 100 California Street, San Francisco, California 94111. All relevant comments received within 30 days of this date will be considered. Receipt of comments will be acknowledged, but substantial responses to individual comments will not be provided. Comments received and copies of the proposal will be available for public inspection at the Regional Office. Copies of the proposal will also be available for inspection at the following locations:

California Air Resources Board
1025 "P" Street
Sacramento, California 95814
Fresno Air Pollution Control District
515 South Cedar Avenue
Fresno, California 93702
San Diego Air Pollution Control District
1600 Pacific Highway
San Diego, California 92101
San Francisco Air Pollution Control District
939 Ellis Street
San Francisco, California 94109
Sacramento Air Pollution Control District
2221 Stockton Boulevard
Sacramento, California 95817
Kern County Air Pollution Control District
1700 Flower Street
P.O. Box 997
Bakersfield, California 93301
Stanislaus County Air Pollution Control District
902 Scenic Drive
Modesto, California 95350
San Joaquin County Air Pollution Control District
1601 East Hazelton Street
Stockton, California 95201
Tulare County Air Pollution Control District
County Civic Center
Visalia, California 93277

The final promulgation for the San Joaquin Valley, San Francisco Bay Area, San Diego, and Sacramento Valley Regions (as well as for the Metropolitan Los Angeles Region, which was covered under a separate proposal announcement) will take place on August 15, 1973. This notice of proposed rule making is issued under the authority of sections 110(c) and 301(a) of the Clean Air Act.

(42 U.S.C. 1857c-5)

Dated: July 6, 1973.

ROBERT W. FRI,
Acting Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40, of the Code of Federal Regulations as follows:

Subpart F—California

1. Subpart F is amended by adding §§ 52.241 through 52.255 as follows:

§ 52.241 Gasoline limitations.

(a) Definition:

(1) The term "base year" means the consecutive 12-month period commencing July 1, 1972, and ending June 30, 1973.

(2) The term "distributor" means any corporation, partnership, or sole proprietorship which transports or stores or causes the transportation or storage of gasoline or diesel fuel between any refinery and any retail outlet.

(3) The term "retail outlet" means any establishment at which gasoline or diesel fuel is sold or offered for sale to the public, or introduced into any vehicle.

(b) This section is applicable in the San Diego, Sacramento Valley, San Joaquin Valley, and San Francisco Bay Area Intrastate Air Quality Control Regions (hereinafter referred to as the Regions), to all distributors of gasoline or diesel fuel to any retail outlet in this area, and to the owners of all retail outlets in this area.

(c) Beginning July 1, 1974, the State of California shall implement regulations limiting the total gallonage of gasoline delivered to retail outlets in the Regions to the amount delivered to such outlets during the base year.

(d) Beginning May 31, 1977, the State of California shall implement regulations limiting the total gallonage of gasoline and diesel fuel delivered to retain outlets in all regions except the San Joaquin Valley to that amount which, when combusted, will not cause the ambient air quality standards for carbon monoxide and photochemical oxidants to be exceeded. The State shall by January 1, 1977, submit to the Administrator regulations for accomplishing this limitation, specifying the amount for limitation necessary.

(e) In order for the State to determine the amount of gasoline delivered during the base year and years during which control of gallonage is in effect, all distributors to which this section applies shall provide the State with a detailed accounting of the amount of gasoline delivered to each retail outlet in the Regions during the base year and years during which control is in effect. For each year during which control is in effect, the owner or operator of each retail outlet to which this section applies shall provide the State with a detailed accounting of gasoline received from each distributor, the total amount of gasoline sold during the year, and the amount of gasoline on hand at the beginning and end of the year. The State may require any other reports it may deem necessary for the implementation of this section.

(f) The State of California shall submit no later than October 1, 1973, a detailed compliance schedule showing steps it will take to establish and enforce the limitation program specified in paragraphs (c) and (e) of this section, including:

(1) The text of needed statutory proposals and needed regulations which the State will propose for adoption.

(2) A date by which the State shall adopt procedures to ensure that no more than the amount of gasoline specified in paragraph (c) of this section is delivered to retail outlets in the Regions. Such date shall be no later than March 30, 1974.

(3) A date by which any report necessary for establishing such procedures will be furnished to the State by the distributors. Such date shall be no later than January 1, 1974.

(4) Designation of an agency responsible for implementing and monitoring this program.

(f) Failure to comply with any provisions of this section shall render the person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under section 113 of the Clean Air Act. With regard to compliance schedules, a State will be considered to have failed to comply with the requirements of this section if it fails to submit on time any required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

§ 52.242 Inspection and maintenance program.

(a) Definitions:

(1) "Inspection and maintenance program" means a program for reducing emissions from in-use vehicles through identifying vehicles which need emission-control-related maintenance and requiring that such maintenance be performed.

(2) All other terms used in this section which are defined in Part 51, Appendix N of this chapter, are used herein with the meanings so defined.

(b) This section is applicable in the San Diego, Sacramento Valley, San Joaquin Valley, and San Francisco Bay Area Intrastate Air Quality Control Regions (hereinafter referred to as the Regions).

(c) The State of California shall establish an inspection and maintenance program applicable to all light-duty vehicles which operate on streets or highways over which it has ownership or control. No later than March 1, 1974, the State shall submit legally adopted regulations to EPA establishing such a program. The regulations shall include:

(1) Provisions for inspection of all light-duty motor vehicles at periodic intervals no more than 1 year apart by means of a loaded (dynamometer) test.

(2) Provisions for inspection failure criteria consistent with the emission reductions claimed in the plan for the strategy. These criteria shall include failure of 50 percent of the vehicles in the first inspection cycle.

(3) Provisions to ensure that failed vehicles receive the maintenance necessary to achieve compliance with the inspection standards. These shall include sanctions against individual owners and repair facilities; retest of failed vehicles following maintenance; a certification program to ensure that repair facilities performing the required maintenance have the necessary equipment, parts, and knowledge to perform the tasks satisfactorily; and such other measures as may be necessary or appropriate.

(4) A program of enforcement to ensure that vehicles are not intentionally readjusted or modified subsequent to the inspection and/or maintenance in such a way as would cause them to no longer comply with the inspection standards. This might include spot checks of idle adjustments and/or a suitable type of physical tagging.

(5) Provisions for beginning the first inspection cycle by June 1, 1975, and completing it by June 1, 1976.

(6) Designation of an agency or agencies responsible for conducting, overseeing, and enforcing the inspection and maintenance program.

(d) After June 1, 1976, the State shall not register or allow to operate on its streets or highways any light-duty vehicle which has not complied with the applicable standards and procedures adopted pursuant to paragraph (c) of this section. This shall not apply to the initial registration of a new motor vehicle.

(e) After June 1, 1976, no owner of a light-duty vehicle shall operate or allow the operation of such vehicle which has not complied with the applicable standards and procedures adopted pursuant to paragraph (c) of this section.

(f) The State of California shall submit, no later than October 1, 1973, a detailed compliance schedule showing the steps it will take to establish and enforce an inspection and maintenance program pursuant to paragraph (c) of this section, including:

(1) The text of needed statutory proposals and needed regulations which the State will propose for adoption.

(2) The date by which the State will recommend needed legislation to the State legislature.

(3) The date by which necessary equipment will be ordered.

(4) A signed statement from the Governor or his designee identifying the sources and amounts of funds for the program. If funds cannot legally be obligated under existing statutory authority, the text of needed legislation will be submitted.

(g) Failure to comply with any provisions of this section shall render the person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under section 113 of the Clean Air Act. With regard to compliance schedules, the State will be considered to have failed to comply with the requirements of this section if it fails to submit on time any required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

§ 52.243 Bus/car-pool lanes.

(a) Definitions:

(1) "Car pool" means a vehicle containing three or more persons.

(2) "Bus/car-pool lane" means a lane on a street or highway open only to buses (or buses and car pools), whether constructed specially for that purpose or converted from existing lanes.

(3) "Major street or highway" means any street or highway which meets the criteria given in paragraph (b) (4) (ii) and (iii) of this section.

(b) This regulation is applicable in the San Diego, San Francisco Bay Area, and San Joaquin Valley Intrastate Air Quality Control Regions, and in the Sacramento County portion of the Sacramento Valley Intrastate Air Quality Control Region.

(1) Each incorporated city within the Regions or portions thereof specified in paragraph (b) of this section shall establish bus/car-pool lanes on the major streets and highways (as defined herein) over which it has ownership or control, according to the schedule in paragraph (b) (4) (v) of this section.

(2) Each county within the Regions or portions thereof specified in paragraph (b) of this section shall establish bus/car-pool lanes on the major streets and highways (as defined herein) over which it has ownership or control, according to the schedule in paragraph (b) (4) (v) of this section.

(3) The State of California shall establish within the Regions or portions thereof specified in paragraph (b) of this section, bus/car-pool lanes on major streets and highways over which it has ownership or control, according to the schedule in paragraph (b) (4) (v) of this section.

(4) Each of the governmental entities named in the previous three subparagraphs shall submit, no later than October 1, 1973, a detailed compliance schedule showing the steps which it will take to establish these bus/car-pool lanes and to enforce the limitations on their use, with each schedule to include the following:

(i) Each major street and highway which will have bus-car-pool lanes must be identified and a schedule given for the establishment of the lanes.

(ii) If a major street or highway has four or more traffic lanes in one direction, at least one of these lanes must be open only to buses (or buses and car pools) at all times. If only one lane is open to buses (or buses and car pools) at all times, a second lane must be open only to buses (or buses and car pools) from 6:30 a.m. to 9:30 a.m. and from 3:30 p.m. to 6:30 p.m.

(iii) If a major street or highway has three traffic lanes in one direction, at least one of these lanes must be open only to buses (or buses and car pools) from 6:30 a.m. to 9:30 a.m. and from 3:30 p.m. to 6:30 p.m.

(iv) In unusual situations, a street or highway, or lane segment thereof, may be exempt from these requirements if an approval of the exemption is obtained from the Administrator. The application for exemption shall not be submitted and will not be accepted after September 1, 1973. Special circumstances justifying the need for an exemption or modification (such as inappropriateness of use by buses, designation of bicycle lanes instead, or desire to allow bus/car-pool lanes to be entered briefly by other vehicles for the purpose of crossing a motor vehicle lane or making a right turn) must be given in detail with the application.

(v) Bus/car-pool lanes must be prominently indicated by overhead signs at least once every mile, and at each intersection or entry ramp. Twenty-five percent of the lane mileage for each of the governmental entities must be established and needed signs must be installed by March 1, 1974; fifty percent by June 1, 1974; seventy-five percent by September 1, 1974; and one hundred percent by December 1, 1974.

(vi) Bus/car-pool lanes must be prominently indicated by distinctive painted lines, pylons, or physical barriers.

(vii) A signed statement by the chief executive officer of each governmental entity or his designee which will identify the sources and amounts of funds for all projects.

(5) Buses shall have the right-of-way whenever changing lanes on streets and highways with bus lanes. This shall take effect as each lane is established and identified.

(6) Buses shall be permitted to make left turns whether or not the intersection is posted for "no left turn" (except when a one-way street would be entered from the wrong direction). This shall take effect January 1, 1974.

(7) None of the governmental entities named in paragraph (b) of this section shall convert existing on-street parking spaces to traffic lanes unless the effect will be to increase the number of bus/car-pool lanes on the affected street beyond the number otherwise required by paragraph (b) of this section, or unless

the effect will be to create a bicycle lane in place of the parking spaces.

(c) Failure to comply with any provisions of this section shall render the person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under section 113 of the Clean Air Act. With regard to compliance schedules, a governmental entity will be considered to have failed to comply with the requirements of this section if it fails to submit on time any required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

§ 52.244 Management of parking supply.

(a) Definitions:

(1) "Construction" means fabrication, erection, or installation of a parking facility, or any conversion of land for use as a facility.

(2) "Modification" means any change to a parking facility which increases the vehicle capacity of such facility.

(3) "Enlargement" means any physical change or addition to a parking facility which increases the vehicle capacity of such facility.

(4) "Commenced" means that an owner or operator has undertaken a continuous program of construction, modification, or enlargement.

(5) "Parking facility" (also called "facility") means any facility, building, structure, or lot, or portion thereof used primarily for temporary storage of motor vehicles.

(b) This regulation is applicable in the San Diego, San Francisco Bay Area, and San Joaquin Valley Air Quality Control Regions, and in the Sacramento County portion of the Sacramento Valley Intrastate Air Quality Control Region.

(c) No person, after August 15, 1973, shall commence construction of any new parking facility or modification or enlargement of any existing parking facility until he has first received from the Administrator, or from an ageny approved by the Administrator, a permit stating that construction, modification, or enlargement of such facility will not interfere with the attainment or maintenance of applicable Federal air quality standards.

(d) In order for any agency to be approved by the Administrator for purposes of issuing permits for construction of any new parking facility or any modification or enlargement of any existing parking facility, such agency shall demonstrate to the satisfaction of the Administrator that:

(1) Requirements for permit applications and issuance have been established. Such requirements shall include, but not be limited to, a condition that before a permit may be issued the following findings of fact or factually supported projections must be made:

(i) The location of the facility.

(ii) The total motor vehicle capacity before and after the construction, modification, or enlargement of the facility.

(iii) The normal hours of operation of the facility and the enterprises and activities which it serves.

(iv) The number of people using or engaging in any enterprises or activities which the proposed facility will serve.

(v) The number of motor vehicles using the proposed facility on an average hourly basis and a peak hour basis.

(vi) A projection of the geographic areas in the community from which people and motor vehicles will be drawn to the facility. Such projections shall include data concerning the availability of public transit from such areas.

(2) Criteria for issuance of permits have been established and published. Such criteria shall include but not be limited to:

(i) Full consideration of all facts contained in the application.

(ii) Provisions that no permit shall be issued if such permit will result in the increase of vehicle miles of travel within any area the air quality of which fails to meet applicable Federal air quality standands.

(3) Agency procedures provide that no permit for the construction, enlargement, or modification of a facility covered by this section shall be issued without notice and opportunity for public hearing. The public hearing may be of the legislative type; the notice shall conform to the requirements of § 51.4(b) of this chapter; and the agency rules of procedure may provide that if no notice of intent to participate in the hearing is received from any member of the public (other than the applicant) prior to 7 days before the scheduled hearing date, no hearing need be held. If notice of intent to participate is required, that fact shall be noted prominently in the required notice of hearing.

§ 52.245 Limitation of public parking.

(a) The term "off-street parking facility" means any land or building or portion of a building set aside for the purpose of storing a maximum capacity of ten or more vehicles on a temporary basis.

(b) Each governmental entity or public agency owning or operating an off-street parking facility located within the San Diego, San Francisco Bay Area, or San Joaquin Valley Intrastate Air Quality Control Regions, or in the Sacramento County portion of the Sacramento Valley Intrastate Air Quality Control Region shall, by October 1, 1973, report to the Administrator the number of parking spaces in each such facility under its ownership or control. The number used solely for the storage of vehicles of persons whose residence is within ¼ mile of the facility shall not be counted.

(c) Each such owner or operator of any off-street parking facility located within the area specified in paragraph (b) of this chapter shall reduce the number of affected parking spaces in each such facility from the number in existence as of October 1, 1973, according to the following schedule: by January 31, 1974, a reduction of 5 percent; by July 31, 1974, a reduction of 10 percent; by December 31, 1974, a reduction of 15 percent; and by April 30, 1975, a reduction of 20 percent.

(d) Each such owner or operator of an off-street parking facility subject to the requirements of paragraph (c) of this chapter shall submit to the Administrator, no later than October 31, 1973, a detailed compliance schedule showing the steps it will take to achieve the required reduction in parking spaces. Such schedule shall provide for marking in a manner obvious to the public (painting over, roping off, etc.) those spaces which are eliminated pursuant to this section and on which parking is no longer permitted.

(e) Failure to submit a compliance schedule as required by this section shall render the person so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under section 113 of the Clean Air Act. Any owner or operator of a parking facility who allows any vehicle to be parked on any parking space which has been eliminated pursuant to this section or who fails to mark clearly those spaces which have been eliminated, shall likewise be in violation and subject to enforcement.

§ 52.246 Motorcycle limitation program.

(a) Definitions:

(1) "Motorcycle" means any self-propelled two- or three-wheeled motor vehicle capable of carrying one or more persons.

(2) "Two-stroke engine" means an internal combustion engine which requires two strokes of the engine's piston for a complete cycle of operation.

(3) "Registration" means the action of a State which allows a vehicle to be operated on the streets and highways in that State during a defined period of time.

(4) "Registration period" means that period of time that a vehicle is permitted to be used within the State.

(b) This section is applicable in the San Diego, San Francisco Bay Area, and San Joaquin Valley Intrastate Regions, and in the Sacramento County portion of the Sacramento Valley Intrastate Region.

(c) As of January 1, 1974, or during any registration period which commences in the calendar year 1974, the State of California shall not register in the Regions and portions thereof specified in paragraph (b) of this section more motorcycles than the total number registered in 1973.

(d) As of May 1, 1974, the State of California shall prohibit the operation of two-stroke-engine motorcycles in the Regions and portions thereof specified in paragraph (b) of this section between 6:00 a.m. and 8:00 p.m. during the months of May, June, July, August, September, and October.

(e) After January 1, 1974, no person shall operate any motorcycle on the streets and highways of the State within the Regions and portions thereof speci-

fied in paragraph (b) of this section which is not validly registered by the State of California or by another State.

(f) No later than October 1, 1973, the State shall submit a detailed compliance schedule showing the steps it will take to implement and enforce these requirements, including:

(1) The text of needed statutory proposals and needed regulations which it will propose for adoption.

(2) A date by which the State will adopt procedures (or submit evidence that they are in existence) necessary to limit the number of motorcycles registered as required above, to restrict the operation of two-stroke motorcycles as required above, and to require the registration of all motorcycles operated as required above.

(3) Proposed procedures (or evidence that they are in existence) to ensure that no motorcycle will be registered by the State in a county other than that of the owner's legal residence.

(g) Failure to comply with any provisions of this section shall render the person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under section 113 of the Clean Air Act. With regard to compliance schedules, the State will be considered to have failed to comply with the requirements of this section if it fails to submit on time any required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

§ 52.247 Oxidizing catalyst retrofit.

(a) Definitions:

(1) "Oxidizing catalyst" means a device installed in the exhaust system of the vehicle that utilizes a catalyst and, if necessary, an air pump to reduce emissions of hydrocarbons and carbon monoxide from that vehicle.

(2) All other terms used in this section which are defined in Part 51, Appendix N of this chapter, are used herein with the meanings so defined.

(b) This section is applicable in the San Diego, San Francisco Bay Area, San Joaquin Valley, and Sacramento Valley Instrastate Air Quality Control Regions.

(c) The State of California shall establish a retrofit program to ensure that on or before May 31, 1977, certain gasoline-powered light-duty motor vehicles of model years 1966 through 1974, which are subject under presently existing legal requirements to registration in the area defined in paragraph (b) of this section, are equipped with an appropriate oxidizing catalyst retrofit device. No later than March 1, 1974, the State shall submit legally adopted regulations to EPA establishing such a program. The regulations shall include:

(1) Designation of an agency responsible for evaluating and approving such devices for use on motor vehicles subject to this section.

(2) Designation of an agency responsible for ensuring that the provisions of subparagraph (3) of this paragraph are enforced.

(3) A provision that starting no later than May 31, 1976, the State of California shall commence retrofitting oxidizing catalysts to those light-duty motor vehicles able to operate properly on unleaded 91 RON gasoline. The installation shall be completed by May 31, 1977.

(4) A method and proposed procedures for ensuring that those installing the retrofits have the training and ability to perform the needed tasks satisfactorily and that they will have an adequate supply of retrofit components.

(d) After May 31, 1977, the State shall not register or allow to operate on public streets or highways any light-duty gasoline-powered vehicle which does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section.

(e) After May 31, 1977, no owner of a vehicle subject to this section shall operate or allow the operation of any such vehicle which does not comply with the applicable standards and procedures implementing this section.

(f) The State of California shall submit, no later than October 1, 1973, a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to paragraph (c) of this section, and the text of needed statutory proposals and needed regulations which it will propose for adoption. The compliance schedule shall include a date by which the State shall evaluate and approve devices for use in this program. Such date shall be no later than September 30, 1975.

(g) Failure to comply with any provisions of this section shall render the person so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under section 113 of the Clean Air Act. A State will be considered to have failed to comply with the requirements of this regulation if it fails to submit on time the required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

§ 52.248 Bus/carpool computer matching system.

(a) Definitions:

(1) "Bus/carpool matching" means assembling lists of commuters sharing similar travel needs. The number of commuters on each list identifies potential bus/carpools.

(2) "Time-origin-destination (TOD) information" means information that identifies a commuter's work schedule, home and work location.

(3) All other terms used in this section which are defined in Part 51, Appendix N of this chapter, are used herein with the meanings so defined.

(b) This section is applicable in the San Diego, San Joaquin Valley, Sacramento Valley and San Francisco Bay Area Air Quality Control Regions (hereafter referred to as the Regions).

(c) Beginning March 1, 1974, the State of California shall establish a computer-aided bus/carpool matching system which is conveniently available to all employees in businesses having more than 10 employees within the Regions who operate light-duty vehicles on streets or highways over which it has ownership or control. No later than December 1, 1973, the State shall submit legally adopted regulations to EPA establishing such a system. The regulations shall include:

(1) A method of collecting information which will include the following as a minimum:

(i) Provisions for each affected employee receiving an application form with a cover letter describing the matching program.

(ii) Provisions on each application for applicant identification of time, origin, and destination, and the applicant's desire to drive only, ride only, or share driving.

(2) A computer method of matching information that will have provisions for locating each applicant's origin and destination within a grid system in the urban area and semi-rural region surrounding incorporated cities with a population greater than 50,000 and matching applicants with identical origin and destination grids and compatible work schedules.

(3) A method for providing continuing service such that the master list of all applicants is retained and available for use by new applicants; applications are currently available; and the master list is periodically updated to remove applicants who have moved from the area served.

(4) An agency or agencies responsible for operating, overseeing and maintaining the bus/carpool computer matching system.

(d) Failure to comply with any provisions of this section shall render the person so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under section 113 of the Clean Air Act.

§ 52.249 Control of oxides of nitrogen, hydrocarbon and carbon monoxide emissions from in-use vehicles.

(a) The State of California retrofit program, authorized under section 39176 of the State of California Health and Safety Code and established by the California Air Resources Board for the purpose of controlling oxides of nitrogen, hydrocarbon, and carbon monoxide emissions from model years 1955 through 1965 light-duty motor vehicles, shall be extended to the San Joaquin Valley and Sacramento Valley Intrastate Air Quality Control Regions.

(b) Beginning January 1, 1974, the State of California shall commence the operation of this program in the San Joaquin Valley and Sacramento Valley Intrastate Air Quality Control Regions.

(c) Failure to comply with any provisions of this section shall render the person or governmental entity so failing to

comply in violation of a requirement of an applicable implementation plan and subject to enforcement under section 113 of the Clean Air Act. With regard to compliance schedules, a State will be considered to have failed to comply with the requirements of this section if it fails to timely submit any required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

§ 52.250 Control of dry cleaning solvent vapor losses.

(a) For the purpose of this paragraph, "dry cleaning operation" means that process by which an organic solvent is used in the commercial cleaning of garments and other fabric materials.

(b) This section is applicable in the San Diego, Sacramento Valley, San Joaquin Valley and San Francisco Bay Area Intrastate Air Quality Control Regions. The requirements of this section shall be effective commencing on January 1, 1974.

(c) In addition to the present control regulations for organic solvent users, any dry cleaning establishment that uses solvents containing any organic material listed as reactive under paragraph (k) (1), (2), and (3) of § 52.253 shall in addition reduce the emissions of the remaining organics by 95 percent by use of activated carbon adsorption or other appropriate means.

(d) If incineration is used as a control technique, 95 percent or more of the carbon in the organic compounds being incinerated must be oxidized to carbon dioxide.

(e) Dry cleaning operations using solvents considered nonreactive under paragraph (k) of § 52.253 are exempt from this section.

§ 52.251 Control of degreasing operations.

(a) For the purpose of this paragraph, "degreasing" means any operation using an organic solvent as a surface cleaning agent prior to fabricating, surface coating, electroplating or any other process.

(b) This section is applicable in the San Diego, Sacramento Valley, San Joaquin Valley and San Francisco Bay Area Intrastate Air Quality Control Regions. The requirements of this section shall be effective commencing on January 1, 1974.

(c) No person shall use for degreasing any organic solvent other than perchloroethylene or saturated halogenated hydrocarbons.

§ 52.252 Organic solvent usage (Federal regulation adding to and replacing parts of Rule 66 of San Diego County).

(a) This section is applicable in that portion of San Diego County contained within the metropolitan San Diego Intrastate Air Quality Control Region. This section is effective as of January 1, 1975.

(b) Subdivision (1) of Rule 66 of San Diego County as contained in the local air pollution control district regulations for San Diego County is amended by replacing subparagraph (5) and adding in place thereof subparagraphs (5), (6), and (7). Additional subdivisions are added and identified as (m) and (r). The identities of subdivisions (m), (n), (o), and (p) in the present San Diego regulations are changed respectively to (n), (o), (p), and (q). The amendment is as follows:

(5) The use of any material, in any article, machine, equipment or other contrivance described in subdivisions (a), (b), (c), or (e) if:

(i) The volatile content of such material consists only of water and organic solvents, and

(ii) The organic solvents comprise not more than 20 percent by volume of said bulk content, and

(iii) The volatile content is not photochemically reactive as defined in subdivision (n), and

(iv) The organic solvent or any material containing organic solvent does not come into contact with flame.

(6) The use of any material, in any article, machine, equipment or other contrivance described in subdivisions (a), (b), (c), or (e), if:

(i) The organic solvent content of such material does not exceed 20 percent by volume of said material, and

(ii) The volatile content is not photochemically reactive as defined in subdivision (n), and

(iii) More than 50 percent by volume of such volatile material is evaporated before entering a chamber heated above ambient application temperature, and

(iv) The organic solvent or any material containing organic solvent does not come into contact with flame.

(7) The use of any material, in any article, machine, equipment or other contrivance described in subdivisions (a), (b), (c), or (e) if:

(i) The organic solvent content of such material does not exceed 5 percent by volume of said material, and

(ii) The volatile content is not photochemically reactive as defined in subdivision (n), and

(iii) The organic solvent or any material containing organic solvent does not come into contact with flame.

(m) All surface coating operations involving the application of surface coatings to metal objects shall, as of January 1, 1975, not be allowed the privilege of discharging into the atmosphere up to 40 pounds of organic material in any one day or 8 pounds in any one hour, as was previously allowed under subdivision (b) of this rule. The surface coating composition and its use must meet all other requirements of this rule.

(r) A person shall not during any one day dispose of a total of more than one and one-half gallons of any photochemically reactive solvent, as defined in subdivision (k) of this rule, or of any such photochemically reactive solvent, by any means which will permit the evaporation of such solvent into the atmosphere.

§ 52.253 Organic solvent usage.

(a) This section is applicable in all portions of all counties contained within the San Joaquin Valley, Sacramento Valley, and San Francisco Bay Area Intrastate Air Quality Control Regions.

(b) A person shall not discharge into the atmosphere more than 15 pounds of organic materials in any one day or more than 3 pounds in any one hour from any article, machine, equipment or other contrivance in which any organic solvent or any material containing organic solvent comes into contact with flame or is baked, heat-cured or heat-polymerized in the presence of oxygen, unless said discharge has been reduced by at least 85 percent. Those portions of any series of articles, machines, equipment or other contrivances designed for processing continuous web, strip or wire which emit organic materials in using operations described in this section shall be collectively subject to compliance with this section.

(c) A person shall not discharge to the atmosphere more than 40 pounds of organic materials in any one day or more than 8 pounds in any one hour from any article, machine, equipment or other contrivance used under conditions other than those described in paragraph (b) of this section for employing or applying any photochemically reactive solvent, as defined in paragraph (k) of this section, or material containing such photochemically reactive solvent, unless said discharge has been reduced by at least 85 percent. Emissions of organic materials into the atmosphere resulting from air or heated drying of products for the first 12 hours after their removal from any article, machine, or other contrivance described in this section shall be included in determining compliance with this paragraph. Emissions resulting from baking, heat-curing or heat-polymerizing as described in paragraph (b) of this section shall be excluded from determination of compliance with this section. Those portions of any series of articles, machines, equipment or other contrivances designed for processing a continuous web, strip or wire which emit organic materials in using operations described in this section shall be collectively subject to compliance with this section.

(d) A person shall not, after August 31, 1974, discharge into the atmosphere more than 3,000 pounds of organic materials in any one day or more than 450 pounds in any one hour from any article, machine, equipment or other contrivance in which any nonphotochemically reactive organic solvent or any material containing such a solvent is employed or applied, unless said discharge has been reduced by at least 85 percent. Emissions of organic materials into the atmosphere resulting from air or heated drying of products for the first 12 hours after their removal from any article, machine, equipment, or other contrivance described in this section shall be included in determining compliance with this section. Emissions resulting from baking, heat-curing, or heat-polymerizing as described in paragraph (b) of this section shall be excluded from determination of compliance with this section. Those portions of any series of articles, machines, equipment or other contrivances designed for processing a continuous web, strip, or wire which emit organic materials in using operations described in this section shall be collectively subject to compliance with this section.

(e) Emissions of organic materials to the atmosphere from the cleanup with

photochemically reactive solvent, as defined in paragraph (k) of this section, of any article, machine, equipment or other contrivance described in paragraphs (b), (c), or (d) of this section shall be included with the other emissions of organic materials from that article, machine, equipment or other contrivance for determining compliance with this rule.

(f) Emissions of organic materials into the atmosphere required to be controlled by paragraphs (b), (c), or (d) of this section shall be reduced by:

(1) Incineration, provided that 90 percent or more of the carbon in the organic material being incinerated is oxidized to carbon dioxide, or

(2) Absorption, or

(3) Processing in a manner determined by the Administrator to be not less effective than subparagraph (1) or (2) of this paragraph.

(g) A person incinerating, adsorbing, or otherwise processing organic materials pursuant to this section shall provide, properly install and maintain in calibration, in good working order and in operation, devices as specified in the authority to construct or permit to operate, or as specified by the Administrator, for indicating temperatures, pressures, rates of flow or other operating conditions necessary to determine the degree and effectiveness of air pollution control.

(h) Any person using organic solvents or any materials containing organic solvents shall supply the Administrator, upon request and in the manner and form prescribed by him, written evidence of the chemical composition, physical properties and amount consumed for each organic solid used.

(i) The provisions of this section shall not apply to:

(1) The manufacture of organic solids, or the transport or storage of organic solids or materials containing organic solids.

(2) The use of equipment for which other requirements are specified by rules or which are exempt from air pollution control requirements by applicable rules affecting the storage of petroleum products, effluent oil-water separators, and the transfer of gasoline.

(3) The spraying or other employment of insecticides, pesticides or herbicides.

(4) The employment, application, evaporation or drying of saturated halogenated hydrocarbons or perchloroethylene.

(5) The use of any material in any article, machine, equipment or other contrivance described in paragraphs (b), (c), (d), or (e) of this section, if:

(i) The volatile content of such material consists only of water and organic solids, and

(ii) The organic solvents comprise not more than 20 percent by volume of said volatile content, and

(iii) The volatile content is not photochemically reactive as defined in paragraph (k) of this section, and

(iv) The organic solvent or any material containing organic solvent does not come into contact with flame.

(6) The use of any material in any article, machine, equipment or other contrivance described in paragraphs (b), (c), (d), or (e) of this section if:

(i) The organic solvent content of such material does not exceed 20 percent by volume of said material, and

(ii) The volatile content is not photochemically reactive as defined in paragraph (k) of this section, and

(iii) More than 50 percent by volume of such volatile material is evaporated before entering a chamber heated above ambient application temperature, and

(iv) The organic solvent or any material containing organic solvent does not come into contact with flame.

(7) The use of any material in any article, machine, equipment or other contrivance described in paragraphs (b), (c), (d), or (e) of this section, if:

(i) The organic solvent content of such material does not exceed 5 percent by volume of said material, and

(ii) The volatile content is not photochemically reactive as defined in paragraph (k) of this section, and

(iii) The organic solvent or any material containing organic solvent does not come into contact with flame.

(j) For the purposes of this section, organic solvents include diluents and thinners and are defined as organic materials which are liquids at standard conditions and which are used as dissolvers, viscosity reducers or cleaning agents, except that such materials which exhibit a boiling point higher than 220°F at 0.5 millimeter mercury absolute pressure or having an equivalent vapor pressure shall not be considered to be solvents unless exposed to temperatures exceeding 220°F.

(k) For the purpose of this section, a photochemically reactive solvent is any solvent with an aggregate of more than 20 percent of its total volume composed of the chemical compounds classified below or which exceeds any of the following individual percentage composition limitations, referred to the total volume of solvent:

(1) A combination of hydrocarbons, alcohols, aldehydes, esters, ethers, or ketones having an olefinic or cycloolefinic type of unsaturation: 5 percent;

(2) A combination of aromatic compounds with 8 or more carbon atoms to the molecule except ethylbenzene: 8 percent;

(3) A combination of ethylbenzene, ketones having branched hydrocarbon structures, trichloroethylene or toluene: 20 percent.

Whenever any organic solvent or any constituent of an organic solvent may be classified from its chemical structure into more than one of the above groups of organic compounds, it shall be considered as a member of the most reactive chemical group, that is, that group having the least allowable percent of the total volume of solvents.

(l) For the purpose of this section, organic materials are defined as chemical compounds of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, metallic carbonates, and ammonium carbonate.

(m) All surface coating operations involving the application of surface coatings to metal objects shall, as of January 1, 1975, not be allowed the privilege of discharging into the atmosphere up to 40 pounds of organic material in any one day or 8 pounds in any one hour. The surface coating composition and its use must meet all other requirements of this rule.

(n) Architectural coatings and their use shall conform to the following requirements:

(1) A person shall not sell or offer for sale or use in the areas in which this regulation applies, in containers of one-quart capacity or larger, any architectural coating containing photochemically reactive solvent, as defined in paragraph (k) of this section.

(2) A person shall not employ, apply, evaporate or dry in the areas in which this regulation applies, any architectural coating purchased in containers of one-quart capacity or larger containing photochemically reactive solvent, as defined in paragraph (k) of this section.

(3) A person shall not thin or dilute any architectural coating with a photochemically reactive solvent, as defined in paragraph (k) of this section.

(4) For the purpose of this section, an architectural coating is defined as a coating used for residential or commercial buildings and their appurtenances, or for industrial buildings.

(o) A person shall not during any one day dispose of a total of more than one and one-half gallons of any photochemically reactive solvent, as defined in paragraph (k) of this section, or of any material containing more than one and one-half gallons of any such photochemically reactive solvent by any means which will permit the evaporation of such solvent into the atmosphere.

(p) Compliance schedule: Except as provided in paragraph (q) of this section, the owner or operator of any source subject to this section shall comply with this section on or before January 31, 1974.

(1) Any owner or operator in compliance with this section on the effective date of this section shall certify such compliance to the Administrator no later than 120 days following the effective date of this paragraph.

(2) Any owner or operator who achieves compliance with this section after the effective date of this section shall certify such compliance to the Administrator within 5 days of the date compliance is achieved.

(q) Any owner or operator of a stationary source subject to paragraph (p) (1) of this section may, not later than 120 days following the effective date of this section, submit to the Administrator for approval a proposed compliance schedule that demonstrates compliance with the provisions in paragraph (p) of this section as expeditiously as practicable but no later than July 31, 1975. The compliance schedule shall provide for increments of progress toward compliance. The dates for achievement of such increments of progress shall be specified. Increments of progress shall include, but not be limited to: Submittal of final

control plan to the Administrator; letting of necessary contracts for construction or process changes or issuance of orders for the purchase of component parts to accomplish emission control or process modification; initiation of onsite construction or installation of emission control equipment or process modification; completion of onsite construction or installation of emission control equipment or process modification; and final compliance.

(r) Any owner or operator who submits a compliance schedule pursuant to this paragraph shall, within 5 days after the deadline for each increment of progress, certify to the Administrator whether or not the required increment of the approved compliance schedule has been met.

§ 52.254 Gasoline transfer vapor control.

(a) The term "gasoline" means any petroleum distillate having a Reid vapor pressure of 4 pounds or greater.

(b) This section is applicable in those portions of counties contained within Sacramento Valley and San Joaquin Valley Intrastate Air Quality Control Regions in the State of California.

(c) No person shall transfer gasoline from any delivery vessel into any stationary storage container with a capacity greater than 250 gallons unless such container is equipped with a submerged fill pipe and unless the displaced vapors from the storage container are processed by a system that prevents release to the atmosphere of no less than 95 percent by weight of organic compounds in said vapors displaced from the stationary container location.

(1) The vapor recovery portion of the system shall include one or more of the following:

(i) A vapor-tight vapor return line from the storage container to the delivery vessel and a device that will ensure that the vapor return line is connected before gasoline can be transferred into the container.

(ii) Refrigeration-condensation system or equivalent designed to recover no less than 95 percent by weight of the organic compounds in the displaced vapor.

(2) The vapor-laden delivery vessel shall be subject to the following conditions:

(i) The delivery vessel must be so designed and maintained as to be vapor-tight at all times.

(ii) The vapor-laden delivery vessel may be refilled only at facilities equipped with a vapor recovery system or the equivalent, which can recover at least 95 percent by weight of the organic compounds in the vapors displaced from the delivery vessel during refilling.

(d) The provisions of this paragraph (c) of this section shall not apply to the following:

(1) Stationary containers having a capacity less than 550 gallons used exclusively for the fueling of implements of husbandry, as such vehicles are defined in Division 16 (section 36000, et seq.) of the California Vehicle Code: *provided, however,* Said containers are equipped with submerged fill pipes.

(2) Any container having a capacity less than 2,000 gallons installed prior to promulgation of this paragraph.

(3) Transfer made to storage tanks equipped with floating roofs or their equivalent.

(e) Compliance schedule: Except as provided in paragraph (f) of this section, the owner or operator of any source subject to this section shall comply with this section on or before January 31, 1974.

(1) Any owner or operator in compliance with this section on the effective date of this regulation shall certify such compliance to the Administrator no later than 120 days following the effective date of this section.

(2) Any owner or operator who achieves compliance with this section after the effective date of this section shall certify such compliance to the Administrator within 5 days of the date compliance is achieved.

(f) Any owner or operator of a source subject to paragraph (e) of this section may, not later than 120 days following the effective date of this section, submit to the Administrator for approval a proposed compliance schedule that demonstrates compliance with the provisions specified in paragraph (e) of this section as expeditiously as practicable but no later than June 30, 1975. The compliance schedule shall provide for increments of progress toward compliance. The dates for achievement of such increments of progress shall be specified. Increments of progress shall include, but not be limited to: submittal of final control plan to the Administrator; letting of necessary contracts for construction or process changes or issuance of orders for the purchase of component parts to accomplish emission control or process modification; initiation of onsite construction or installation of emission control equipment or process modification; completion of onsite construction or installation of emission control equipment or process modification; and final compliance.

(g) Any owner or operator who submits a compliance schedule pursuant to this paragraph shall, within 5 days after the deadline for each increment of progress, certify to the Administrator whether or not the required increment of the approved compliance schedule has been met.

§ 52.255 Control of evaporative losses from the filling of vehicular tanks.

(a) The term "gasoline" means any petroleum distillate having a Reid vapor pressure of 4 pounds or greater.

(b) This section is applicable in those portions of counties contained within the Sacramento Valley and San Joaquin Valley Intrastate Air Quality Control Regions in the State of California.

(c) A person shall not transfer gasoline to an automotive fuel tank from gasoline dispensing systems unless the transfer is made through a fill nozzle designed to:

(1) Effect a vapor-tight fit between the fill nozzle and filler neck of the automotive fuel tank so as to prevent discharge of hydrocarbon vapors to the atmosphere.

(2) Direct vapor displaced from the automotive fuel tank to a system wherein at least 95 percent by weight of the organic compounds in displaced vapors are recovered.

(3) Prevent automotive fuel tank overfills or spillage on fill nozzle disconnect.

(d) The system referred to in paragraph (c) of this section can consist of a vapor-tight vapor return line from the fill nozzle-filler neck interface to the dispensing tank or to an adsorption, adsorption, incineration, or refrigeration-condensation system or equivalent.

(e) Components of the systems required by § 52.254 paragraph (c) can be used for compliance with paragraph (c) of this section.

(f) If demonstrated to the satisfaction of the Administrator that it is impractical to comply with the provisions of paragraph (c) of this section as a result of fill neck configuration, location, or other design features, the provisions of this paragraph shall not apply to tanks on vehicles existing at the time of promulgation of this regulation.

(g) The State of California shall divide all facilities subject to this section into two classes each of which taken as a whole emit approximately equal amounts of hydrocarbon materials. The classes shall be known as Class I and Class II.

(h) Except as provided in paragraph (j) of this section, the owner or operator of a source included in Class I shall comply with the increments contained in the following compliance schedule:

(1) Contracts for emission control systems or process modifications must be awarded or orders must be issued for the purchase of component parts to accomplish emission control or process modification not later than March 31, 1974.

(2) Initiation of onsite construction or installation of emission control equipment or process change must begin not later than July 31, 1974.

(3) Onsite construction or installation of emission control equipment or process modification must be completed not later than March 31, 1975.

(4) Final compliance is to be achieved not later than May 31, 1975.

(5) Any owner or operator of stationary sources subject to the compliance schedule in this paragraph shall certify to the Administrator, within 5 days after the deadline for each increment of progress, whether or not the required increment of progress has been met.

(i) The owner or operator of a source included in Class II shall comply with the increments contained in the following compliance schedule:

(1) Contracts for emission control systems or process modifications must be awarded or orders must be issued for the purchase of component parts to accomplish emission control or process modification not later than March 31, 1975.

(2) Initiation of onsite construction or installation of emissions control equipment or process change must begin not later than July 31, 1975.

(3) Onsite construction or installation of emission control equipment or process modification must be completed not later than March 31, 1976.

(4) Final compliance is to be achieved not later than May 31, 1976.

(5) Any owner or operator of stationary sources subject to the compliance schedule in this paragraph shall certify to the Administrator, within 5 days after the deadline for each increment of progress, whether or not the required increment of progress has been met.

(j) Paragraphs (h) and (i) of this section shall not apply:

(1) To a source which is presently in compliance with paragraph (c) of this section and which has certified such compliance to the Administrator by September 15, 1973. The Administrator may request whatever information he considers necessary for proper certification.

(2) To a source for which a compliance schedule is adopted by the State and approved by the Administrator.

(3) To a source whose owner or operator submits to the Administrator, by September 15, 1973, a proposed alternative schedule. No such schedule may provide for compliance after May 31, 1975, in the case of Class I sources, and May 31, 1976, in the case of Class II sources. If promulgated by the Administrator, such schedule shall satisfy the requirements of this paragraph for the affected source.

(k) Nothing in this section shall preclude the Administrator from promulgating a separate schedule for any source to which the application of the compliance schedule in paragraph (b) of this section fails to satisfy the requirements of § 51.15 (b) and (c) of this chapter.

[FR Doc.73-14267 Filed 7-13-73;8:45 am]

[40 CFR Part 52]

ILLINOIS

Approval and Promulgation of Implementation Plans

Background. The transportation control plan submitted by the State of Illinois for attainment of the primary national ambient air quality standards for carbon monoxide (CO) for the Illinois portion of the Metropolitan Chicago Interstate Region (hereafter referred to as the Region) was disapproved on June 15, 1973 (38 FR 16550) because the proper procedures were not followed and because it would not have provided strategies that have the total capacity for attaining and maintaining the national standards for carbon monoxide. This notice of proposed rule making sets forth a transportation control plan which in the Administrator's judgment could be implemented to attain and maintain the national standard for CO in the Region. This plan is patterned after the submitted State proposal; however, the strategies have been modified to the extent EPA deemed necessary based on calculations showing that the State plan would not provide for attainment of the standards by May 31, 1975, as required.

If a legally adopted State plan is submitted and determined to be approvable prior to Federal promulgation, these proposed regulations will be withdrawn. Similarly, if a legally adopted State plan is submitted and determined to be approvable after Federal promulgation, then the Federal regulations will be rescinded. It is the desire of the Environmental Protection Agency that the plan to attain and maintain the CO standard in the Region be a State plan carried out by the State or its designated representative.

Pollution in the Region

The Region consists of nine counties (Cook, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, McHenry, and Will) in Illinois and two (Lake and Porter) in Indiana. The Indiana portion of the plan was approved on May 31, 1972 (37 FR 10842), and therefore is not considered in this proposal.

The national primary ambient air quality standards for carbon monoxide are 9 parts per million (ppm) maximum 8-hour concentration and 35 ppm maximum 1-hour concentration. Neither standard is to be exceeded more than once per year. It is the Administrator's judgment that attainment of the national standards for carbon monoxide will provide an adequate safety margin for the protection of public health and will guard against known and anticipated adverse effects on public welfare, as required by the Act.

The basis for determining the required carbon monoxide emission reduction in the Region was air quality data obtained during 1971 at the Continuous Air Monitoring Program (CAMP) Station located in the Chicago Central Business District (CBD). On June 4, 1971, an 8-hour concentration of 22.9 ppm was measured. This was the highest measurement in the base year of 1971. The next highest concentration in the base year occurred on June 1 and again on June 4, when 18.1 ppm of CO was measured for an 8-hour period. This concentration was twice the standard of 9 ppm. Assuming air quality concentrations to be directly proportional to emission rates, a reduction of 50 percent

$$\left[\frac{(18.1-9)}{18.1}\times 100\right]$$

in air quality concentration and therefore in emission rates is required between 1971 and 1975 in order to ensure that the standard will not be exceeded.

Based on data on VMT and average speeds from the Chicago Area Transportation Study (which divides the CBD into 12 approximately quarter-mile zones and the rest of the area into zones of 1 square mile or larger), the 1971 CO emission density of 31,800 kilograms/square mile-day for the CBD appears to be the highest of any place in the Region. Since a 50 percent reduction in the emission rate was determined to be necessary based upon the air quality data, a "safe emission density" (maximum emission rate that will allow attainment of the standards) for 1975 was calculated to be 15,900 kg/square mile-day. Again assuming that the CO concentration in a given area is directly proportional to the CO emission rate for that area and applying the same air quality concentration to emission rate ratio calculated for the CBD to all other zones, it appears that the Federal Motor Vehicle Control Program and the Chicago Vehicle Inspection Program will enable all zones except the CBD to achieve the CO standards by May 31, 1975, as these strategies will permit all non-CBD zones to fall below the calculated "safe emission density" by mid-1975.

Accordingly, this proposed plan relates primarily to reductions in CO concentrations in the CBD. Studies available to the Administrator indicate that a 37 percent reduction in 1971 CO emissions can be achieved by 1975 through the impact of the Federal Motor Vehicle Control Program. This estimate takes into account the impact of the 1975 interim emission standards as set forth by the Administrator on April 11, 1973. The additional 13 percent reduction of CO emissions that must occur between 1971 and 1975 must be accomplished by reducing by approximately 21 percent the 1975 CO emissions that would occur if no strategy were implemented. We believe this reduction can be achieved by the strategies described below.

Summary of Proposal

The first proposal would cause a vehicle emission inspection system to be instituted for all vehicles both owned and operated in Cook, DuPage, and Lake Counties. In this way, more vehicles coming into the CBD will be in compliance with the applicable emission standards. The standards used will be those promulgated in the City of Chicago Ordinance, made effective June 1, 1973.

The second proposal would prohibit on-street parking in the CBD on one side of all one-way streets and on both sides of all two-way streets, except those streets in Grant Park where parking is currently permitted. This strategy will improve traffic flow or average vehicle speed in the CBD and thereby reduce CO emission rates. To counteract any increase in VMT as a result of the improved traffic flow, a regulation requiring a permit for construction of any off-street parking facility is proposed.

Proposed Control Strategy

The State's proposed plan indicated that 60 percent of all vehicle miles traveled in the Chicago CBD are by Chicago-registered vehicles. As the Technical Support Document shows, a 10 percent reduction of carbon monoxide emissions could be expected from a vehicle inspection program applied to 100 percent of the vehicles. Since the Chicago program, if applied only to Chicago-registered vehicles as anticipated, will affect only 60 percent of the VMT in the CBD, implementation thereof can be

expected to achieve only a 6 percent reduction in CO emissions.

The proposed strategy would extend the inspection system to all vehicles both owned and operated in Cook, DuPage, and Lake Counties. It is estimated that 90 percent of VMT in the Chicago CBD are due to vehicles owned and operated in these counties so that such extension would reduce 1975 CO emissions by approximately 9 percent on an annual basis in the CBD.

The State's proposed plan assumed that opening up an additional lane of traffic on one-way streets by prohibiting parking on one side would increase the average vehicle speed by 10 percent on those streets. The Environmental Protection Agency analysis indicates that this increase in average speed will reduce emissions by 10 percent on those streets. Since one-way streets comprise only about half of the CBD roadways, a 5 percent overall reduction in 1975 emissions can be anticipated. This conclusion, of course, assumes that vehicular traffic will not increase as the capacity of the CBD streets is increased.

To increase the effect of this strategy, it is proposed that parking be restricted on both sides of two-way streets as well. Traffic flow on all streets in the CBD should thus be improved, so that the total 1975 CO emission reduction can be expected to be 10 percent. This strategy will, coincidentally, remove parking spaces available for over 8,000 vehicles if no new off-street parking facilities are made available in the CBD.

To prevent an increase in VMT because of better traffic flow, the third proposal requires that no new parking facilities be allowed in the CBD without first receiving the approval of the Administrator of EPA, or of an authorized agency. The combination of parking restrictions is expected to reduce light-duty vehicle miles traveled by slightly more than 3 percent. Although the cumulative percentage is greater than the 21 percent required, the changing base factor requires a combination of all the above proposals to achieve the 21 percent reduction in 1975 CO emissions necessary to achieve the ambient air quality standards.

The strategies summarized above are similar to the State's proposal, but the scope has been extended. Each can be implemented by the time the standards must be attained. These are the chief reasons for their proposal at this time. However, other strategies that may be considered are special controls on taxi cabs, the designation of bus and carpool lanes on certain streets, reduction of off-street parking spaces, and other methods of reducing vehicle miles traveled.

Following is a compilation of the effects of the proposed strategies in the CBD.

		Calculated total emissions in the CBD	Calculated emission density in the CBD
1971	Uncontrolled emissions[2]	103,000 kg/day	31,800 kg/mi²/day.
1975	Expected emissions with only Federal Motor Vehicle Control Program applied.	65,000 kg/day	
	Expected emission reduction from on-street parking restrictions (Increase in speed and coincidental reduction in VMT)	−8,400kg/day	
1975	Resulting emissions	56,600 kg/day	17,500 kg/mi²/day.
	Expected emission reduction from inspection/maintenance program	−5,100 kg/day	
1975	Resulting emissions	51,500 kg/day	15,900 kg/mi²/day.

Presently available information indicates that the proposed parking restrictions are needed to attain the standards by mid-1975. As the effects of the Federal Motor Vehicle Control Program assume a greater impact on the vehicle population because of replacement, continued implementation of the proposed parking prohibitions may not be warranted. Therefore, a periodic analysis of the extent of this impact will be made, and certain of such parking regulations may be rescinded as a result. In order to make this analysis, it will be necessary to obtain additional air quality data throughout the CBD as well as data regarding traffic responses to the regulations.

Additional technical information is contained in "Technical Support Document for the Proposed Transportation Control Plan for the Illinois Portion of the Metropolitan Chicago Interstate Air Quality Control Region," available in the Region V Office, U.S. Environmental Protection Agency, 1 North Wacker Drive, Chicago, Illinois 60606, and the Freedom of Information Center, EPA, 401 M Street SW., Washington, D.C. 20460.

Social and Economic Impact of the Plan

The cost of the inspection system for Chicago-registered vehicles has already been passed on to the owners in the form of an increased vehicle registration fee. It is expected that the minimal cost of inspecting non-Chicago-registered vehicles will also be passed to the vehicle owner. Operating costs for the Chicago inspection system have been estimated to be approximately $2.00 per vehicle per year. This does not include the cost of the necessary maintenance.

The parking restrictions may cause some diminution in revenue from short-term parking meters. At the same time, additional resources will be needed to ensure local enforcement of the restrictions. Those who drive into the CBD and park on the streets will be required to locate off-street parking or use another mode of transportation, preferably mass transit. Deliveries and pick-ups will be required to be made off the street or at non-prohibited hours in order to keep the curb lane of the streets open to traffic. Because these social and economic impacts may be of comparatively short-term duration (see paragraph on proposed strategy above), it is concluded that they will not be too onerous.

Basis for Estimation of Strategy Effectiveness

The stringency of the strategies proposed herein are based on two conservative assumptions, which were made in the absence of conclusive substantiating data. If, prior to the scheduled date of implementation, it can be demonstrated that these assumptions are incorrect, the regulations may be modified accordingly.

The first such assumption concerns the overall degree of effectiveness of an inspection/maintenance system. The EPA position on the effectiveness of the Chicago inspection system is based on test data obtained by EPA in evaluating the initial emission reductions achieved when a fleet of pre-control and controlled light-duty vehicles were subjected to emission inspection tests and the vehicles failing the test were serviced in private maintenance garages. It is expected that in an actual inspection/maintenance program the average emission reductions achieved will be substantially less than the initial reductions observed in the study because of the deterioration of emission-related components and adjustments between periodic inspection and maintenance events. While the currently available data on such deterioration are inadequate to accurately predict the consequences of this effect, some allowance for deterioration is necessary. Therefore, considering the current frequency of voluntary maintenance and the emission reductions typically achieved by existing maintenance procedures, it has been assumed that linear deterioration to premaintenance emission levels will occur over the 12-month period following maintenance. Consequently, the average effectiveness for an annual inspection is estimated to be one-half of the initial effectiveness following maintenance. EPA is presently studying that effect to verify this assumption.

The second such assumption concerns the increase in vehicle speed that can be expected in the CBD from implementation of parking restrictions. It is known that CO emissions from gasoline-powered vehicles decrease with increases in average speeds. If a change in average speed is known, then the change in CO emissions can be approximated based on empirical data. However, it is difficult to predict the effect on average speed in the Chicago CBD produced by on-street parking restrictions. Typical speed/volume relationships have been ascertained for urban arterials and rural roads; however, differences in the functions and services of CBD streets cause major difficulties in attempting to effect a correlation to these relationships. It has been assumed that the parking restrictions proposed will result in a 10 percent increase in speed in the network. If a study on the effects of the proposed

parking limitations in the Chicago CBD demonstrates that a greater increase in speed will result, the need for such stringent parking restrictions may be obviated. The proposed regulation allows time to evaluate the effects of the prohibition of parking on one-way streets prior to implementation of the total ban. However, in the absence of such information, the Agency is constrained currently to follow the conservative approach.

PUBLIC COMMENTS SOLICITED

A public hearing will be held on this proposal on July 27, 1973, at 9:30 a.m. in the San Juan-Kingston Room, Sheraton Chicago Hotel, 505 North Michigan Avenue, Chicago, Illinois.

Interested persons may participate in this rule-making process by submitting oral or written comments at such hearing or written comments within 30 days of this publication addressed to the Hearing Officer on Transportation Control Plans for the State of Illinois, EPA, 1 North Wacker Drive, Chicago, Illinois 60606. All relevant comments will be considered by the Administrator, together with the remainder of the entire hearing record and the proposed plan. Receipt of written comments will be acknowledged. Substantive responses to individual comments will not be provided. The changes proposed by this notice of proposed rule making are issued under the authority of sections 110(c) and 301(a) of the 1970 Clean Air Act (42 U.S.C. 1857 et seq.).

Dated: July 6, 1973.

ROBERT W. FRI,
Acting Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40, of the Code of Federal Regulations as follows:

Subpart O—Illinois

1. Subpart O is amended by adding §§ 52.731, 52.732, and 52.733 as follows:

§ 52.731 Regulation for the inspection and maintenance of vehicles.

(a) Definitions:

(1) "Inspection and maintenance program" means a program to reduce emissions from in-use vehicles through identifying vehicles that need emission control related maintenance and requiring that such maintenance be performed.

(2) "Vehicles-for-hire" means any vehicle used solely for the purpose of providing transportation for a fee or charge such as taxicabs, limousine services and the like.

(3) "Spark ignition powered motor vehicle" means every self-propelled over-the-road vehicle that is powered by a spark ignition type of internal combustion engine, including but not limited to engines fueled by gasoline, propane, butane and methane compounds.

(4) All other terms used in this section that are defined in Part 51, Appendix N of this chapter, are used herein with the meanings so defined.

(b) This regulation is applicable in Cook, Du Page and Lake Counties.

(c) The State of Illinois shall establish an inspection and maintenance program applicable to all light- and heavy-duty spark ignition powered motor vehicles both owned and operated on the streets, roads and highways within Lake and Du Page Counties under its ownership or control. The City of Chicago shall establish an inspection and maintenance program applicable to all light- and heavy-duty spark ignition powered motor vehicles both owned and operated on the streets, roads and highways under its ownership and control. The County of Cook shall establish an inspection and maintenance program applicable to all light- and heavy-duty spark ignition powered motor vehicles both owned and operated on the streets, roads and highways outside the city limits of Chicago under the ownership and control of the county. No later than March 1, 1974, each governmental entity shall submit to the Administrator a legally enforceable inspection and maintenance program which shall include:

(1) Provisions for inspection of all motor vehicles at periodic intervals no more than 1 year apart by means of an idle test, except that Chicago-registered vehicles-for-hire shall be inspected at intervals of no more than 4 months. Said provisions shall require that the inspection and maintenance necessary to achieve compliance of all motor vehicles subject to this section be completed on or before May 31, 1975.

(2) Provisions for inspection criteria based on those idle exhaust emission standards set forth in section 17-2A.2 of the Environmental Control Ordinance, Chapter 17 of the Municipal Code of Chicago, effective June 1, 1973, in the City of Chicago.

(3) Provisions to ensure that failed vehicles receive the maintenance necessary to achieve compliance with the inspection standards. These shall include sanctions against individual owners and repair facilities, retest of failed vehicles following maintenance, a certification program to ensure that repair facilities performing the required maintenance have the necessary equipment, parts and knowledge to perform the tasks satisfactorily, and such other measures as may be necessary or appropriate.

(4) A program of enforcement to ensure that vehicles are not intentionally readjusted or modified subsequent to the inspection and/or maintenance in such a way as would cause them to no longer comply with the inspection standards. This might include spot checks of idle adjustments and/or a suitable type of physical tagging.

(5) Designation of an agency or agencies responsible for conducting, overseeing, and enforcing the inspection and maintenance program. Private parties may be designated to conduct parts of the program to certify compliance.

(d) After May 31, 1975, no governmental entity shall register, nor shall the State register or allow to operate on its streets or highways any motor vehicle subject to this section which does not comply with the applicable exhaust emission standards, as defined in paragraph (c)(2) of this section. This shall not apply to the initial registration of a new motor vehicle.

(e) After May 31, 1975, no person shall cause, permit or allow the resale, rental, use or operation of any spark ignition powered motor vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section.

(f) The State of Illinois, Cook County, and the City of Chicago each shall submit no later than October 1, 1973, a detailed compliance schedule showing the steps it will take to establish and enforce an inspection and maintenance program pursuant to paragraph (c) of this section including:

(1) Identification of elements to assure enforceability which may be a statement of present authority and implementing regulations or, if needed, drafts of proposed rulemaking.

(2) The date by which necessary equipment will be ordered.

(3) An identification of the sources and amounts of funds for the program.

(4) Other necessary provisions to carry out the program.

(g) Failure to comply with any provisions of this section shall render the person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under section 113 of the Clean Air Act.

§ 52.732 Regulation for restriction of on-street parking/standing.

(a) Definitions:

(1) "Chicago Central Business District" means that area within the City of Chicago bounded by and including Chicago Avenue on the North, Lake Shore Drive on the East, Roosevelt Road on the South, and Halsted Street on the West.

(2) "Standing of motor vehicle" means any stopping of a motor vehicle, except when necessary to load or unload passengers or to avoid conflict with other traffic or to comply with the directions of a police officer or traffic control sign or signal.

(3) "Vehicles-for-hire" means any motor vehicle used solely for the purpose of providing transportation for a fee or charge such as taxicabs, limousine services and the like.

(b) This regulation is applicable within the Chicago Central Business District.

(c) The State of Illinois, the County of Cook, and the City of Chicago, shall each prohibit on-street parking and standing on the streets, highways, and roads over which it has ownership or control between the hours of 6:30 a.m. and 6:30 p.m., Mondays through Saturdays, on one side of each one-way street beginning on January 1, 1974, and on each side of two-way streets beginning on January 1, 1975. This shall not apply to streets in Grant Park where parking is permitted as of June 15, 1973.

(d) No person shall cause, permit, or allow the parking or standing of any motor vehicle where prohibited pursuant to paragraph (c) of this section.

(e) On or before October 15, 1973, the City of Chicago shall submit a legally enforceable program for implementing the restrictions contained in paragraph (c) of this section. This program shall include:

(1) Designation of the side of one-way streets on which parking and standing shall be prohibited;

(2) Designation of limited areas where vehicles-for-hire and mail trucks may stand;

(3) Schedule for installing no-parking/no-standing signs as appropriate; and

(4) Program for State and local enforcement of the parking and standing prohibited including but not limited to towing away those vehicles parking or standing in violation of a prohibition or subjecting the owner to a fine of up to $100, or both.

(f) Failure to comply with any of the provisions of this paragraph shall render the person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under section 113 of the Clean Air Act.

§ 52.733 Management of parking supply.

(a) Definitions:

(1) "Construction" means fabrication, erection, or installation of a parking facility, or any conversion of land to use as a facility.

(2) "Modification" means any change to a parking facility which increases the motor vehicle capacity of such facility.

(3) "Enlargement" means any physical change or addition to a parking facility which increases the motor vehicle capacity of such facility.

(4) "Commenced" means that an owner or operator has undertaken a continuous program of construction, modification or enlargement.

(5) "Parking facility" (also called "facility") means any facility, building, structure, or lot or portion thereof used primarily for temporary storage of motor vehicles.

(6) "Central Business District" means that area within the City of Chicago bounded by and including Chicago Avenue on the North, Lake Shore Drive on the East, Roosevelt Road on the South, and Halsted Street on the West.

(b) This regulation is applicable in the Chicago Central Business District.

(c) No person, after August 15, 1973 shall commence construction of any new parking facility or the modification or enlargement of any existing parking facility until he has first received from the Administrator or from an agency approved by the Administrator a permit stating that construction, modification or enlargement of such facility will not interfere with the attainment or maintenance of applicable Federal air quality standards.

(d) In order for any agency to be approved by the Administrator for purposes of issuing permits for construction of any new parking facility or any modification or enlargement of any existing parking facility, such agency shall demonstrate to the satisfaction of the Administrator that:

(1) Requirements for permit applications and issuance have been established. Such requirements shall include but not be limited to a requirement that before a permit may be issued the following findings of fact or factually supported projections must be made:

(i) The location of the facility.

(ii) The total motor vehicle capacity before and after the construction, modification, or enlargement of the facility.

(iii) The normal hours of operation of the facility and the enterprises and activities which it serves.

(iv) The number of people using or engaging in any enterprises or activities that the facility will serve.

(v) The number of motor vehicles using the facility on an average hourly basis and a peak hour basis.

(vi) A projection of the geographic areas in the community from which people and motor vehicles will be drawn to the facility. Such projections shall include data concerning the availability of public transit from such areas.

(2) Criteria for issuance of permits have been established and published. Such criteria shall include but not be limited to:

(i) Full consideration of all facts contained in the application.

(ii) Provisions that no permit shall be issued if such permit will result in the increase of VMT within any area the air quality of which fails to meet applicable Federal air quality standards.

(3) Agency procedures provide that no permit for the construction, enlargement, or modification of a facility covered by this section shall be issued without notice and opportunity for public hearing. The public hearing may be of the legislative type; the notice shall conform to the requirements of § 51.4(b) of this chapter, and the agency rules of procedure may provide that if no notice of intent to participate in the hearing is received from any member of the public (other than the applicant) prior to 7 days before the scheduled hearing date, no hearing need be held. Such a requirement, if imposed, shall be noted prominently in the required notice of hearing.

[FR Doc.73-14268 Filed 7-13-73;8:45 am]

[40 CFR Part 52]

UTAH

Approval and Promulgation of Implementation Plans

BACKGROUND. On May 31, 1972 (37 FR 19842), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved, with specific exceptions, State plans for implementation of the national ambient air quality standards. On this date, the Governor of Utah was advised that in order to complete the requirements of §§ 51.11(b) and 51.14, a transportation and/or land use control strategy for the Wasatch Front Intrastate Air Quality Control Region (hereinafter, the Wasatch Front Region) was to be submitted to the Administrator by February 15, 1973.

On January 31, 1973, the United States Court of Appeals for the District of Columbia Circuit found that the Administrator did not conform to the strict requirements of the Clean Air Act of 1970 in permitting several States to delay submission of transportation control portions of their implementation plans until February 15, 1973, and in granting extensions until mid-1977 for attainment of the national primary ambient air standards without following the procedures established in section 110, 42 U.S.C. § 1857c-5(e). Accordingly, the court ordered that the Administrator rescind the extension granted the States for implementation of the transportation and/or land use control portion of their implementation plans. The affected States, including Utah, were required to submit a control plan by April 15, 1973. The plan was to show attainment of the national ambient air quality standards for photochemical oxidants (hydrocarbons) and carbon monoxide as expeditiously as possible but not later than May 31, 1975.

This proposal results from the failure of the State of Utah to submit an acceptable control plan for the attainment and maintenance of the national primary ambient air quality standard for carbon monoxide in the Wasatch Front Region by that date. It sets forth an emission control plan designed to reduce the expected 1975 emissions of carbon monoxide in the central business districts of the three principal cities located within the Wasatch Front Region by approximately one-half in order to meet the ambient air quality standards for carbon monoxide by May 31, 1975.

POLLUTION IN THE WASATCH FRONT REGION

The most densely populated area in the State of Utah, and consequently the area with the most extensive vehicular traffic, lies at the eastern edge of the Wasatch Front Region and consists roughly of an 80-mile north-south zone that centers on Salt Lake City and extends from Provo in the south to Ogden in the north. The western half of the Wasatch Front Region is sparsely populated, being dominated by the Great Salt Lake Desert. In 1970, approximately 80 percent of the population of this Region was distributed among the three principal cities as follows: Salt Lake City, 175,885; Ogden, 69,478; and Provo, 53,131.

The cities of Salt Lake, Ogden, and Provo all lie at the eastern edge of the Great Salt Lake Basin and are subject to the same large-scale meteorological systems. In addition, the topographical features of the area form a smaller natural basin extending from Salt Lake City to Provo, within which locally generated pollutants tend to be confined. This basin is bordered on the east by the Wasatch Mountain Range and on the west by the Oquirrh Mountain Range. Within this basin, Salt Lake City and Provo are separated topographically by

a line of low hills. At its northern end, the valley opens toward the northwest to the Great Salt Lake. Pollution problems associated with motor-vehicle-generated carbon monoxide become acute during the fall and winter seasons on occasions when the air becomes very stable so that the vertical transfer of pollutants is severely restricted and winds are generally light and variable. Typically, these conditions develop during periods when anticyclones become stationary over the region.

The primary national ambient air quality standard for photochemical oxidants is 160 $\mu g/m^3$ (0.08 part per million (ppm) average) for a 1-hour period not to be exceeded more than once per year. The standard, promulgated on April 30, 1971 (36 FR 8186), is intended to avoid the adverse effects on the visual and respiratory systems that have been observed on days when estimated hourly average concentrations of photochemical oxidants reached 0.10 ppm. A level of 0.08 ppm was therefore judged necessary by the Administrator to protect public health with an adequate margin of safety, as required by the Act.

The highest recorded 1-hour average concentration of oxidants in the Region was 0.118 ppm. This concentration was reached in Salt Lake City in 1970 and 1972, and in Ogden in 1970. The highest concentration reached in Provo was 0.101 ppm in 1970. The second highest levels were also 0.118 ppm in Salt Lake City (1970 and 1972) and Ogden (1970). The second highest level reached in Provo was 0.077 ppm in 1970.

The primary national ambient air quality standards for carbon monoxide are 35 ppm average for 1-hour and 9 ppm average for 8 hours, each to be exceeded no more than once per year. These standards are intended to prevent adverse effects caused by the absorption of carbon monoxide by blood hemoglobin.

The highest and second highest 1-hour and 8-hour carbon monoxide concentrations recorded in each of the three cities are shown in the following table. The second highest 8-hour concentrations listed in the table are based on non-overlapping 8-hour periods.

HIGHEST AND SECOND HIGHEST CARBON MONOXIDE CONCENTRATIONS

(ppm)

	Salt Lake City	Ogden	Provo
1-hour average:			
1970 highest	39	----------	21
2nd highest	36	----------	20
1971 highest	35	30	37
2nd highest	35	27	36
1972 highest	61	65	30
2nd highest	57	47	28
8-hour average:			
1970 highest	23	----------	13
2nd highest	22	----------	9
1971 highest	24	18	21
2nd highest	20	17	20
1972 highest	41	34	18
2nd highest	21	14	16

SUMMARY OF CONTROL REQUIREMENTS

The best information available to the Administrator indicates that the anticipated decrease in motor vehicle hydrocarbon and carbon monoxide emissions due to the on-going Federal Motor Vehicle Control Program (FMVCP) will be insufficient to permit meeting the national standards by May 31, 1975. This information indicates further that additional control measures adequate to ensure meeting the 8-hour carbon monoxide standard will automatically ensure meeting both the 1-hour carbon monoxide standard and the standard for photochemical oxidants. Accordingly, the additional control measures proposed herein are evaluated in terms of the reductions in carbon monoxide emissions that will be reluired to meet the 8-hour carbon monoxide standard.

Studies have indicated that, with the exception of freeway traffic, the density of emissions from motor vehicles falls off sharply outside the downtown areas of the three cities. On this basis, it was decided that the most critical areas requiring the development of control plans were the central business districts of the cities. These are also the ones being monitored for air quality. In these downtown areas, in addition to the reductions obtained from the FMVCP, it will be necessary to further reduce emissions in order to meet the 8-hour standard by May 31, 1975. The reductions required for the three cities are shown in the following table. In arriving at these estimates the year in which the highest second-highest 8-hour average carbon monoxide concentration occurred was used as the base year.

SUMMARY OF EMISSION PROJECTIONS

CARBON MONOXIDE

(kg/8-hr/mi²)

	Salt Lake City	Ogden	Provo
Base year (Salt Lake City, 1970; Ogden and Provo, 1971)	10,984	7,160	6,152
May 31, 1975, with existing regulations (FMVCP)	9,765	7,036	5,698
Maximum allowable emissions	4,493	3,791	2,768
Required reduction from May 31, 1975, projection, %	54%	46%	51%

Emission density maps indicate that ambient concentrations of carbon monoxide in the Region outside of these areas either now meet the 8-hour standard or will do so by May 31, 1975, as a result of the anticipated decrease in motor vehicle emissions resulting from the FMVCP and from controls proposed herein for the general reduction of emissions from older vehicles.

The requirements for additional emission reductions are not so severe as to preclude the existence of a variety of control strategies for effecting such reductions, so that the Administrator has had some freedom to choose strategies on the basis of their cost-effectiveness and their impact on other aspects of life in the Wasatch Front area. The strategies that follow have been chosen to be, insofar as possible, in consistent conformance with the expressed policies and preferences of the Division of Health of the State of Utah. No control plan will be promulgated in final form, however, until the opportunity for public participation and debate, including public hearings, has taken place. The measures being proposed today are subject to change, although they represent EPA's best judgment of the most reasonable methods currently available to meet air quality standards; however, they may be amended, other measures may be added, or entirely new measures may be chosen in their place if the comments received on this Notice, or EPA's own reexamination of the problem, indicate that such a course would be desirable.

TRANSPORTATION CONTROL ALTERNATIVES

The emissions of carbon monoxide affecting ambient concentrations within the areas of concern come almost entirely from motor vehicle sources, so that reductions required beyond those provided by the FMVCP will need to be effected by transportation controls that reduce total motor vehicle emissions. The two general types of transportation controls available are those that reduce the average emissions per mile of vehicle travel, and those that reduce the number of vehicle miles traveled (VMT).

Vehicle emission reductions include an inspection and maintenance system to ensure the adequate performance of vehicle emission controls and the provision for requiring control devices on pre-1975 light-duty vehicles. These general controls are supplemented by programs for improving traffic flow within selected areas. The VMT-reducing strategy recommended is the continued development of public transportation systems coupled with steps to encourage their public acceptance and use, including parking changes, a limitation on gasoline sales, a conversion of certain lanes of major streets to bus and car pool use, and a ban on parking lot construction. Although the proposed date for full implementation of the high altitude efficiency modification program and air bleed program is July 1, 1976, the possibility of accelerating both programs will be actively explored before final promulgation.

PROPOSED CONTROLS ON MOBILE SOURCE EMISSIONS

The following controls to reduce emissions from a vehicle-mile of travel are proposed.

All light-duty gasoline-powered vehicles registered within the Region will be required to be inspected twice a year by means of an idle-mode emission test, which is a relatively inexpensive testing procedure. Vehicle owners will be required to obtain any maintenance necessary to ensure that all pollution control devices on the vehicle work properly and that the vehicle operates at low pollution levels.

The installation of an intake manifold air bleed device will be required on all pre-1968 model year light-duty gasoline-powered vehicles registered within Weber, Davis, Salt Lake, and Utah Counties. This type of device increases the air fuel ratio by metering additional air to the intake manifold in accordance with intake manifold vacuum.

The installation of an approved high altitude efficiency modification device will be required on all 1968–1974 light-duty gasoline-powered vehicles registered within Weber, Davis, Salt Lake, and Utah Counties.

Further reductions in emissions per VMT will be achieved by traffic flow improvements. The State of Utah is in the process of installing a computer-operated central signal system to improve traffic flow as part of its plan to meet air quality standards within downtown Salt Lake City. It is assumed that this system will be fully operational by May 31, 1975.

To improve traffic flow in Provo, angle parking will be prohibited on Center Street from 500 West Street to 100 East Street. This restriction will allow traffic to move in two lanes in each direction and will also provide left turn lanes, thus increasing average vehicle speed, which, in turn, decreases emissions of carbon monoxide.

Although EPA proposes the installation of emissions control devices on all pre-1975 gasoline powered light-duty vehicles within the Region, a possible alternative control strategy for these vehicles would be to ban their operation from certain defined areas unless they were equipped with the required control devices.

Proposed Reductions in VMT

Some reductions in VMT throughout the three cities are expected to be achieved in part by increased use of public transportation systems. Since the carbon monoxide problem has been identified principally with the downtown areas of Salt Lake City, Ogden, and Provo, the VMT-reducing controls proposed to effect the balance of the reductions required are directed toward limiting traffic in these specific areas.

To accomplish these reductions, the proposed regulations provide for parking restrictions within critical areas during peak traffic hours, conversion of certain motor vehicle lanes of major streets to the exclusive use of buses and car pools, gasoline limitations, and a ban on parking lot construction.

It is anticipated that the completion of a bypass in 1974 will result in a decrease of VMT within the business district of Ogden. The estimated effect of this decrease in VMT on emissions has been incorporated into the control strategies for this area.

Other VMT reduction measures, for which no regulatory language has been included, will also be considered as part of this rule making proceeding. In particular, the advisability of limiting or reducing the number of parking spaces in central business districts will be explored.

The final promulgation may include these or other measures not explicitly proposed today, if at the time of final promulgation they appear to be the most practical ways of achieving air quality standards.

The Administrator recognizes that there must be adequate alternative transporation if the controls on vehicle use are in fact to have a beneficial effect rather than become a burden. The Administrator is not proposing regulations to specifically assure such alternatives because, on the basis of studies presently available, it appears that the best alternatives are among those not appropriately established by Federal regulations, and because plans to improve transit service and to increase free shuttle bus service in downtown Salt Lake City are already underway. It is also anticipated that the restraints will prompt a variety of private decisions relative to work hours, car pooling, and similar matters that will operate to ameliorate their adverse impact.

Summary of the Effect of Transportation Controls

The following table is a summary of the effect of each of the proposed controls on emissions in the downtown areas of Salt Lake City, Ogden, and Provo.

COMPILATION OF CONTROL STRATEGY EFFECTS ON CARBON MONOXIDE EMISSIONS IN 1976

Control Strategy	Reduction in 1970 Carbon Monoxide Emissions Attainable in 1975, in addition to the Federal Motor Vehicle Control Program (Percent)		
	Salt Lake City	Ogden	Provo
1. Inspection/Maintenance	14	14	14
2. Air Bleed (Pre-1968)[1]	17	17	17
3. High Altitude Modification (1968–1974)[1]	13	13	13
4. Traffic Flow Improvements			
a. Computerized signal system	7	----	----
b. Curb parking restrictions	3	----	----
c. By-pass	----	1	----
d. Change from diagonal to parallel parking	----	----	7
5. VMT Reductions			
a. Mass transit system	1	1	1
b. Bus/car pool lanes	4	1	1
c. Gasoline limitations	6	6	6
Total Reductions	65	53	59
Reductions Required	54	46	51

[1] Fully implemented by July 1, 1976; therefore, VMT reductions are needed as reasonably available alternatives by 1975.

Thus the regulations proposed herein, as their effects are presently projected, appear adequate on the basis of current knowledge for meeting the national ambient air quality standards for carbon monoxide and oxidants (hydrocarbons) by June 30, 1976. The Agency proposes to grant a 13-month extension for the air bleed and high altitude modification strategies.

Additional technical information is contained in "Technical Support Document for the Proposed Transportation Control Strategy for the Wasatch Front Intrastate Air Quality Control Region," available from the Region VIII Office, Environmental Protection Agency, Suite 900, 1870 Lincoln Street, Denver, Colorado 80203, and the Freedom of Information Center, EPA, 401 M Street, S.W., Washington, D.C. 20460.

Economic and Social Impact of the Transportation Control Plan

Congress recognized that achievement of the goals of the Clean Air Act would have a significant impact on many urban areas. A thorough quantitative assessment of the impact of the plan on the economic and social fabric of the community has not been possible due to the lack of time and the innate complexity of the issues. The following discussion attempts to describe the type of impacts which would occur. First, vehicle owners may have to assume the direct costs of emission abatement equipment required to bring their vehicles into compliance.

Second, reduction in the mobility of workers and consumers could have some impact on the economic fabric of the community. Third, interferences with the ability of citizens to move as freely as before may alter the life style of the Region slightly. Obviously, the severity of the impact depends on the degree of vehicle use restrictions, on the manner in which direct costs of abatement equipment are financed, and the degree to which the effects can be ameliorated by improvement of the transit system.

Since it is not possible to effect sufficient VMT reductions to meet the standards without use of other controls, all the possible combinations of controls that were considered included an inspection and maintenance program and some degree of additional emission control equipment for existing vehicles. The combination proposed requires what is believed to be the least expenditure by the individual light-duty vehicle owner that will accomplish the necessary emission reductions. No increase in gasoline consumption is anticipated as a result of the installation of the proposed control devices. The annual cost of the required inspection will probably be about $5.00, with an additional $15.00 to $25.00 required if maintenance is needed. The maintenance is, of course, desirable on its own merit, and is not viewed as a serious burden.

The installed cost of the intake manifold air bleed device is about $60.00, and the installed cost of possible options for the high altitude efficiency modification is estimated to be $20.00 to $35.00. If these costs fall directly on the individual light-duty vehicle owner, however, the specific burden will weigh more heavily on the low-income families who tend to own the older cars.

Effect on the Economic and Social Fabric of the Community

Any direct or indirect effects of the plan on the economy of the area are primarily dependent on the extent of the necessary reduction in VMT. Since the degree of restriction is relatively small, it is expected that the principal effects will be more a matter of social adjustments than of serious economic consequences.

EPA Efforts To Mitigate the Effects of Proposed Regulations

The combined effect of these proposed regulations, together with the Utah Implementation Plan, will eliminate the air pollution danger to human health and welfare that exists in the Wasatch Front area. They may, however, have adverse economic and social impacts, and the Administrator will make every effort

possible to mitigate the effects of his final promulgation. He will be in contact with the Department of Transportation and with other departments as necessary. The Administrator of EPA will request that the departments and agencies give special attention to the need for funding to provide adequate mass transit to replace the automobile travel eliminated by the proposed controls.

PUBLIC COMMENTS SOLICITED

The Administrator intends that the finally adopted plans be as responsive as possible to the needs of the Wasatch Front area; he therefore desires to obtain the comments and suggestions of the public on the problems of achieving the ambient air quality standards. Comments are particularly invited pertaining to other measures that may be taken by Federal, State, or local authorities to support or supplement these measures, and pertaining to the comparative social and economic effects of alternative pollution control measures.

A public hearing will be held on this proposal on July 27 at 10:00 a.m. in Salt Lake City at the Highway Department Auditorium.

The Administrator's final promulgation of transportation controls for the Wasatch Front Region will be influenced by the comments and testimony he receives, as well as by any further approvable strategies submitted by the State as part of the Utah Implementation Plan. These influences, and the additional analysis of alternative strategies that can be made in the time between this proposal and final promulgation, may lead the Administrator to adopt final regulations that differ in important ways from this proposal.

SUBMITTAL OF WRITTEN COMMENTS

Interested persons may participate in this rule making by submitting written comments, preferably in triplicate, to the Regional Administrator, EPA, Region VIII, Suite 900, 1860 Lincoln Street, Denver, Colorado 80203. All relevant comments received within 30 days of this date will be considered. Receipt of comments will be acknowledged, but substantive responses to individual comments will not be provided. Comments received will be available for public inspection during normal business hours at the EPA Region VIII Office and at the Freedom of Information Center, EPA, 401 M Street SW., Washington, D.C. 20460. The changes proposed by this notice with appropriate modification will be effective as noted.

This notice of proposed rule making is issued under the authority of sections 110(c) and 301(a) of the Clean Air Act.

(42 U.S.C. 1857 et seq.)

Dated: July 6, 1973.

ROBERT W. FRI,
Acting Administrator.

It is proposed to amend Part 52 of Chapter 1, Title 40, of the Code of Federal Regulations as follows:

Subpart TT—Utah

1. Subpart TT is amended by adding §§ 52.2337, 52.2338, 52.2339, 52.2340, 52.2341, 52.2342, 52.2343, and 52.2344 as follows:

§ 52.2337 Inspection and maintenance program.

(a) Definitions:

(1) "Inspection and maintenance program" means a program to reduce emissions from in-use vehicles through identifying vehicles which need emission control-related maintenance and requiring that maintenance be performed.

(2) All other terms used in this Section which are defined in 40 CFR Part 51, Appendix N, are used herein with the meanings so defined.

(b) This regulation is applicable in Davis, Salt Lake, Utah, and Weber Counties, which constitute the urban portion of the Wasatch Front Intrastate Air Quality Control Region.

(c) The State of Utah shall establish an inspection and maintenance program applicable to all light-duty vehicles which operate on streets or highways over which it has ownership or control. No later than March 1, 1974, the State shall submit legally adopted regulations to the Environmental Protection Agency establishing such a program. The regulations shall include:

(1) Provisions for inspection of all motor vehicles at periodic intervals no more than 6 months apart by means of an idle test.

(2) Provisions for inspection failure criteria consistent with the emission reductions claimed in the plan for the failure of 50 percent of the vehicles in strategy. These criteria shall include the first inspection cycle.

(3) Provisions to ensure that failed vehicles receive the maintenance necessary to achieve compliance with the inspection standards. These shall include sanctions against individual owners and repair facilities, retest of failed vehicles following maintenance, a certification program to ensure that repair facilities performing the required maintenance have the necessary equipment, parts and knowledge to perform the tasks satisfactorily, and such other measures as may be necessary or appropriate.

(4) A program of enforcement to ensure that vehicles are not intentionally readjusted or modified subsequent to the inspection and/or maintenance in such a way as would cause them to no longer comply with the inspection standards. This might include spot checks of idle adjustments and/or a suitable type of physical tagging.

(5) Provisions for beginning of the first inspection cycle by June 1, 1975, and completing it by December 31, 1975.

(6) Designation of an agency or agencies responsible for conducting, overseeing, and enforcing the inspection and maintenance program.

(d) After December 31, 1975, the State shall not register or allow to operate on its streets or highways any light- or heavy-duty vehicle which does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section. This shall not apply to the initial registration of a new motor vehicle.

(e) After December 31, 1975, no owner of a light-duty vehicle shall operate or allow the operation of such vehicle which does not comply with the applicable standards and procedures adopted pursuant to paragraph (c).

(f) The State of Utah shall submit, no later than October 1, 1973, a detailed compliance schedule showing the steps it will take to establish and enforce an inspection and maintenance program pursuant to paragraph (c) of this section, including:

(1) The text of needed statutory proposals and needed regulations which it will propose for adoption.

(2) The date by which the State will recommend needed legislation to the State legislature.

(3) The date by which necessary equipment will be ordered.

(4) A signed statement from the Governor or his designee identifying the sources and amounts of funds for the program. If funds cannot legally be obligated under existing statutory authority, the text of needed legislation will be submitted.

(g) Failure to comply with any provisions of this section shall render the person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under section 113 of the Clean Air Act. With regard to compliance schedules, the State will be considered to have failed to comply with the requirements of this section if it fails to timely submit any required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

§ 52.2338 Air bleed to intake manifold retrofit.

(a) Definitions:

(1) The term "air bleed to intake manifold retrofit" as used in this section means a device in the intake system of the vehicle which enables the air/fuel ratio to be increased by metering additional air to the intake manifold in accordance with intake manifold vacuum advance to reduce emissions of hydrocarbons and carbon monoxide to the atmosphere.

(2) All other terms used in this section which are defined in 40 CFR Part 51, Appendix N, are used herein with the meanings so defined.

(b) This section is applicable in Davis, Salt Lake, Utah, and Weber Counties, which constitute the urban portion of the Wasatch Front Intrastate Air Quality Control Region.

(c) The State of Utah shall establish a retrofit program to ensure that on or before June 30, 1976, all gasoline-powered light-duty vehicles of model years

prior to 1968, subject under presently existing legal requirements to registration in the area defined in paragraph (b) of this section, are equipped with an appropriate air bleed to intake manifold device. No later than March 1, 1974, the State shall submit legally adopted regulations to EPA establishing such a program. The regulations shall include:

(1) Designation of an agency responsible for evaluating and approving such devices for use on vehicles subject to this section.

(2) Designation of an agency responsible for ensuring that the provisions of paragraph (c)(3) of this section are enforced.

(3) Provisions for beginning the installation of the air bleed devices by July 1, 1975, with installation of the devices on all vehicles subject to this section no later than June 30, 1976.

(4) Procedures for ensuring that those installing the retrofit devices have the training and ability to perform the needed tasks satisfactorily and will have an adequate supply of retrofit components.

(d) After July 1, 1976, the State shall not register or allow to operate on its streets or highways any light-duty vehicle which does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section.

(e) After July 1, 1976, no owner of a vehicle subject to this section shall operate or allow the operation of any such vehicle which does not comply with the applicable standards and procedures implementing this section.

(f) The State of Utah shall submit no later than October 1, 1973, a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to paragraph (c) of this section, including the text of statutory proposals and regulations which the State proposes for adoption. The compliance schedules shall also include a date by which the State shall evaluate and approve devices for use in this program. Such date shall be no later than September 30, 1974.

(g) Failure to comply with any provision of this section shall render each person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under section 113 of the Clean Air Act. A State will be considered to have failed to comply with the requirements of this regulation if it fails to timely submit the required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

§ 52.2339 Regulation for high-altitude efficiency modification.

(a) Definitions:

(1) "High-altitude efficiency modification" means the provision of increased air flow, restricted fuel flow, or other modification having the effect of compensating for the adverse effects on combustion efficiency of decreased air density at high altitudes.

(2) All other terms used in this section which are defined in 40 CFR Part 51, Appendix N, are used herein with the meanings so defined.

(b) This section is applicable in Davis, Salt Lake, Utah, and Weber Counties, which constitute the urban portion of the Wasatch Front Intrastate Air Quality Control Region.

(c) The State of Utah shall establish a program to ensure that on or before July 1, 1976, all gasoline-fueled light-duty vehicles of model years 1968 to 1974, subject under presently existing legal requirements to registration in the area defined in paragraph (b) of this section, are equipped with an appropriate high-altitude efficiency modification. No later than March 1, 1974, the State shall submit legally adopted regulations to EPA establishing such a program. The regulations shall include:

(1) Designation of an agency responsible for evaluating and approving such devices for use on vehicles subject to this section.

(2) Designation of an agency for ensuring that the provisions of paragraph (c)(3) of this section are enforced.

(3) Provisions for beginning the installation of the modifications by July 1, 1975, and installation of the modifications on all vehicles subject to this section no later than June 30, 1976.

(4) Procedures for ensuring that those making modifications have the training and ability to perform the needed tasks satisfactorily and will have an adequate supply of components.

(d) After July 1, 1976, the State shall not register or allow to operate on its streets or highways any light-duty vehicle which does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section.

(e) After July 1, 1976, no owner of a vehicle subject to this section shall operate or allow the operation of any such vehicle which does not comply with the applicable standards implementing this section.

(f) The State of Utah shall submit no later than October 1, 1973, a detailed compliance schedule showing the steps it will take to establish and enforce a modification program pursuant to paragraph (c) of this section, including the text of needed statutory proposals and regulations which the State proposes for adoption. The compliance schedule shall also include a date by which the State shall evaluate and approve devices for use in this program. Such date shall be no later than September 30, 1974.

(g) Failure to comply with any provision of this section shall render each person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under section 113 of the Clean Air Act. A State will be considered to have failed to comply with the requirements of this regulation if it fails to timely submit the required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

§ 52.2340 Bus/carpool lanes.

(a) Definitions:

(1) "Carpool" means a vehicle containing three or more persons.

(2) "Bus/carpool lane" means a lane on a street or highway open only to buses or buses and carpools, whether constructed specially for that purpose or converted from existing lanes.

(3) "Major street or highway" means any street or highway which meets the criteria given in paragraphs (b)(4)(ii) and (iii) of this section.

(b) This regulation is applicable in Davis, Salt Lake, Utah, and Weber Counties, which constitute the urban portion of the Wasatch Front Intrastate Air Quality Control Region (hereafter referred to as the Region).

(1) Each incorporated city within Davis, Salt Lake, Utah, and Weber Counties shall establish bus/carpool lanes on the major streets and highways (as defined herein) over which it has ownership or control, according to the schedule in paragraph (b)(4)(v) of this section.

(2) Davis, Salt Lake, Utah, and Weber Counties shall establish within the Region over which they have ownership or control, according to the schedule in paragraph (b)(4)(v) of this section.

(3) The State of Utah shall establish bus/carpool lanes on the major streets and highways (as defined herein) within Davis, Salt Lake, Utah, and Weber Counties over which it has ownership or control, according to the schedule in paragraph (d)(4)(v) of this section.

(4) Each of the governmental entities named in the previous three subparagraphs shall submit no later than October 1, 1973, a detailed compliance schedule showing the steps which it will take to establish these bus/carpool lanes and to enforce the limitations on their use, with each schedule to include the following:

(i) Each street and highway which will have bus/carpool lanes must be identified with a schedule for the establishment of the lanes.

(ii) If a street or highway has four or more traffic lanes in one direction, at least one of these lanes must be open only to buses (or buses and carpools) at all times. If only one lane is open to buses (or buses and carpools) at all times, a second lane must be open only to buses (or buses and carpools) from 6:30 a.m. to 9:30 a.m. and from 3:30 p.m. to 6:30 p.m.

(iii) If a street or highway has three traffic lanes in one direction, at least one of these lanes must be open only to buses (or buses and carpools) from 6:30 a.m. to 9:30 a.m. and from 3:30 p.m. to 6:30 p.m.

(iv) In unusual situations, a street or highway, or lane or segment thereof, may be exempt from these requirements if an approval of the exemption is obtained from the Administrator. The ap-

plication for exemption shall not be submitted and will not be accepted after September 1, 1973. Special circumstances justifying the need for an exemption or modification (such as inappropriateness of use by buses, designation of bicycle lanes instead, or desire to allow bus/carpool lanes to be entered briefly by other vehicles for the purpose of crossing a lane or making a right turn) must be given in detail with the application.

(v) Bus/carpool lanes must be prominently indicated by overhead signs at least once every mile, and at each intersection or entry ramp. Of the lane mileage for each of the governmental entities, 25 percent must be established and needed signs must be installed by March 1, 1974; 50 percent by June 1, 1974; 75 percent by September 1, 1974; and 100 percent by December 1, 1974.

(vi) Bus/carpool lanes must be prominently indicated by distinctive painted lines, pylons, or physical barriers.

(vii) A signed statement by the chief executive officer of each governmental entity or his designee will identify the sources and amounts of funds for all projects.

(5) Buses shall have the right of way whenever changing lanes on streets and highways with bus lanes. This shall take effect as each lane is established and identified.

(6) Buses shall be permitted to make left turns whether or not the intersection is posted for "No Left Turn" (except when a one-way street would be entered from the wrong direction). This shall take effect January 1, 1974.

(7) None of the governmental entities named in paragraph (b) of this section shall convert existing on-street parking spaces to use as motor vehicle traffic lanes unless the effect will be to increase the number of bus/carpool lanes on the affected street beyond the number otherwise required by paragraph (b) of this section, or unless the effect will be to create a bicycle lane in place of the parking spaces.

(c) Failure to comply with any provisions of this section shall render the person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under section 113 of the Clean Air Act. A governmental entity will be considered to have failed to comply with the requirements of this section if it fails to timely submit any required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

§ 52.2341 Management of parking supply.

(a) Definitions:

(1) "Construction" means fabrication, erection, or installation of a parking facility, or any conversion of land to use as such facility.

(2) "Modification" means any change to a parking facility which increases the motor vehicle capacity of such facility.

(3) "Enlargement" means any physical change or addition to a parking facility which increases the motor vehicle capacity of such facility.

(4) "Commenced" means that an owner or operator has undertaken a continuous program of construction modification, or enlargement.

(5) "Parking facility" (also called "facility") means any facility, building, structure, or lot, or portion thereof, used primarily for temporary storage of motor vehicles.

(b) This regulation is applicable in Davis, Salt Lake, Weber, and Utah Counties, which constitute the urban portion of the Wasatch Front Intrastate Air Quality Control Region.

(c) No person, after August 15, 1973 shall commence construction of any new parking facility or modification or enlargement of any existing parking facility until he has first received from the Administrator, or from an agency approved by the Administrator, a permit stating that construction, modification or enlargement of such facility will not interfere with the attainment or maintenance of applicable Federal air quality standards.

(d) In order for any agency to be approved by the Administrator for purposes of issuing permits for construction of any new parking facility or any modification or enlargement of any existing parking facility, such agency shall demonstrate to the satisfaction of the Administrator that:

(1) Requirements for permit applications and issuance have been established. Such requirements shall include but not be limited to a requirement that before a permit may be issued the following findings of fact or factually supported projections must be made:

(i) The location of the facility.

(ii) The total motor vehicle capacity before and after the construction, modification or enlargement of the facility.

(iii) The normal hours of operation of the facility and the enterprises and facilities which it serves.

(iv) The number of people using or engaging in any enterprises or activities which the facility will serve.

(v) The number of motor vehicles using the facility on an average hourly basis and a peak hour basis.

(vi) A projection of the geographic areas in the community from which people and motor vehicles will be drawn to the facility. Such projections shall include data concerning the availability of public transit from such areas.

(2) Criteria for issuance of permits have been established and published. Such criteria shall include but not be limited to:

(i) Full consideration of all facts contained in the application.

(ii) Provisions that no permit shall be issued if such permit will result in the increase of VMT within any area the air quality of which fails to meet applicable Federal air quality standards.

(3) Agency procedures provide that no permit for the construction, enlargement or modification of a facility covered by this section shall be issued without notice and opportunity for public hearing. The public hearing may be of the legislative type; the notice shall conform to the requirements of 40 CFR 51.4(b); and the agency rules of procedure may provide that if no notice of intent to participate in the hearing is received from any member of the public (other than the applicant) prior to 7 days before the scheduled hearing date, no hearing need be held. Such a requirement, if imposed, shall be noted prominently in the required notice of hearing.

§ 52.2342 Regulations for limitation of on-street parking in Salt Lake City.

(a) Definitions:

(1) The term "on-street parking" means stopping and leaving a vehicle on a street or sidewalk whether a person is in the vehicle or not.

(2) The "Salt Lake City core area" means the area bounded by and including the following streets: South Temple, 2nd East, 500 South, and West Temple.

(b) On-street parking limitations:

(1) Beginning January 1, 1974, the City of Salt Lake shall prohibit on-street parking on the streets or highways within the Salt Lake City core area over which it has ownership or control during the hours of 6:00 to 10:00 a.m. and 4:00 to 6:00 p.m. on any day other than Saturdays, Sundays, and legal holidays. The prohibition shall state that vehicles parked in violation of the prohibition shall either be towed away, or the owner shall be subject to a fine of up to $100, or both.

(2) Beginning January 1, 1974, the County of Salt Lake shall prohibit on-street parking on the streets or highways within the Salt Lake City core area over which it has ownership or control during the hours of 6:00 to 10:00 a.m. and 4:00 to 6:00 p.m. on any day other than Saturdays, Sundays, or legal holidays. The prohibition shall state that vehicles parked in violation of the prohibition shall either be towed away, or the owner shall be subject to a fine of up to $100, or both.

(3) Beginning January 1, 1974, the State of Utah shall prohibit on-street parking on the streets or highways within the Salt Lake City core area over which it has ownership or control during the hours of 6:00 to 10:00 a.m. and 4:00 to 6:00 p.m. on any day other than Saturdays, Sundays, or legal holidays. The prohibition shall state that vehicles parked in violation of the prohibition shall either be towed away, or the owner shall be subject to a fine of up to $100, or both.

(c) Each governmental entity shall by October 1, 1973, submit to the Administrator for his approval a detailed statement of the steps to be taken to post notices and otherwise effect the requirements of paragraph (b), and a schedule for their implementation that provides for full effectiveness no later than January 1, 1974.

(d) Failure to comply with any provision of this section shall render each person or governmental entity so failing to comply in violation of a requirement of

an applicable implementation plan and subject to enforcement action under section 113 of the Clean Air Act.

§ 52.2343 Regulation of on-street parking in Provo.

(a) Definitions:

(1) The term "on-street parking" means stopping and leaving a vehicle on a street or sidewalk whether a person is in the vehicle or not.

(2) The "Provo core area" means the area bounded by and including the following streets: 300 North, 100 East, 400 South, and 600 West.

(b) Beginning January 1, 1974, the City of Provo shall prohibit the parking of any motor vehicle on Center Street, Provo, between 500 West Street and 100 East Street, unless such vehicle is parked parallel with the roadway in such a manner that it projects no further than 9 feet from the edge of the roadway.

(c) The City of Provo by October 1, 1973, shall submit to the Administrator for his approval a detailed statement of the steps to be taken to post notices, delineate traffic lanes, and otherwise effect the requirements of paragraph (b) of this section, and a schedule for their implementation that provides for their full effectiveness no later than January 1, 1974.

(d) Failure to comply with any provision of this section shall render each person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under section 113 of the Clean Air Act.

§ 52.2344 Gasoline limitations.

(a) Definitions:

(1) The term "base year" means the consecutive 12-month period commencing on July 1, 1972, and ending June 30, 1973.

(2) The term "distributor" means any corporation, partnership, or sole proprietorship which transports or stores or causes the transportation or storage of gasoline between any refinery and any retail outlet.

(3) The term "retail outlet" means any establishment at which gasoline is sold or offered for sale to the public, or introduced into any vehicle.

(b) This section is applicable within Davis, Salt Lake, Utah and Weber Counties, which constitute the urban portion of the Wasatch Front Intrastate Air Quality Control Region (hereafter referred to as the Region), to all distributors of gasoline to any retail outlet in this area and to the owners or operators of all retail outlets in this area.

(c) Beginning July 1, 1974, the State of Utah shall implement regulations limiting the total gallonage delivered to retail outlets in the Region to the amount delivered to such outlets during the base year.

(d) In order for the State to determine the amount of gasoline delivered during the base year and years during which control is in effect, all distributors to which this section applies shall provide the State with a detailed accounting of the amount of gasoline delivered to each retail outlet in the Region during the base year and years during which control is in effect. For each year during which control is in effect, the owner or operator of each retail outlet to which this section applies shall provide the State with a detailed accounting of gasoline received from each distributor, the total amount of gasoline received from each distributor, the total amount of gasoline sold during the year, and the amount of gasoline on hand at the beginning and end of the year. The State may require any other reports as it may deem necessary for the implementation of this section.

(e) The State of Utah shall submit no later than October 1, 1973, a detailed compliance schedule showing steps it will take to establish and enforce the limitation program specified in paragraphs (c) and (d) of this section, including:

(1) The text of needed statutory proposals and needed regulations which it will propose for adoption.

(2) A date by which the State shall adopt procedures to ensure that no more than the amount of gasoline specified in paragraph (c) of this section is delivered to retail outlets in the Region. Such date shall be no later than March 30, 1974.

(3) A date by which any report necessary for establishing such procedures will be furnished to the State by the distributors. Such date shall be no later than January 1, 1974.

(4) Designation of an agency responsible for implementation and monitoring of this program.

(f) Failure to comply with any provisions of this section shall render the person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under section 113 of the Clean Air Act. With regard to compliance schedules, a State will be considered to have failed to comply with the requirements of this section if it fails to timely submit any required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

[FR Doc.73-14269 Filed 7-13-73;8:45 am]

[40 CFR Part 52]

WASHINGTON

Approval and Promulgation of Implementation Plans

Background. The transportation control plan submitted to EPA on April 16, 1973, by the State of Washington for attainment of the primary national ambient air quality standards for carbon monoxide and photochemical oxidants (hydrocarbons) in the Puget Sound Intrastate Air Quality Control Region and for carbon monoxide in the Washington portion of the Eastern Washington-Northern Idaho Interstate Region was approved with certain exceptions on June 15, 1973 (38 FR 16550). This Notice of Proposed Rule Making sets forth regulations that in the Administrator's judgment can be implemented in addition to the approved portions of the Washington transportation control plan to attain national standards in the two regions by May 31, 1975.

If, prior to Federal promulgation, the State of Washington submits transportation control plan revisions which will assure attainment of national standards by May 31, 1975, and which the Administrator determines are acceptable, these proposed Federal regulations will be withdrawn. If revisions to the State plan are submitted and determined to be approvable after promulgation of Federal regulations, then those regulations will be rescinded. It is the desire of the Environmental Protection Agency that the plan to attain and maintain national standards in both Regions be a State plan carried out by the State or by authorized local governments. To the greatest extent feasible, the Federal regulations proposed are designed to implement transportation control measures that are acceptable to the State and/or that received public support at the State hearings held on April 11 and 12, 1973, or that were contained in the comments submitted to EPA following EPA receipt of the State transportation control plan.

Pollution in the Puget Sound Intrastate Region

The Puget Sound Intrastate Region encompasses the four counties of King, Pierce, Snohomish, and Kitsap. In this Region, an urbanized corridor containing over a million people and including the cities of Everett, Seattle, and Tacoma stretches the length of a north-south basin lying between the Olympic Mountains to the west and the Cascade mountains to the east. The highest valid carbon monoxide concentration measurements taken in the Puget Sound Region were recorded in the Seattle central business district during 1972. The transportation control strategy submitted by Washington, therefore, deals principally with the Seattle portion of the Region. In 1972 the 8-hour national ambient air quality standard for carbon monoxide of 9 parts per million (10 milligrams per cubic meter), not to be exceeded more than once per year, was exceeded on 107 days. The maximum 8-hour concentration recorded in Seattle in 1972 was 22 parts per million. The highest 1-hour concentration of carbon monoxide was 38 parts per million, compared to a 1-hour national ambient air quality standard of 35 parts per million. The State forecasts that by 1975 the emission reductions resulting from implementation of Federal emission standards for new cars will be sufficient to prevent the 1-hour carbon monoxide standard from being exceeded and will reduce to approximately 37 the number of days the 8-hour standard will be exceeded. In December 1972, EPA began monitoring carbon monoxide concentrations at two locations in the Seattle central business district to acquire data for use in validating a carbon monoxide dispersion model. Based on the measurements recorded thus far, concentrations higher than those recorded by the State do

occur. The ambient carbon monoxide data collected by EPA are now being evaluated; the results will be forwarded to the State upon completion of the evaluation.

The 1-hour national ambient air quality standard for photochemical oxidants of 0.08 part per million (160 micrograms per cubic meter), not to be exceeded more than once per year, was exceeded seven times during 2 days in 1972. The maximum 1-hour oxidant concentration measured was 0.14 part per million. The State indicates, but has not adequately demonstrated, that by 1975 no reductions in hydrocarbon emissions beyond those resulting from implementation of the Federal emission standards for new motor vehicles will be necessary to meet national ambient air quality standards for photochemical oxidants.

Pollution in the Eastern Washington-Northern Idaho Interstate Region

The Washington portion of the Eastern Washington-Northern Idaho Interstate Region encompasses the counties of Spokane, Lincoln, Grant, Adams, Whitman, Columbia, Garfield, and Asotin. The City of Spokane is the major urbanized area in the Region and the only location where a carbon monoxide problem has been identified. In terms of meteorological factors influencing air pollution levels, the Spokane area is protected from Pacific storms by the Cascade Mountains to the west and from Canadian storms by the Rocky Mountains to the east. The topographical features and dry climate of the area favor the formation of stable, stagnant air masses and the accumulation of air pollutants.

The highest 8-hour carbon monoxide concentration measured in Spokane was 22 parts per million, recorded during 1972. That year the 8-hour national ambient air quality standard for carbon monoxide was exceeded on 59 days. The highest 1-hour carbon monoxide concentration recorded was 40 parts per million. Based on information submitted by the State, the reduction in carbon monoxide emissions resulting from implementation of Federal emission standards for new cars will be sufficient to prevent the 1-hour carbon monoxide standard from being exceeded and will reduce to approximately 25 the number of days the 8-hour standard is exceeded.

Summary of State Plans

The measures adopted by the State for implementation in the Seattle portion of the Puget Sound Intrastate Region and in the Spokane portion of the Eastern Washington-Northern Idaho Interstate Region and submitted to EPA on April 16 include (1) annual inspection to determine emissions from and maintenance required for gasoline-powered light-duty vehicles; (2) exclusion of gasoline-powered heavy-duty vehicles from the central business districts through regulation of the hours for loading and unloading; (3) traffic-signal optimization programs to improve vehicle low; and (4) intermittent exclusion of gasoline-powered light- and heavy-duty vehicles from the central business districts as an alternative measure if the State is unsuccessful in obtaining the legal authority and funding to implement its inspection/maintenance program. Two additional measures, an "accelerated" transit plan that will include satellite parking facilities, and second-level sidewalks that will improve vehicle flow through reduction of pedestrian-vehicle conflicts, are included in the strategy for the Spokane portion of the Eastern Washington-Northern Idaho Region.

State Emission Density Calculations

In developing the transportation control strategies it submitted, the State used a proportional mathematical model to establish the maximum emission densities allowable if the 8-hour national ambient air quality standard for carbon monoxide is to be attained and maintained in the Puget Sound Intrastate and the Eastern Washington-Northern Idaho Interstate Regions. The reductions in motor vehicle carbon monoxide emissions necessary to attain the ambient carbon monoxide standard by 1975 were determined by forecasting the emission densities for that year and subtracting the allowable emission densities established by means of the proportional model. Estimates of 1975 emissions were calculated on a square mile basis for areas with high traffic densities in both Regions. Based on these calculations the State determined that the only locations where the 8-hour ambient carbon monoxide standard will be exceeded are the central business districts of Seattle and Spokane. An estimated 41 percent reduction in motor vehicle carbon monoxide emissions, in addition to the reductions achieved by implementation of the Federal emission standards for new motor vehicles, is required to attain the 8-hour national ambient air quality standard in Seattle by 1975. A 36 percent reduction in carbon monoxide emissions is required in Spokane to attain the standard.

Tabular Summary—Control Strategy Effects

The following tables summarize the effect of each of the control measures included in the strategies adopted by the State of Washington on the overall emission reductions necessary in the Puget Sound Intrastate and Eastern Washington-Northern Idaho Interstate Regions. The State estimates that the 8-hour standard for carbon monoxide can be met in the central business district of Seattle by reducing the emission density per 8-hour period to 5786 kilograms per square mile. The emission density forecast for 1975 is 9823 kilograms per square mile. The 1975 estimate takes into account the reduction in emissions from the Federal standards for new motor vehicles and assumes implementation of the transit plan adopted by the Municipality of Metropolitan Seattle.

The emission density that the State estimates will enable the attainment of the 8-hour carbon monoxide standard in Spokane is 3729 kilograms per square mile. The estimated 1975 emission density, again taking into account the reduction in emissions resulting from the Federal standards for new motor vehicles, is 5845 kilograms per square mile.

The emission reductions needed in the Seattle and Spokane central business districts can be achieved by combining either the inspection and maintenance of light-duty vehicles (alternative 1), or the intermittent exclusion of light- and heavy-duty vehicles (alternative 2) with the other emission reduction measures included in the strategy for each area. The State indicates that the intermittent exclusion procedures can be varied so that this measure alone will achieve the emission reductions required to meet the national standards for carbon monoxide.

Compilation of Control Strategy Effects of State Plans on May 31, 1975

Seattle Central Business District

Transportation control measure	Carbon monoxide reductions			
	Alternative 1		Alternative 2	
	kg/mi² -8 hr	%	kg/mi² -8 hr	%
Traffic-signal optimization	−518	5.3	−518	5.3
Exclusion of heavy-duty vehicles	−1331	13.5	−1331	13.5
Inspection and maintenance of light-duty vehicles	−2338	23.8	.....	.....
Intermittent exclusion of light- and heavy-duty vehicles	.....	.....	−3303	39.6
Total	−4187	42.6	−5742	58.4
Motor vehicle emissions forecast in 1975	9823	.....	9823	.....
Motor vehicle emissions remaining	5636	.....	4081	.....
Maximum emissions allowable to attain standard	5786	.....	5786	.....

Compilation of Control Strategy Effects of State Plans on May 31, 1975

Spokane Central Business District

Transportation control measure	Carbon monoxide reductions			
	Alternative 1		Alternative 2	
	kg/mi²-8 hr	%	kg/mi²-8 hr	%
Traffic-signal optimization	−170	2.9	−170	2.9
Exclusion of heavy-duty vehicles	−476	8.1	−476	8.1
Inspection and maintenance of light-duty vehicles	−1417	24.2	.....	.....
Intermittent exclusion of light- and heavy-duty vehicles	.....	.....	−2034	34.8
Accelerated transit plan	−58	1.0	−58	1.0
Second-level sidewalks	−18	0.3	−18	0.3
Total	−2139	36.5	2756	58.4
Motor vehicle emissions forecast in 1975	5845	.....	5845	.....
Motor vehicle emissions remaining	3706	.....	3089	.....
Maximum emissions allowable to attain standard	3729	.....	3729	.....

CONTROL MEASURES REQUIRED IN TACOMA

In preparing the transportation control strategy for the Puget Sound Intrastate Region, the State did not evaluate, subsequent to the rescinding of the 2-year extension by EPA, the need for additional measures to meet standards for carbon monoxide in Tacoma by 1975. The implementation plan submitted by the State in January 1972 indicated that in the central business district of Tacoma an additional 24 percent reduction in carbon monoxide emissions, beyond the reductions achieved by implementation of the Federal emission standards for new motor vehicles, is needed to attain the national ambient air quality standards for carbon monoxide by 1975. The measured concentrations upon which the need for the additional 24 percent reduction is based may be influenced by stationary sources of carbon monoxide and may not be entirely the result of motor vehicle emissions. EPA has requested the State to better define the nature of the carbon monoxide problem in Tacoma, to submit an assessment of the problem to EPA, and to submit a timetable for developing additional motor vehicle emission reduction measures if they are required.

DEFICIENCIES IN STATE PLANS

Although the types of transportation control measures adopted by the State of Washington to attain national standards are generally acceptable to the Administrator, the manner of implementation proposed for some of the measures appears questionable. Consequently, the implementation and enforcement procedures for the intermittent exclusion of light- and heavy-duty vehicles must be explicit in any resubmission to obviate promulgation of EPA proposals. Proposed surveillance procedures to determine and monitor the effectiveness of all the adopted measures must be provided by the State.

The percentage reductions in carbon monoxide emissions claimed for the traffic-signal optimization programs appear optimistic and attainable only if the forecasted improvements in traffic flow can be achieved and maintained. There is no demonstration by the State that the traffic-signal optimization programs will not eventually result in increased traffic volumes sufficient to increase carbon monoxide emissions. The Seattle Engineering Department indicates that such programs are experimental and that the reductions in vehicle stops and starts gained through implementation of the programs may be short-lived. The State did not propose any surveillance procedures to monitor the efficacy of the traffic-signal optimization programs in improving traffic flow and reducing motor vehicle carbon monoxide emissions.

The hours proposed (10 a.m. to 6 p.m.) for excluding heavy-duty vehicles from the central business districts of Seattle and Spokane do not include the period of morning peak traffic. Emissions from heavy-duty vehicles could account for a significant portion of the pollutants emitted during the period of morning peak traffic (particularly if increased heavy-duty vehicle traffic occurs during the morning peak). Loading and unloading vehicles during the period of morning peak traffic could also hinder traffic flow and increase emissions from through traffic. The regulations and administrative policies implementing this strategy must be submitted by the State to EPA no later than December 30, 1973.

There are many uncertainties associated with the intermittent exclusion of gasoline-powered motor vehicles from the central business district. As with all intermittent control systems, the exclusion measure will, if implemented, provide significant improvement in air quality, but will not provide positive assurance that the national ambient air quality standards for carbon monoxide will be attained and maintained. A prediction accuracy of 80 to 90 percent in forecasting days when ambient standards may be exceeded could still result in four to seven violations of the 8-hour standard for carbon monoxide in Seattle and four to five violations of the standard in Spokane. The ability of the State to develop a model for predicting the days when a potential for exceeding ambient standards exists is obviously the element critical to the successful implementation of the intermittent exclusion measure.

The type of inspection system the State intends to implement is not indicated in sufficient detail, nor is the geographical area identified to which the requirement for inspection will apply. A schedule detailing specific milestones, such as securing necessary funding, acquiring land and equipment, and constructing facilities, is not included in the State's submittal. It appears unlikely that the inspection system can be implemented by the State by May 31, 1975.

PROPOSED FEDERAL REGULATIONS

Because of the lack of specificity of the administrative and enforcement procedures for implementing the State program for emission inspection and maintenance of light-duty vehicles, the uncertainty concerning the emission reductions that will result from traffic flow improvements and the potential difficulties in developing a forecast capability sufficiently accurate to make intermittent exclusion of vehicles a viable control measure, Federal regulations are proposed to implement the following transportation control measures:

1. An inspection and maintenance program, using an idle emission test, for light-duty vehicles. No retrofitting is proposed as part of this measure.

2. A parking management program that will (a) immediately stabilize the amount of parking available in the portions of the Regions where there is not sufficient assurance that national standards will be attained by May 31, 1975; (b) prevent increases in parking elsewhere within the Region where such a parking increase might result in an increase in motor vehicle emission sufficient to cause national standards to be exceeded.

3. Selective exclusion of vehicles from portions of the Puget Sound Intrastate and the Eastern Washington-Northern Idaho Interstate Regions where there is not sufficient assurance that national standards will be attained by May 31, 1975, through implementation of the measures contained in the State transportation control plan.

These Federally proposed measures are intended to strengthen and supplement, not wholly replace, State-adopted transportation control measures.

A more stringent selective vehicle-use exclusion program could be implemented that would, by itself, achieve the needed reductions in motor vehicle emissions. The more stringent program would necessitate those entering the central business districts of Seattle and Spokane to find alternative means of transportation, other than their own automobiles, approximately once every week rather than once every two weeks as would be necessary under the currently proposed program.

Other measures are available to EPA and to the State that will, if implemented, assist in achieving a reduction in motor vehicle emissions equivalent to that resulting from the three proposed measures. In the State of California, for example, EPA is proposing regulations that will require the establishment of a system of traffic lanes for the exclusive use of buses and car pools. The proposed regulations require that, for streets having four or more traffic lanes in one direction, at least one lane must be designated for use only by buses or by buses and car pools with an additional lane during rush hours. In the case of a street or highway with only three lanes in one direction, at least one of the lanes must be open only to buses or buses and car pools from 6:30 to 9:30 a.m. and from 3:30 to 6:30 p.m.

If Federal promulgation of any of the regulations is necessary, the selection of the measures to be implemented will be based to the greatest extent possible on testimony presented at the public hearing held prior to Federal promulgation. The first two Federally proposed measures, the inspection and maintenance program and the parking management program, did receive support in testimony presented at the public hearings held by the State. Although the third measure, a selective vehicle use exclusion program, was not discussed at the public hearings, it is a measure that should strengthen other State-adopted measures, such as traffic flow improvement and transit patronage increases, that did receive public support.

The inspection and maintenance program proposed by the State was disapproved because administrative and enforcement procedures were not specified in the plan, nor was a schedule of dates submitted by which significant steps in the inspection program will be implemented. The Administrator is continuing to assess the earliest practicable date on which the inspection and maintenance program can be fully implemented. He may revise this date based on results of

this assessment. Under the Federally proposed inspection program, emission limits for light-duty vehicles with no emission control systems will not be set at a level which would necessitate retrofitting.

Because the State may not be able to develop the forecasting capability necessary to successfully implement the intermittent exclusion measure, and because of the uncertainty of the emission reductions resulting from the State-adopted programs for traffic-signal optimization, exclusion of heavy-duty vehicles, improvement of public transit, and construction of second-level sidewalks, Federal regulations are also proposed for the establishment and implementation of a parking management program and a selective vehicle-use exclusion program.

The proposed parking management programs are intended to stabilize immediately the supply of parking in areas where transportation control measures are necessary for attainment of national standards. In addition to helping assure the success of the State-adopted programs for traffic flow improvement and increased transit patronage, management of the parking supply should also encourage car pooling.

The selective vehicle-use exclusion program will provide for metering the amount of traffic entering those areas of Seattle and Spokane where air quality standards are presently not being met. To implement the program, portions of the Puget Sound and Eastern Washington-Northern Idaho Regions where national standards are presently being exceeded will be designated as "vehicle-limited zones." The areas now proposed for such designation are the central business districts of Seattle and Spokane. The exact boundaries of these areas are identified in the proposed regulations.

Traffic entering the vehicle-limited zones will be metered to limit the vehicle miles of travel within the zone so that the resultant motor vehicle emissions will not cause national standards to be exceeded. To meter the amount of traffic entering a zone, the State will be required to issue an "access certificate" to each vehicle registered within certain counties of the affected Regions. The certificate will be affixed in a prominent place on the vehicle. On specified days of the week, vehicles displaying designated certificates will be prohibited from operating or parking in vehicle-limited zones between 7 a.m. and 5 p.m. The number of categories of access certificates to be prohibited each weekday will be determined by the State no later than the time of submittal to EPA of the November 1974 semiannual report of progress on implementation of the State plan for achieving national standards. This determination will be based upon the effectiveness of other State and/or Federal motor vehicle emission reduction programs.

Two alternative transportation control strategies that could be implemented in Seattle and Spokane, should the State be unable to implement an intermittent exclusion program, are presented in the following tables.

COMPILATION OF STATE/FEDERAL TRANSPORTATION CONTROL STRATEGY EFFECTS ON MAY 31, 1975

SEATTLE CENTRAL BUSINESS DISTRICT

Transportation control measures	Carbon monoxide reductions			
	EPA Proposal		EPA Alternative	
	kg/mi[3] −8 hr	%	kg/mi[3] −8 hr	%
Traffic-signal optimization [1]	−518	5.3	−518	5.3
Exclusion of heavy-duty vehicles [1]	−1331	13.6	−1331	13.6
Inspection and maintenance of light-duty vehicles (no retrofit) [2]	−982	10.0		
Selective vehicle-use exclusion [2]	−1206	12.2	−2188	22.2
Parking management [2]				
Total	−4037	41.1	−4037	41.1
Motor vehicle emissions forecast in 1975	9823		9823	
Motor vehicle emissions remaining	5786		5786	
Maximum emissions allowable to attain standard	5786		5786	

[1] State-adopted transportation control measure.
[2] EPA-proposed transportation control measure.

COMPILATION OF STATE/FEDERAL TRANSPORTATION CONTROL STRATEGY EFFECTS ON MAY 31, 1975

SPOKANE CENTRAL BUSINESS DISTRICT

Transportation control measures	Carbon monoxide reductions			
	EPA Proposal		EPA Alternative	
	kg/mi[3]- 8 hr	%	kg/mi[3]- 8 hr	%
Traffic-signal optimization [1]	−170	2.9	−170	2.9
Exclusion of heavy-duty vehicles [1]	−476	8.1	−476	8.1
Accelerated transit plan [1]	−58	1.0	−58	1.0
Second-level sidewalks [1]	−18	0.3	−18	0.3
Inspection and maintenance of light-duty vehicles (no retrofit) [2]	−585	10.0		
Selective vehicle-use exclusion [2]	−809	13.9	−1394	23.9
Parking management [2]				
Total	2116	36.2	2116	36.2
Motor vehicle emissions forecast in 1975	5845		5845	
Motor vehicle emissions remaining	3729		3729	
Maximum emissions allowable to attain standard	3729		3729	

[1] State-adopted transportation control measure.
[2] EPA-proposed transportation control measure.

The alternative strategies shown assume that the State's estimates of the emission reductions resulting from the traffic-signal optimization and heavy-duty vehicle exclusion programs are achievable. Alternative 1, the current Federal proposal, indicates the additonal carbon monoxide emission reductions that will be achieved through the implementation of the selective vehicle-use exclusion and parking management programs together with State-adopted measures. No reduction in motor vehicle emissions is attributed to the parknig management program. The parking management program is proposed to assure the efficacy of other control measures and to assist in the maintenance of national standards. Alternative 2 indicates the emission reductions that will result if only the selective vehicle-use program is used to supplement the State-adopted measures.

SOCIAL AND ECONOMIC IMPACTS OF PROPOSED FEDERAL TRANSPORTATION CONTROL MEASURES

A quantitative assessment of the economic and social impacts of the proposed Federal transportation control measures on the two Regions in the State of Washington has not been possible due to the short time available for development of the measures and the innate complexities of the issues involved. However, an attempt has been made to identify some of the more important impacts that will result if the proposed Federal measures are promulgated and implemented.

First, if the proposed inspection/maintenance program is implemented, vehicle owners will probably have to assume directly some of the costs of vehicle inspection and all of the costs of any vehicle maintenance required to meet the inspection emission standards. If a failure rate of 50 percent is set for the inspection/maintenance program, the annual cost for each vehicle inspected is estimated to average $15.

Second, reductions in the accessibility of the Seattle and Spokane central business districts could result if automobile use is restricted through either selective vehicle exclusion or parking management and no adequate alternative mode of transportation is provided. If the central business districts become less convenient to workers and shoppers, the economies of these districts may be adversely affected. Property values could fall and private profits and government revenues could decline. The extent of adverse economic effects and the degree to which these effects can be ameliorated through providing alternatives to travel by automobile are difficult to estimate. However, economic losses in the central business districts may be offset by gains elsewhere within the Regions.

EPA EFFORTS TO MITIGATE THE EFFECTS OF PROPOSED REGULATIONS

The proposed Federal regulations, together with the State-adopted measures, will eliminate the danger to human health and welfare that exists in the Puget Sound Intrastate Region and the Washington portion of the Eastern Washington-Northern Idaho Interstate Region as a result of air pollution from motor vehicles. The regulations may, however, have adverse economic and social impacts. The Administrator will make every effort to mitigate the adverse effects of his final promulgation. He will be in contact with the Department of Transportation and other departments as necessary. The Administrator will request that these departments give special attention to the need for funding of programs necessary to offset any adverse effects resulting from the implementation of transportation control measures.

PUBLIC COMMENTS SOLICITED

The Administrator intends that any Federal regulations which must be promulgated be as responsive as possible to the needs of the Puget Sound Intrastate and Eastern Washington-Northern Idaho Interstate Regions; he therefore desires to obtain the comments and sug-

gestions of the public on the proposed regulations and on any other measures that may be taken by Federal, State, or local governments to strengthen, supplement, or replace the proposed measures.

Public hearings will be held on this and any alternative proposals in Seattle at the Orcas Room, Coliseum Northwest, Seattle Center, at 7:30 p.m., on July 31, 1973, and in Spokane at the Rennaissance Room, Gonzaga University, at 7:30 p.m. on July 30, 1973.

In any promulgation of regulations necessary, the Administrator will consider all comments and testimony he receives, as well as any additional strategies submitted by the State.

SUBMITTAL OF WRITTEN COMMENTS

Interested persons may participate in this rule making by submitting written comments, preferably in triplicate, to the Administrator, EPA, Region X, 1200 Sixth Avenue, Seattle, Washington 98101, Attention: A. J. Frankel. All relevant comments received within 30 days of this date will be considered. Receipt of comments will be acknowledged, but substantive responses to individual comments will not be provided. Comments received will be available for public inspection during normal business hours at the EPA Region X library. The changes proposed by this notice, with appropriate modifications, will be effective as noted. This notice of proposed rule making is issued under the authority of sections 110(c) and 301(a) of the Clean Air Act.

(42 U.S.C. 1857c et seq.)

Dated July 6, 1973.

ROBERT W. FRI,
Acting Administrator.

It is proposed to amend Part 52 of Chapter I, Title 40, of the Code of Federal Regulations as follows:

Subpart WW—Washington

1. Subpart WW is amended by adding §§ 52.2485, 52.2486, and 52.2487 as follows:

§ 52.2485 Inspection and maintenance program.

(a) Definitions.

(1) "Inspection and maintenance program" means a program for reducing emissions from in-use gasoline-powered vehicles through identifying vehicles which need emission-control-related maintenance and requiring that maintenance be performed.

(2) All other terms used in this section which are defined in Part 51, Appendix N, of this chapter are used herein with the meanings so defined.

(b) This regulation is applicable in all the counties which constitute the Puget Sound Intrastate Air Quality Control Region and in the counties of Spokane, Lincoln, Adams, and Whitman in the Eastern Washington-Northern Idaho Interstate Air Quality Control Region (hereafter referred to as the Regions).

(c) The State of Washington shall establish an inspection and maintenance program applicable to all light-duty gasoline-powered vehicles which operate on public streets or highways within the applicable counties. No later than March 1, 1974, the State shall obtain necessary authority and shall adopt regulations to establish such a program. The regulations shall include:

(1) Provisions for inspection of all gasoline-powered light-duty motor vehicles at periodic intervals no more than 1 year apart by means of an idle-mode emission test.

(2) Provisions for inspection failure criteria consistent with the emission reductions claimed in the plan for the strategy. These criteria shall include failure of 50 percent of the vehicles in the first inspection cycle.

(3) Provisions to ensure that failed vehicles receive the maintenance necessary to achieve compliance with the inspection standards. These shall include sanctions against individual owners and repair facilities; retest of failed vehicles following maintenance; use of a certification program to ensure that repair facilities performing the required maintenance have the necessary equipment, parts, and knowledge to perform the tasks satisfactorily; and use of such other measures as may be necessary or appropriate.

(4) A program of enforcement to ensure that vehicles are not intentionally readjusted or modified subsequent to the inspection and/or maintenance in such a way as would cause them to no longer comply with the inspection standards. This enforcement program might include spot checks of idle adjustments and/or a suitable type of physical tagging.

(5) Provisions for beginning the first inspection cycle by January 1, 1975, and completing it by May 31, 1975.

(6) Designation of an agency or agencies responsible for conducting, overseeing, and enforcing the inspection and maintenance program.

(d) After May 31, 1975, the State shall not register or allow to operate on public streets or highways any light-duty gasoline-powered vehicle which does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section. This shall not apply to the initial registration of a new motor vehicle.

(e) After May 31, 1975, no owner of a light-duty gasoline-powered vehicle shall operate or allow the operation of such vehicle which does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section.

(f) The State of Washington shall submit, no later than October 1, 1973, a detailed compliance schedule showing the steps it will take to establish and enforce an inspection and maintenance program pursuant to paragraph (c) of this section, including:

(1) The text of needed statutory proposals and of regulations which it will propose for adoption.

(2) The date by which the State will recommend needed legislation to the State legislature.

(3) The date by which necessary equipment will be ordered.

(4) A signed statement from the Governor or his designee identifying the sources and amounts of funds for the program. If funds cannot legally be obligated under existing statutory authority, the text of needed legislation shall be submitted.

(g) Failure to comply with any provisions of this paragraph shall render such person or governmental entity failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under section 113 of the Clean Air Act.

§ 52.2486 Management of parking supply.

(a) Definitions

(1) "Construction" means fabrication, erection, or installation of a parking facility, or any conversion of land to use as a facility.

(2) "Modification" means any change to a parking facility which increases the vehicle capacity of such facility.

(3) "Enlargement" means any physical change or addition to a parking facility which increases the vehicle capacity of such facility.

(4) "Commenced" means the owner or operator has undertaken a continuous program of construction, modification, or enlargement.

(5) "Parking facility" (also called "facility") means any facility, building, structure, or lot, or portion thereof, used primarily for temporary storage of motor vehicles.

(b) This regulation is applicable in all counties included in the Puget Sound Intrastate Air Quality Control Region and in the counties of Spokane, Lincoln, Adams, and Whitman in the Washington-Northern Idaho Interstate Air Quality Control Region (hereafter referred to as the Regions).

(c) No person, after the date of this regulation, shall commence construction of any new parking facility or modification or enlargement of any existing parking facility until he has first received from the Administrator or from an agency approved by the Administrator a permit stating that construction, modification or enlargement of such facility will not interfere with attainment or maintenance of applicable Federal air quality standards.

(d) In order for any agency to be approved by the Administrator for purposes of issuing permits for construction of any new parking facility or any modification or enlargement of any existing parking facility, such agency shall demonstrate to the satisfaction of the Administrator that:

(1) Requirements for permit applications and issuance have been established. Such requirements shall include but not be limited to a requirement that before a permit may be issued the following findings of fact or factually supported projections must be made:

(i) The location of the facility.

(ii) The total motor vehicle capacity before and after the construction, modification, or enlargement of the facility.

(iii) The normal hours of operation of the facility and the enterprises and activities which it serves.

(iv) The number of people using or engaging in any enterprises or activities which the facility will serve.

(v) The number of motor vehicles using the proposed facility on an average hourly basis and a peak hour basis.

(vi) A projection of the geographic areas in the community from which people and motor vehicles will be drawn to the facility. Such projections shall include data concerning the availability of public transit from such areas.

(2) Criteria for issuance of permits have been established and published. Such criteria shall include but not be limited to:

(i) Full consideration of all facts contained in the application.

(ii) Provisions that no permit shall be issued if such permit will result in the increase of vehicle miles of travel within any area the air quality of which fails to meet applicable Federal air quality standards.

(3) Agency procedures provide that no permit for the construction, enlargement or modification of a facility covered by this section shall be issued without notice and opportunity for public hearing. The public hearing may be of the legislative type; the notice shall conform to the requirements of § 51.4(b) of this chapter; and the agency rules of procedure may provide that if no notice of intent to participate in the hearing is received from any member of the public (other than the applicant) prior to 7 days before the scheduled hearing date, no hearing need be held. Such a requirement, if imposed, shall be noted prominently in the required notice of hearing.

§ 52.2487 Selective vehicle-use exclusion.

(a) Definitions:

(1) "Selective vehicle-use exclusion program" means a program whereby use of light- and heavy-duty vehicles within a specified area is selectively prohibited in a manner equitable for all vehicle operators.

(2) "Seattle central business district" means an area enclosed by Yesler Way, the I–5 freeway, Eighth Street, Virginia, and the Alaska Way Viaduct. Traffic on I–5 and the Alaska Way Viaduct is not included.

(3) "Spokane central business district" means an area enclosed by Trent, Monroe, Third Street, and Division. Traffic on Division is not included.

(4) "Vehicle-limited zone" means the geographic area to which a selective vehicle-use exclusion program applies.

(b) On or before October 1, 1973, the Governor of the State of Washington shall submit to the Administrator for his approval a compliance schedule containing the text of proposed procedures for designating and issuing up to 10 primary categories of access certificates for vehicles registered, beginning no later than January 1, 1975, in all the counties included within the Puget Sound Intrastate Air Quality Control Region and in the counties of Spokane, Lincoln, Adams, and Whitman in the Eastern Washington-Northern Idaho Interstate Air Quality Control Region and for selectively restricting vehicle use in vehicle-limited zones consisting of the Seattle and Spokane central business districts. The procedures shall include:

(1) Provisions to assure that multiple-vehicle owners or households receive no more than one category of access certificate.

(2) Provisions that additional categories of access certificates may be issued for vehicles the use of which is deemed essential by the State of Washington, including, but not limited to, police and fire vehicles, ambulances, and public transit vehicles.

(3) Prohibitions of vehicles bearing specified certificates from being operated or parked on public streets within designated vehicle-limited zones. These prohibitions shall provide for excluding vehicles bearing one or more types of the primary categories of access certificates from the vehicle-limited zones between 7:00 a.m. and 5:00 p.m. on specific workdays. The number of categories excluded each day shall be specified no later than the semiannual report to be submitted to EPA by the State of Washington in November 1974.

(4) Provisions that certificates of access will be distributed to vehicle owners during the motor vehicle registration period beginning no later than January 1, 1975. However, all such certificates shall be issued by March 31, 1975.

(5) Designation of an agency or agencies which shall be responsible for administration and enforcement of this program.

(6) An explanation of procedures necessary to implement and enforce this program (such as establishing spot-check locations at major intersections and issuing citations to those driving on prohibited days).

(7) Provisions that actual exclusion will begin as expeditiously as practicable; however, this exclusion shall begin no later than May 31, 1975.

(c) No later than March 1, 1974, the State shall submit legally adopted regulations to EPA establishing such a vehicle use exclusion program specified in paragraph (b) of this section.

(d) Beginning no later than January 1, 1975, the State of Washington shall not register any motor vehicle subject to the provision of subparagraph (b) of this section without issuing suitable access certificates to vehicle owners.

(e) Beginning no later than March 31, 1975, no owner or operator of a vehicle subject to the provisions of paragraph (b) of this section shall operate or allow the operation of his vehicle unless an access certificate is prominently affixed to that vehicle.

(f) Failure to comply with any provisions of this paragraph shall render a person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under section 113 of the Clean Air Act.

[FR Doc.73-14270 Filed 7-13-73;8:45 am]

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PART III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

■

FEDERAL HEALTH INSURANCE FOR AGED

Conditions of Participation for Home Health Agencies

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. 5, further amended]

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED (1965)

Subpart L—Conditions of Participation; Home Health Agencies

On September 18, 1971, there was published in the FEDERAL REGISTER (36 FR 18696) a notice of proposed rule making which set forth proposed amendments to regulations relating to the conditions of participation for home health agencies.

Interested parties were given the opportunity to submit within 30 days data, views, or arguments with regard to the proposed amendments.

Comments were received from many persons (including representatives of national, State, and local organizations) concerned with home care and with the qualifications and duties of health care personnel rendering services under Medicare. The comments received reflected a variety of concerns. Some advocated retention of the biennial program evaluation requirements. Some urged inclusion in the regulations of qualification requirements for nutritionists, and expansion of home health services to include nutritional services. Some recommended a regulation on pharmaceutical consultation. There were recommendations for and against permitting the physical therapist assistant to provide physical therapy services. There were objections to the hospital-based home health agency's certification being separate from that of the hospital. There were suggestions that some of the regulations be changed for the sake of clarity. All the comments have been carefully considered.

The amendments as announced under the notice of proposed rule making (36 FR 18696) are adopted with the following changes:

(a) All factors and some standards have been omitted for conciseness;

(b) Section 405.1201(a) has been revised to incorporate an amendment to section 1861(o) of the Social Security Act made by Public Law 92-603;

(c) The last sentence of § 405.1201(b) and §§ 405.1201(c) through 405.1208 (which set forth certification procedures common to all providers of services) have been omitted, pending further revision and incorporation into Subpart F (Agreements, Elections, Contracts, Nominations, and Notices);

(d) Definitions applicable to home health agencies have been included in the section now designated as § 405.1202;

(e) Section 405.1209 has been redesignated as § 405.1230;

(f) Sections 405.1222 and 405.1223 have been combined with § 405.1221 under the new title *Organization, services, administration;*

(g) Section 405.1224 has been redesignated as § 405.1222 and retitled *Group of professional personnel;*

(h) Sections 405.1225 and 405.1226 have been redesignated as §§ 405.1223 and 405.1224, respectively;

(i) Sections 405.1227 through 405.1229 have been combined, redesignated as § 405.1225, and retitled *Therapy services;*

(j) Sections 405.1230 through 405.1233 have been redesignated as §§ 405.1226 through 405.1229, respectively;

(k) Higher requirements which are applicable in certain States have been relocated in the Appendix;

(l) The provisions relating to qualification requirements of health care personnel have been amended to permit qualification through proficiency testing until December 31, 1977, as required by section 241 of Public Law 92-603.

Effective date. These amendments shall be effective July 13, 1973.

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Hospital Insurance)

Dated: June 14, 1973.

ARTHUR E. HESS,
Acting Commissioner of Social Security.

Approved: July 9, 1973.

CASPAR W. WEINBERGER,
Secretary of Health, Education, and Welfare.

Subpart L of Part 405 of Chapter III of Title 20 of the Code of Federal Regulations is revised to read as follows:

Subpart L—Conditions of Participation; Home Health Agencies

Sec.

405.1201 General.
405.1202 Definitions.
405.1220 Condition of participation: Compliance with Federal, State, and local laws.
405.1221 Condition of participation: Organization, services, administration.
405.1222 Condition of participation: Group of professional personnel.
405.1223 Condition of participation: Acceptance of patients, plan of treatment, medical supervision.
405.1224 Condition of participation: Skilled nursing service.
405.1225 Condition of participation: Therapy services.
405.1226 Condition of participation: Medical social services.
405.1227 Condition of participation: Home health aide services.
405.1228 Condition of participation: Clinical records.
405.1229 Condition of participation: Evaluation.
405.1230 Condition of participation: Qualifying to provide outpatient physical therapy services.

Appendix—Addenda for Several States Incorporating Conditions of Participation Higher Than Those Imposed by the Health Insurance for the Aged Program.

AUTHORITY: Secs. 1102, 1842, 1862, 1870, 1871, 49 Stat. 647, as amended, 79 Stat. 309, 79 Stat. 325, 79 Stat. 331, 81 Stat. 846-847; 42 U.S.C. 1302, 1395 et seq.

Subpart L—Conditions of Participation; Home Health Agencies

§ 405.1201 General.

(a) In order to participate as a home health agency in the health insurance program for the aged, an institution must be a "home health agency" within the meaning of section 1861(o) of the Social Security Act. This section of the law states a number of specific requirements which must be met by participating home health agencies and authorizes the Secretary of Health, Education, and Welfare to prescribe other requirements considered necessary in the interest of health and safety of beneficiaries. Section 1861(o) of the Act provides:

(o) The term "home health agency" means a public agency or private organization, or a subdivision of such an agency or organization, which—

(1) Is primarily engaged in providing skilled nursing services and other therapeutic services;

(2) Has policies, established by a group of professional personnel (associated with the agency or organization), including one or more physicians and one or more registered professional nurses, to govern the services (referred to in paragraph (1)) which it provides, and provides for supervision of such services by a physician or registered professional nurse;

(3) Maintains clinical records on all patients;

(4) In the case of an agency or organization in any State in which State or applicable local law provides for the licensing of agencies or organizations of this nature, (A) is licensed pursuant to such law, or (B) is approved, by the agency of such State or locality responsible for licensing agencies or organizations of this nature, as meeting the standards established for such licensing;

(5) Has in effect an overall plan and budget that meets the requirements of subsection (z); and

(6) Meets such other conditions of participation as the Secretary may find necessary in the interest of the health and safety of individuals who are furnished services by such agency or organization; except that such term shall not include a private organization which is not a nonprofit organization exempt from Federal income taxation under section 501 of the Internal Revenue Code of 1954 (or a subdivision of such organization) unless it is licensed pursuant to State law and it meets such additional standards and requirements as may be prescribed in regulations; and except that for purposes of Part A such term shall not include any agency or organization which is primarily for the care and treatment of mental diseases.

(b) The requirements included in the statute and the additional health and safety requirements prescribed by the Secretary are set forth in the conditions of participation for home health agencies.

§ 405.1202 Definitions.

As used in this subpart, the following definitions apply:

(a) *Administrator, home health agency.* A person who:

(1) Is a licensed physician; or

(2) Is a registered nurse; or

(3) Has training and experience in health service administration and at

least 1 year of supervisory or administrative experience in home health care or related health programs.

(b) *Bylaws or equivalent.* A set of rules adopted by a home health agency for governing the agency's operation.

(c) *Branch office.* A location or site from which a home health agency provides services within a portion of the total geographic area served by the parent agency. The branch office is part of the home health agency and is located sufficiently close to share administration, supervision, and services in a manner that renders it unnecessary for the branch independently to meet the conditions of participation as a home health agency.

(d) *Clinical note.* A dated written notation by a member of the health team of a contact with a patient containing a description of signs and symptoms, treatment and/or drug given, the patient's reaction, and any changes in physical or emotional condition.

(e) *Nonprofit agency.* An agency exempt from Federal income taxation under section 501 of the Internal Revenue Code of 1954.

(f) *Occupational therapist.* A person who:

(1) Is a graduate of an occupational therapy curriculum accredited jointly by the Council on Medical Education of the American Medical Association and the American Occupational Therapy Association; or

(2) Is eligible for the National Registration Examination of the American Occupational Therapy Association; or

(3) Has 2 years of appropriate experience as an occupational therapist, and has achieved a satisfactory grade on a proficiency examination conducted, approved, or sponsored by the U.S. Public Health Service, except that such determinations of proficiency do not apply with respect to persons initially licensed by a State or seeking initial qualification as an occupational therapist after December 31, 1977.

(g) *Occupational therapy assistant.* A person who:

(1) Meets the requirements for certification as an occupational therapy assistant established by the American Occupational Therapy Association; or

(2) Has 2 years of appropriate experience as an occupational therapy assistant, and has achieved a satisfactory grade on a proficiency examination conducted, approved, or sponsored by the U.S. Public Health Service, except that such determinations of proficiency do not apply with respect to persons initially licensed by a State or seeking initial qualification as an occupational therapy assistant after December 31, 1977.

(h) *Parent home health agency.* The agency that develops and maintains administrative controls of subunits and/or branch offices.

(i) *Physical therapist.* A person who is licensed as a physical therapist by the State in which practicing, and

(1) Has graduated from a physical therapy curriculum approved by

(i) The American Physical Therapy Association, or

(ii) The Council on Medical Education and Hospitals of the American Medical Association, or

(iii) The Council on Medical Education of the American Medical Association and the American Physical Therapy Association; or

(2) Prior to January 1, 1966,

(i) Was admitted to membership by the American Physical Therapy Association, or

(ii) Was admitted to registration by the American Registry of Physical Therapists, or

(iii) Has graduated from a physical therapy curriculum in a 4-year college or university approved by a State department of education; or

(3) Has 2 years of appropriate experience as a physical therapist, and has achieved a satisfactory grade on a proficiency examination conducted, approved, or sponsored by the U.S. Public Health Service except that such determinations of proficiency do not apply with respect to persons initially licensed by a State or seeking qualification as a physical therapist after December 31, 1977; or

(4) Was licensed or registered prior to January 1, 1966, and prior to January 1, 1970, had 15 years of full-time experience in the treatment of illness or injury through the practice of physical therapy in which services were rendered under the order and direction of attending and referring physicians; or

(5) If trained outside the United States,

(i) Was graduated since 1928 from a physical therapy curriculum approved in the country in which the curriculum was located and in which there is a member organization of the World Confederation for Physical Therapy.

(ii) Meets the requirements for membership in a member organization of the World Confederation for Physical Therapy,

(iii) Has 1 year of experience under the supervision of an active member of the American Physical Therapy Association, and

(iv) Has successfully completed a qualifying examination as prescribed by the American Physical Therapy Association.

(j) *Physical therapist assistant.* A person who is licensed as a physical therapist assistant, if applicable, by the State in which practicing, and

(1) Has graduated from a 2-year college-level program approved by the American Physical Therapy Association; or

(2) Has 2 years of appropriate experience as a physical therapist assistant, and has achieved a satisfactory grade on a proficiency examination conducted, approved, or sponsored by the U.S. Public Health Service, except that such determinations of proficiency do not apply with respect to persons initially licensed by a State or seeking initial qualification as a physical therapist assistant after December 31, 1977.

(k) *Physician.* A doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which such function or action is performed.

(l) *Practical (vocational) nurse.* A person who is licensed as a practical (vocational) nurse by the State in which practicing.

(m) *Primary home health agency.* The agency that is responsible for the service rendered to patients and for implementation of the plan of treatment.

(n) *Progress note.* A dated, written notation by a member of the health team summarizing facts about care and the patient's response during a given period of time.

(o) *Proprietary agency.* A private profit-making agency licensed by the State.

(p) *Public agency.* An agency operated by a State or local government.

(q) *Public health nurse.* A registered nurse who has completed a baccalaureate degree program approved by the National League for Nursing for public health nursing preparation or post-registered nurse study which includes content approved by the National League for Nursing for public health nursing preparation.

(r) *Registered nurse.* A graduate of an approved school of professional nursing, who is licensed as a registered nurse by the State in which practicing.

(s) *Social work assistant.* A person who:

(1) Has a baccalaureate degree in social work, psychology, sociology, or other field related to social work, and has had at least 1 year of social work experience in a health care setting; or

(2) Has 2 years of appropriate experience as a social work assistant, and has achieved a satisfactory grade on a proficiency examination conducted, approved, or sponsored by the U.S. Public Health Service, except that such determinations of proficiency do not apply with respect to persons initially licensed by a State or seeking initial qualification as a social work assistant after December 31, 1977.

(t) *Social worker.* A person who has a master's degree from a school of social work accredited by the Council on Social Work Education, and has 1 year of social work experience in a health care setting.

(u) *Speech pathologist or audiologist.* A person who:

(1) Meets the education and experience requirements for a Certificate of Clinical Competence in the appropriate area (speech pathology or audiology) granted by the American Speech and Hearing Association; or

(2) Meets the educational requirements for certification and is in the process of accumulating the supervised experience required for certification.

(v) *Subdivision.* A component of a multi-function health agency, such as the home care department of a hospital

or the nursing division of a health department, which independently meets the conditions of participation for home health agencies. A subdivision which has subunits and/or branches is regarded as a parent agency.

(w) *Subunit.* A semi-autonomous organization, which serves patients in a geographic area different from that of the parent agency. The subunit by virtue of the distance between it and the parent agency is judged incapable of sharing administration, supervision, and services on a daily basis with the parent agency and must, therefore, independently meet the conditions of participation for home health agencies.

(x) *Summary report.* A compilation of the pertinent factors from the clinical notes and progress notes regarding a patient, which is submitted as a summary report to the patient's physician.

(y) *Supervision.* Authoritative procedural guidance by a qualified person for the accomplishment of a function or activity with initial direction and periodic inspection of the actual act of accomplishing the function or activity. Unless otherwise provided in this subpart, the supervisor must be on the premises if the person does not meet qualifications for assistants specified in the definitions in this section.

§ 405.1220 Condition of participation: Compliance with Federal, State, and local laws.

The home health agency and its staff are in compliance with all applicable Federal, State, and local laws and regulations. If State or applicable local law provides for the licensure of home health agencies, an agency not subject to licensure must be approved by the licensing authority as meeting the standards established for such licensure. A proprietary organization which is not exempt from Federal income taxation under section 501 of the Internal Revenue Code of 1954 must be licensed as a home health agency pursuant to State law. If no State law exists for the licensure of a proprietary home health agency, it cannot be certified for participation in the health insurance program.

§ 405.1221 Condition of participation: Organization, services, administration.

Organization, services provided, administrative control, and lines of authority for the delegation of responsibility down to the patient care level are clearly set forth in writing and are readily identifiable. Administrative and supervisory functions are not delegated to another agency or organization and all services not provided directly are monitored and controlled by the primary agency, including services provided through subunits of the parent agency. If an agency has subunits, appropriate administrative records are maintained for each subunit.

(a) *Standard: Services provided.* Part-time or intermittent skilled nursing services and at least one other therapeutic service (physical, speech, or occupational therapy; medical social services; or home health aide services) must be made available, on a visiting basis, in a place of residence used as a patient's home. A public or nonprofit home health agency must provide at least one of the qualifying services directly through agency employees but may arrange with another public or nonprofit agency or organization to provide the second qualifying service and any additional services. A proprietary agency, however, must provide all services directly, through agency employees.

(b) *Standard: Governing body.* A governing body (or designated persons so functioning) assumes full legal authority and responsibility for the operation of the agency. The governing body appoints a qualified administrator, arranges for professional advice (see § 405.1222), adopts and periodically reviews written bylaws or an acceptable equivalent, and oversees the management and fiscal affairs of the agency. The name and address of each officer, director, and owner are disclosed. If the agency is a corporation, all ownership interests of 10 percent or more (direct or indirect) are also disclosed.

(c) *Standard: Administrator.* The administrator, who may also be the supervising physician or registered nurse (see paragraph (d) of this section), organizes and directs the agency's ongoing functions; maintains ongoing liaison among the governing body, the group of professional personnel, and the staff; employs qualified personnel and ensures adequate staff education and evaluations; ensures the accuracy of public information materials and activities; and implements an effective budgeting and accounting system. A qualified person is authorized in writing to act in the absence of the administrator.

(d) *Standard: Supervising physician or registered nurse.* The skilled nursing and other therapeutic services provided are under the supervision and direction of a physician or a registered nurse (who preferably has at least 1 year of nursing experience and is a public health nurse). This person, or similarly qualified alternate, is available at all times during operating hours and participates in all activities relevant to the professional services provided, including the developing of qualifications and assignments of personnel.

(See Connecticut, Massachusetts, New Jersey, and Rhode Island Addenda in the Appendix.)

(e) *Standard:* Personnel policies. Personnel practices and patient care are supported by appropriate, written personnel policies. Personnel records include job descriptions, qualifications, licensure, performance evaluations, and health examinations, and are kept current.

(f) *Standard: Personnel under hourly or per visit contracts.* (1) If personnel under hourly or per visit contracts are utilized by the home health agency, there is a written contract between such personnel and the agency clearly designating:

(i) That patients are accepted for care only by the primary home health agency,

(ii) The services to be provided,

(iii) The necessity to conform to all applicable agency policies including personnel qualifications,

(iv) The responsibility for participating in developing plans of treatment,

(v) The manner in which services will be controlled, coordinated, and evaluated by the primary agency,

(vi) The procedures for submitting clinical and progress notes, scheduling of visits, periodic patient evaluation, and

(vii) The procedures for determining charges and reimbursement.

(g) *Standard: Coordination of patient services.* All personnel providing services maintain liaison to assure that their efforts effectively complement one another and support the objectives outlined in the plan of treatment. The clinical record or minutes of case conferences establish that effective interchange, reporting, and coordinated patient evaluation does occur. A written summary report for each patient is sent to the attending physician at least every 60 days.

(h) *Standard: Services under arrangements.* Services (see paragraph (a) of this section) provided under arrangement with another public or nonprofit agency must be subject to a written contract conforming with the requirements specified in paragraph (f) of this section.

§ 405.1222 Condition of participation: Group of professional personnel.

(a) A group of professional personnel, which includes at least one physician and one registered nurse (preferably a public health nurse), and with appropriate representation from other professional disciplines, establishes and annually reviews the agency's policies governing scope of services offered, admission and discharge policies, medical supervision and plans of treatment, emergency care, clinical records, personnel qualifications, and program evaluation. At least one member of the group is neither an owner (§ 405.1221(b)) nor an employee of the agency.

(b) *Standard:* Advisory and evaluation *function.* The group of professional personnel meets frequently to advise the agency on professional issues, to participate in the evaluation of the agency's program, and to assist the agency in maintaining liaison with other health care providers in the community and in its community information program. Its meetings are documented by dated minutes.

(See New Jersey Addendum in the Appendix.)

§ 405.1223 Condition of participation: Acceptance of patients, plan of treatment, medical supervision.

Patients are accepted for treatment on the basis of a reasonable expectation that the patient's medical, nursing, and social needs can be met adequately by the agency in the patient's place of residence. Care follows a written plan of treatment established and periodically reviewed by a physician, and care continues under the supervision of a physician.

(a) *Standard: Plan of treatment.* The plan of treatment developed in consultation with the agency staff covers all pertinent diagnoses, including mental status, types of services and equipment required, frequency of visits, prognosis, rehabilitation potential, functional limitations, activities permitted, nutritional requirements, medications and treatments, any safety measures to protect against injury, instructions for timely discharge or referral, and any other appropriate items. If a physician refers a patient under a plan of treatment which cannot be completed until after an evaluation visit, the physician is consulted to approve additions or modifications to the original plan. Orders for therapy services include the specific procedures and modalities to be used and the amount, frequency, and duration. The therapist and other agency personnel participate in developing the plan of treatment.

(b) *Standard: Periodic review of plan of treatment.* The total plan of treatment is reviewed by the attending physician and home health agency personnel as often as the severity of the patient's condition requires, but at least once every 60 days. Agency professional staff promptly alert the physician to any changes that suggest a need to alter the plan of treatment.

(c) *Standard: Conformance with physician's orders.* Drugs and treatments are administered by agency staff only as ordered by the physician. The nurse or therapist immediately records and signs oral orders and obtains the physician's countersignature. Agency staff check all medicines a patient may be taking to identify possibly ineffective drug therapy or adverse reactions, significant side effects, drug allergies, and contraindicated medication, and promptly report any problems to the physician.

§ 405.1224 Condition of participation: Skilled nursing service.

The home health agency provides skilled nursing service by or under the supervision of a registered nurse and in accordance with the plan of treatment.

(See Connecticut, Massachusetts, and Rhode Island Addenda in the Appendix.)

(a) *Standard: Duties of the registered nurse.* The registered nurse makes the initial evaluation visit, regularly reevaluates the patient's nursing needs, initiates the plan of treatment and necessary revisions, provides those services requiring substantial specialized nursing skill, initiates appropriate preventive and rehabilitative nursing procedures, prepares clinical and progress notes, coordinates services, informs the physician and other personnel of changes in the patient's condition and needs, counsels the patient and family in meeting nursing and related needs, participates in inservice programs, and supervises and teaches other nursing personnel.

(b) *Standard: Duties of the licensed practical nurse.* The licensed practical nurse provides services in accordance with agency policies, prepares clinical and progress notes, assists the physician and/or registered nurse in performing specialized procedures, prepares equipment and materials for treatments observing aseptic technique as required, and assists the patient in learning appropriate self-care techniques.

§ 405.1225 Condition of participation: Therapy services.

Any therapy services offered by the home health agency directly or under arrangement are given by a qualified therapist or by a qualified therapist assistant under the supervision of a qualified therapist in accordance with the plan of treatment. The qualified therapist assists the physician in evaluating level of function, helps develop the plan of treatment (revising as necessary), prepares clinical and progress notes, advises and consults with the family and other agency personnel, and participates in inservice programs.

(a) *Standard: Supervision of physical therapist assistant and occupational therapy assistant.* Services provided by a qualified physical therapist assistant or qualified occupational therapy assistant may be furnished under the supervision of a qualified physical or occupational therapist. A physical therapist assistant or occupational therapy assistant performs services planned, delegated, and supervised by the therapist, assists in preparing clinical notes and progress reports, and participates in educating the patient and family, and in inservice programs.

(b) *Standard: Supervision of speech therapy services.* Speech therapy services are provided only by or under supervision of a qualified speech pathologist or audiologist.

§ 405.1226 Condition of participation: Medical social services.

Medical social services, when provided, are given by a qualified social worker or by a qualified social work assistant under the supervision of a qualified social worker, and in accordance with the plan of treatment. The social worker assists the physician and other team members in understanding the significant social and emotional factors related to the health problems, participates in the development of the plan of treatment, prepares clinical and progress notes, works with the family, utilizes appropriate community resources, participates in discharge planning and inservice programs, and acts as a consultant to other agency personnel.

§ 405.1227 Condition of participation: Home health aide services.

Home health aides are selected on the basis of such factors as a sympathetic attitude toward the care of the sick, ability to read, write, and carry out directions, and maturity and ability to deal effectively with the demands of the job. Aides are carefully trained in methods of assisting patients to achieve maximum self-reliance, principles of nutrition and meal preparation, the aging process and emotional problems of illness, procedures for maintaining a clean, healthful, and pleasant environment, changes in patient's condition that should be reported, work of the agency and the health team, ethics, confidentiality, and recordkeeping. They are closely supervised to assure their competence in providing care.

(See Connecticut and Oregon Addenda in the Appendix.)

(a) *Standard: Assignment and duties of the home health aide.* The home health aide is assigned to a particular patient by a registered nurse. Written instructions for patient care are prepared by a registered nurse or therapist as appropriate. Duties include the performance of simple procedures as an extension of therapy services, personal care, ambulation and exercise, household services essential to health care at home, assistance with medications that are ordinarily self-administered, reporting changes in the patient's conditions and needs, and completing appropriate records.

(b) *Standard: Supervision.* The registered nurse, or appropriate professional staff member, if other services are provided, makes a supervisory visit to the patient's residence at least every 2 weeks, either when the aide is present to observe and assist, or when the aide is absent, to assess relationships and determine whether goals are being met.

(See Massachusetts Addendum in the Appendix.)

§ 405.1228 Condition of participation: Clinical records.

A clinical record containing pertinent past and current findings in accordance with accepted professional standards is maintained for every patient receiving home health services. In addition to the plan of treatment (see § 405.1223(a)), the record contains appropriate identifying information; name of physician; drug, dietary, treatment, and activity orders; signed and dated clinical and progress notes (clinical notes are written the day service is rendered and incorporated no less often than weekly); copies of summary reports sent to the physician; and a discharge summary.

(a) *Standards: Retention of records.* Clinical records are retained for 5 years after the month the cost report to which the records apply is filed with the intermediary, unless State law stipulates a longer period of time. Policies provide for retention even if the home health agency discontinues operations. If a patient is transferred to another health facility, a copy of the record or abstract accompanies the patient.

(b) *Standards: Protection of records.* Clinical record information is safeguarded against loss or unauthorized use. Written procedures govern use and removal of records and conditions for release of information. Patient's written consent is required for release of information not authorized by law.

§ 405.1229 Condition of participation: Evaluation.

The home health agency has written policies requiring an overall evaluation of the agency's total program at least once a year by the group of professional personnel (or a committee of this group), home health agency staff, and consumers, or by professional people outside the agency working in conjunction with consumers. The evaluation consists of an overall policy and administrative review and a clinical record review. The evaluation assesses the extent to which the agency's program is appropriate, adequate, effective, and efficient. Results of the evaluation are reported to and acted upon by those responsible for the operation of the agency and are maintained separately as administrative records.

(a) *Standard: Policy and administrative review.* As a part of the evaluation process the policies and administrative practices of the agency are reviewed to determine the extent to which they promote patient care that is appropriate, adequate, effective, and efficient. Mechanisms are established in writing for the collection of pertinent data to assist in evaluation. The data to be considered may include but are not limited to: number of patients receiving each service offered, number of patient visits, reasons for discharge, breakdown by diagnosis, sources of referral, number of patients not accepted with reasons, and total staff days for each service offered.

(b) *Standard: Clinical record review.* At least quarterly, appropriate health professionals, representing at least the scope of the program, review a sample of both active and closed clinical records to assure that established policies are followed in providing services (direct services as well as services under arrangement). There is a continuing review of clinical records for each 60-day period that a patient receives home health services to determine adequacy of the plan of treatment and appropriateness of continuation of care.

§ 405.1230 Condition of participation: Qualifying to provide outpatient physical therapy services.

Section 1861(p) of the Social Security Act provides in pertinent part as follows:

(p) The term "outpatient physical therapy services" means physical therapy services furnished by a provider of services, a clinic, rehabilitation agency, or a public health agency, or by others under an arrangement with, and under the supervision of, such provider, clinic, rehabilitation agency or public health agency to an individual as an outpatient * * *

As a provider of services, a home health agency may qualify to provide outpatient physical therapy services if such agency meets the statutory requirements of section 1861(o) of the Act and complies with other health and safety requirements prescribed by the Secretary for home health agencies, and, additionally, is in compliance with applicable health and safety requirements pertaining to rendition of outpatient physical therapy services. The applicable health and safety requirements pertaining to outpatient physical therapy services are included in the conditions of participation in Subpart Q of this part. (See §§ 405.1719, 405.1720, 405.1722, 405.1724, and 405.1725.)

APPENDIX—ADDENDA FOR SEVERAL STATES INCORPORATING CONDITIONS OF PARTICIPATION HIGHER THAN THOSE IMPOSED BY THE HEALTH INSURANCE FOR THE AGED PROGRAM

ADDENDA TO § 405.1221(d)

Pursuant to the provisions of section 1863 of title XVIII of the Act, there are approved the following higher conditions of participation relating to agency supervision applicable in those States identified below:

CONNECTICUT

Agency supervision—condition. The home health agency designates a physician or registered professional nurse qualified as a public health nurse director or nursing supervisor to supervise the agency's performance in providing home health services in accordance with the orders of the physician responsible for the care of the patient and under a plan of treatment established by the physician. The following qualifications apply to the supervisor and director.

(a) *Supervisor.* The minimum qualifications of the nursing supervisor are a baccalaureate degree from a university program in nursing approved by the National League for Nursing for public health nursing preparation, and a minimum of 2 years of experience in a public health nursing program under qualified nursing supervision which included supervisory responsibilities.

(b) *Director.* When a unit through which home health services are provided reaches a total nursing staff of nine to 12, depending upon the number of towns involved and area served, a qualified public health nursing director shall be employed in addition to the nursing supervisor.

(1) *Preferred.* A master's degree with a major in public health nursing administration or supervision from a university program approved by the National League for Nursing, or a master's degree in public health from a university program approved by the American Public Health Association, and at least 5 years of experience in public health nursing, including 2 years under qualified supervision and 3 years as a supervisor.

(2) *Acceptable.* A baccalaureate degree from a university program in nursing approved by the National League for Nursing, for public health nursing preparation supplemented by approved courses in public health nursing supervision and administration, and at least 5 years of experience in public health nursing, including 2 years under qualified supervision and 3 years as a supervisor.

MASSACHUSETTS

Agency supervision—condition. The home health agency designates a physician or registered professional nurse qualified as a public health nursing director and/or supervisor to direct the agency's services. In the event that a physician is the administrator of the home health agency, the nursing service shall be under the direction of a registered professional nurse qualified as a public health nursing director and/or supervisor. All home health services shall be provided in accordance with the orders of a physician responsible for the care of the patient and under a plan of treatment established by such physician.

(a) *Public Health Nursing Director—qualifications.* The public health nursing director is currently licensed to practice professional nursing by the State and meets the following requirements:

A master's degree with a major in public health nursing administration or supervision from a program approved by the National League for Nursing or a master's degree in public health from a program approved by the American Public Health Association, and at least 5 years of progressively responsible experience in public health nursing or community health nursing, some of which should be in supervision, teaching, and/or consultation.

(b) *Public Health Nursing Supervisor—qualifications.* The public health nursing supervisor meets the following minimum requirements:

A master's degree in nursing from a program approved by the National League for Nursing and 1 year of experience in a family-centered public health nursing program which included supervisory responsibilities, or a baccalaureate degree from a program approved by the National League for Nursing for public health nursing preparation and 2 years of the above-described experience.

NEW JERSEY

Agency supervision—condition. The home health agency designates a physician or registered professional nurse qualified as a public health nurse director or supervisor to supervise the agency's performance in providing home health services in accordance with orders of the physician responsible for the care of the patient and under a plan of treatment established by such physician. In the event that a physician is designated to supervise the agency's services, the nursing service shall be under the direction of a registered professional nurse qualified as a public health nurse director or supervisor. The following are the requirements for qualifying as a public health nurse director or supervisor:

(a) *Director.* A public health nurse director has completed:

(1) A master's degree program accredited by the National League for Nursing with a nursing major in supervision, teaching, consultation or administration and advanced study in a clinical specialty; or a master's program in public health in an institution accredited by the American Public Health Association; and

(2) Five years of experience in public health nursing, 1 year of which shall have been in a supervisory experience.

(b) *Supervisor.* A public health nurse supervisor has completed:

(1) A baccalaureate degree program approved by the National League for Nursing for public health nursing preparation or postbaccalaureate study which includes content approved by the National League for Nursing for public health nursing preparation; and

(2) Three years of experience in public health nursing under qualified nursing supervision.

RHODE ISLAND

Agency supervision—condition. The home health agency designates a physician or registered professional nurse qualified as a public health nurse director to direct the agency's services. In the event that a physician is the administrator of the home health agency, the nursing service shall be under the direction of a registered professional nurse qualified as a public health nurse director. All home health services shall be provided in accordance with the orders of the physician responsible for the care of the

patient and under a plan of treatment established by such physician.

Public Health Nursing Director—Qualifications. The nursing director must meet one of the following requirements:

(a) *Preferred.* A master's degree with a major in public health nursing administration, supervision, or specialty from a university program approved by the National League for Nursing or a master's degree in public health from a university program approved by the American Public Health Association; and with a minimum of 5 years of experience with a generalized public health nursing service under qualified supervision and with supervisory experience in a public health nursing agency.

(b) *Acceptable.* A baccalaureate degree from a university program in nursing approved by the National League for Nursing for public health nursing preparation supplemented by approved courses in public health nursing supervision and administration, and at least 5 years of experience in public health nursing, including 2 years under qualified supervision and 3 years as a supervisor.

ADDENDUM TO § 405.1222

Pursuant to the provisions of section 1863 of title XVIII of the Act, there is approved the following higher condition of participation relating to the Advisory Group of Professional Personnel in the State identified below:

NEW JERSEY

Advisory group of professional personnel—condition. Policies covering skilled nursing and other therapeutic services, and the professional health aspects of other policies, are established with the approval of and subject to regular review by a group of professional personnel which includes at least three licensed physicians and a registered professional nurse qualified as a public health nurse director or public health nurse supervisor.

Composition of group. (a) This group might be, for example: (1) an advisory committee to the agency's executive council or board of directors; (2) a subcommittee of such council or board; or (3) other similar arrangement.

(b) Some member or members of the professional group are persons not employed by the agency.

(c) The physician members of the Advisory Group serve as liaison with the County Medical Society and interpret agency medical policies to individual physicians.

(d) It is desirable for the group to include lay persons knowledgeable in health affairs and also to have a wide range of professional representatives such as social worker; nutritionist; speech, physical, and occupational therapists.

ADDENDA TO § 405.1224

Pursuant to the provisions of section 1863 of title XVIII of the Act, there are approved the following higher conditions of participation relating to skilled nursing services in those States identified below:

CONNECTICUT

Skilled nursing service—condition. Skilled nursing service is provided by or under the supervision of a public health nursing supervisor currently licensed by the State.

(a) *Professional nursing services—duties.* (The provisions of § 405.1224(a) are applicable.)

(b) *Public Health Nursing Supervisor—qualifications.* The public health nursing supervisor must have a baccalaureate degree from a university program in nursing approved by the National League for Nursing for public health nursing preparation, and a minimum of 2 years of experience in a public health nursing program under qualified nursing supervision which included supervisory responsibilities.

(c) *Registered Professional Nurse—qualifications.* (See § 405.1202.)

(d) *Public Health Nurse—qualifications.* (See § 405.1202.)

(e) *Practical nursing—duties.* (The provisions of § 405.1224(b) are applicable.)

(f) *Practical Nurse—qualifications.* (See § 405.1202.)

MASSACHUSETTS

Skilled nursing service—condition. Skilled nursing service is provided by or under the supervision of a qualified public health nursing director and/or supervisor. (See § 405.-1221(d) regarding qualifications.)

RHODE ISLAND

Skilled nursing service—condition. Skilled nursing service is provided by or under the supervision of a qualified public health nursing supervisor currently licensed by the State.

(a) *Professional nursing services—duties.* (The provisions of § 405.1224(a) are applicable.)

(b) *Public Health Nursing Supervisor—qualifications.* A public health nursing supervisor is currently licensed to practice professional nursing by the State and has a baccalaureate degree from a university program in nursing approved by the National League for Nursing for public health nursing preparation and preferably with additional academic preparation in supervision and with experience in a public health nursing program under qualified nursing supervision for a minimum of 2 years.

(c) *Registered Professional Nurse—qualifications.* (See § 405.1202.)

(d) *Public Health Nurse—qualifications.* (See § 405.1202.)

(e) *Practical nursing—duties.* (The provisions of § 405.1224(b) are applicable.)

(f) *Practical nursing—qualifications.* (See § 405.1202.)

ADDENDA TO § 405.1227

Pursuant to the provisions of section 1863 of title XVIII of the Act, there are approved the following higher conditions of participation relating to home health aides in those States identified below:

CONNECTICUT

Training of Home Health Aides—condition. The home health agency determines that home health aides receive or have received a basic training program for home health aides approved by the Connecticut State Department of Health.

MASSACHUSETTS

Supervision of Home Health Aides—condition. The qualified nursing supervisor should provide direct supervision as necessary and is readily available at other times by telephone. The supervisor should be constantly evaluating the home health aide in terms of the aide's ability to carry out assigned duties, to relate well to the homebound patient, and to work effectively as a member of a team of health workers.

OREGON

Home Health Aide Services—condition. When a home health agency provides home health aide services, the home health aides are selected, trained, assigned and supervised.

Selection—Home health aides are currently registered with the State Board of Health as proof of qualification for employment as a home health aide.

Training—Home health aides complete an approved basic educational course for home health aides. All programs for home health aide training must be approved by the State Advisory Committee for Home Health Aide Programs.

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PART IV

ENVIRONMENTAL PROTECTION AGENCY

■

PREVENTION OF SIGNIFICANT AIR QUALITY DETERIORATION

Proposed Rulemaking

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Prevention of Significant Air Quality Deterioration

Notice is hereby given that the Administrator of the Environmental Protection Agency (EPA) intends to issue regulations setting up a mechanism for preventing significant deterioration of air quality in areas where air pollution levels currently are below the national ambient air quality standards (40 CFR Part 50). These regulations would be issued under the Clean Air Act and would prescribe steps to be taken by the States. This notice sets forth four proposed plans reflecting various approaches to defining and preventing significant deterioration. It is the Administrator's intention not only to receive written comments on these proposals but also to hold public hearings in various places in order to provide the greatest possible opportunity for public involvement in this rule-making. Certain questions on which public comment is specifically invited are identified in the concluding section of this preface.

Publication of this notice is related to a suit filed May 24, 1972, in which the Sierra Club and other groups sought a declaratory judgment and injunction requiring the Administrator to disapprove all State implementation plans which did not contain procedures for preventing significant deterioration in any portion of any State where air quality is superior to national standards. On May 30, 1972, the District Court for the District of Columbia granted the plaintiffs' motion for a preliminary injunction and issued a preliminary injunction requiring the Administrator, within four months thereafter, to review all State plans and "disapprove any portion of a State plan which fails to effectively prevent significant deterioration of existing air quality." The preliminary injunction also required the Administrator to promulgate regulations "as to any State plan which he finds, on the basis of his review, either permits the significant deterioration of existing air quality in any portion of any State or fails to take the measures necessary to prevent such significant deterioration." On November 1, 1972, the decision of the District Court was affirmed by the U.S. Court of Appeals for the District of Columbia Circuit on the basis of an opinion filed by the District Court on June 2, 1972. Subsequently, the U.S. Supreme Court stayed the effect of the District Court's decision pending its consideration and disposition of the case on application for a writ of certiorari. On June 11, 1973, the Supreme Court, by an equally divided court, affirmed the judgment of the Court of Appeals; no opinion was issued.

Each State plan has been reviewed in accordance with the preliminary injunction issued by the District Court. Although many State plans included regulations which have the potential for resulting in the attainment of air quality better than that required by the national standards, and although some State plans contained general policy statements indicating an intent to prevent or minimize deterioration of air quality, none was found to contain explicit and enforceable regulations for implementing such a policy. Accordingly, all State plans were disapproved by the Administrator on November 9, 1972 (37 FR 23836), insofar as they failed to provide for the prevention of significant deterioration. This disapproval did not affect the status of any previously or subsequently approved regulations designed to provide for the attainment and maintenance of national ambient air quality standards. Furthermore, in the absence of Federal regulations prescribing requirements for prevention of significant deterioration the Administrator's disapproval was necessarily based on a generalized assessment of the State plans. To the extent that any State plan is determined to meet any of the requirements ultimately established as a result of this rulemaking proceeding, the Administrator's disapproval will be appropriately modified.

In EPA's view, there has been no definitive judicial resolution of the issue whether the Clean Air Act requires prevention of significant deterioration of air quality. When the issue was presented to the Supreme Court, the Court was equally divided. The Court's action had the effect of permitting to stand the judgment of the Court of Appeals for the District of Columbia Circuit, which was entered in the procedural context of the issuance of a preliminary injunction.

In the absence of a definitive judicial decision on the issue, the Administrator adheres to the view that Section 110 of the Clean Air Act requires EPA to approve State implementation plans that will attain and maintain the national ambient air quality standards, and that the Act does not require EPA or the States to prevent significant deterioration of air quality. The proposed alternative regulations set forth herein would establish a mechanism for preventing significant deterioration pursuant to the preliminary injunction issued by the District Court.

Public Policy Issue

The question raised by the Sierra Club suit was a legal issue, i.e., interpretation of the language and legislative history of the Clean Air Act. Thus, the courts were asked to determine that the Act requires the Administrator to ensure that State implementation plans will not permit significant deterioration of air quality. What the courts were not asked to determine is what constitutes significant deterioration and exactly how it will be prevented.

A national policy of preventing significant deterioration, however defined and implemented, will have a substantial impact on the nature, extent, and location of future industrial, commercial, and residential development throughout the United States. It could affect the utilization of the Nation's mineral resources, the availability of employment and housing in many areas, and the costs of producing and transporting electricity and manufactured goods. Without implying any judgment as to the general acceptability of any of the effects of a "no significant deterioration" policy, the Administrator believes that they are potentially so far-reaching that the question of how such a policy should be defined and implemented cannot properly be addressed, much less decided, on narrow legal grounds. Rather, it is a question that must be discussed, debated, and decided as a public policy issue, with full consideration of its economic and social implications. To approach the question in any other manner would be much too simplistic. There is, perhaps, no other environmental issue that imposes upon the Administrator, and the public, a greater obligation to formulate and objectively evaluate a range of possible solutions. The usual rulemaking procedure of putting forth a single proposal clearly is inadequate in this case. Accordingly, this notice sets forth four alternative sets of proposed regulations based upon different philosophies and administrative approaches to defining and preventing significant deterioration.

Current Constraints on Deterioration

It is important to recognize that many State plans, as well as certain rule making actions already completed under provisions of the Clean Air Act, will have the effect of attaining or maintaining air quality significantly better than the national secondary standards in many places, and that these actions will have the effect of generally improving air quality nationwide. The following paragraphs summarize the more significant of these actions, and there is no intent that the alternatives proposed herein should in any way mitigate the impact of these actions.

1. The Administrator has promulgated (36 FR 8186) national primary and secondary ambient air quality standards. In accordance with the Act, the primary standards were set at a level that provides an adequate margin of safety for protection of the public health, and secondary standards were set at a level that protects the public welfare from any known or anticipated adverse effects. All States have submitted implementation plans to attain and maintain these standards. In many areas of the country, air quality was not sufficient to meet these standards and, hence, in these areas, the State plans will ensure that deterioration cannot occur because the regulations require specific improvements in air quality.

2. Emission control actions to be taken by the States, in accordance with their plans to implement the National Ambient Air Quality Standards in heavily polluted areas, will reduce air pollution concentrations in the periphery of such

areas. For example, the annual average sulfur dioxide concentration in Mercer County, New Jersey, is expected to drop from about 25 micrograms per cubic meter to about 10 micrograms per cubic meter (as compared to the national secondary standard of 60 micrograms) as a result of emission reductions in and around Philadelphia.

3. Emissions reductions to be achieved under State plans in major urban and industrial centers will significantly affect total national emissions and thereby lower the background pollutant concentrations in rural areas. Thus a 25 percent reduction in the background concentration of particulate matter (from about 40 micrograms per cubic meter to about 30 micrograms) in rural areas in the Northeast is anticipated.

4. Emission limitations and other regulations, including restrictions on the sulfur content of fossil fuels as prescribed by many State plans, go beyond what is minimally necessary for attainment of the national standards. In many instances, emission control regulations necessary for attainment of national standards in the most polluted area(s) of a State have been applied statewide. For sulfur dioxide, this has occurred in 33 States. Although implementation of these regulations may be deferred in some clean areas in order to make available low sulfur fuels for use in heavily polluted areas, these regulations will eventually result in further improvement in air quality in many areas where the secondary standards were not exceeded.

5. Federal emission standards for new motor vehicles will result in a steady decrease in motor vehicle emissions in all parts of the Nation through the 1970's and well into the 1980's, as new automobiles equipped to meet these emission standards replace older models which were subject to less restrictive emission standards or none at all. For example, 1974 model automobiles will have emission reductions (per mile) of approximately 80% for carbon monoxide, 70% for hydrocarbons, and 35% for oxides of nitrogen, as compared to vehicles sold prior to 1969. This trend is a result of the Federal emission standards already in effect; it will be accelerated by the even more stringent emission standards due to take effect in the 1975 and 1976 model years.

6. Control of sulfur dioxide, nitrogen oxides, and hydrocarbon emissions to meet national ambient air quality standards and/or Federal emission standards for new stationary sources and motor vehicles can be expected to inhibit atmospheric reactions involving these pollutants and thereby reduce ambient air concentrations of particulate matter such as sulfates, nitrates, and organics. Current State implementation plans generally do not consider this secondary reduction of particulate levels.

It can be seen that there are very strong regulatory measures in existence to prevent any deterioration of air quality in regions where the national standards are currently exceeded. Strong regulatory measures also exist to insure that air quality in currently clean areas cannot deteriorate sufficiently to subject the public health or welfare to any currently quantifiable adverse effects. Although the effect of these regulations is to mitigate any deterioration in most sections of the country, the alternatives presented herein are intended to prevent, in accordance with the District Court's preliminary injunction, any significant deterioration of air quality in any portion of any State.

Conceptual Issues

Section 109 of the Clean Air Act requires the Administrator to establish national primary ambient air quality standards "to protect the public health" and national secondary ambient air quality standards, "to protect the public welfare from any known or anticipated adverse effects," including, as specified by section 302(h), "effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being." Such national standards must be based on air quality criteria which, under section 108, must "reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health and welfare which may be expected from the presence [of air pollutants] in the ambient air, in varying quantities." Thus, standard-setting under section 109 is necessarily limited to demonstrable or predictable adverse effects which can be quantitatively related to pollutant concentrations in the ambient air.

The basis for preventing significant deterioration therefore lies in a desire to protect aesthetic, scenic, and recreational values, particularly in rural areas, and in concern that some air pollutants may have adverse effects that have not been documented in such a way as to permit their consideration in the formulation of national ambient air quality standards. Pending the development of adequate scientific data on the kind and extent of adverse effects of air pollutant levels below the secondary standards, significant deterioration must necessarily be defined without a direct quantitative relationship to specific adverse effects on public health and welfare. It should be emphasized that defining significant deterioration in this way does not imply a judgment by EPA on the question of whether it is sound public policy to define "deterioration" as any increment above existing air pollution levels and to attempt to define "significant" deterioration in the absence of documentation on the adverse effects thereof. Furthermore, it is possible, indeed probable, that even when there are additional data, it will be evident that there are levels below which some of the pollutants covered by national standards do not have effects that can be considered adverse to public health and welfare.

To the extent that the Act provides any basis for defining significant deterioration, it does so only in section 101(b)(1), which declares that one of the purposes of the Act is "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population". Additional guidance is available from the legislative history; specifically, the Report of the Senate Committee on Public Works (Report No. 91–1196, dated September 17, 1970) contained the following statement:

> In areas where current air pollution levels are already equal to, or better than, the air quality goals, the Secretary should not approve any implementation plan which does not provide, to the maximum extent practicable, for the continued maintenance of such ambient air quality.

Though the Report also suggested that it might be possible to prevent all deterioration, it is apparent that the measures necessary for that purpose would bring growth and development virtually to a standstill in many areas and therefore are incompatible with protecting the "productive capacity" of the Nation's population.

Clearly, it is not within the province of EPA, under either the Clean Air Act or any other statute, to impose limitations on the Nation's growth. Neither the Sierra Club nor any of the States or organizations that filed amicus curiae briefs with the Supreme Court in support of the Sierra Club's position argued that the District Court's preliminary injunction means that EPA must limit economic growth, as such, in order to prevent significant deterioration of air quality. To the contrary, it was agreed that growth could and would continue, albeit with the restrictions necessary to prevent significant deterioration.

The Sierra Club, for example, made the following statement:

> The development of rural areas will not be prevented by a prohibition against significant deterioration of air quality. Such a prohibition on its face does not prevent all increases in pollution. If the best available technological developments are utilized and if numerous pollution producing sources are not concentrated in one place, most industry can enter clean areas without causing significant deterioration. (p. 94)

And the State of California made the following statements:

> Prevention of significant deterioration of air quality does not foreclose the construction in clean air basins and partially polluted air basins of well-planned and well-disbursed fossil fuel power plants and other polluting industries which utilize, on a continuing basis, the best available technology. 'No significant deterioration' simply means that certain large and inadequately controlled pollution sources will not be permitted. (pp. 1–2) Of course, economic and social factors may well require some degradation of air quality in certain areas. But this case does not involve any question of prohibiting growth or prohibiting *any* deterioration of air quality. It is not a 'non-degradation' case. (p. 28)

There is, therefore, a consensus that the definition of significant deterioration is intended to represent some level above zero deterioration. An upper bound can also be established on the definition of significant deterioration by recognizing that existing regulations prevent deterioration to levels in excess of the secondary air quality standards.

Hence, any quantitative definition of significant deterioration must fall between the levels of zero deterioration and deterioration up to the secondary standards. Any quantitative definition within this range must be essentially subjective, because, within this range, data are not available with which to quantify any adverse impact on either public health or welfare.

Nationally, the steady deterioration in air quality over the last several decades has already been reversed by existing regulations, and air quality generally has begun to improve in the last few years. Further, this improvement will continue for the foreseeable future. The following table summarizes the expected reductions in total national emissions by 1980. The percentages shown are based on the national emissions of 1970, and include (i.e. "absorb") the growth in sources anticipated for the 1970–1980 period.

Pollutant:	*Percent Reduction in Emissions*
Particulates	40
Sulfur Dioxide	70
Carbon Monoxide	80
Oxides of Nitrogen	40
Hydrocarbons	60

However, even though the nationwide trend in emissions and air quality is favorable, in many local areas which are now quite clean there is the possibility that deterioration could occur. This is because trends in the nationwide averages are predominately influenced by severe emission controls being applied in the large urban areas to attain and maintain the national ambient air quality standards. These controls could drive major polluters into the semi-urban and rural areas, thereby degrading air quality in those areas to a degree that could approach (but not exceed) the secondary standards. Additionally, the growth patterns throughout the country are continually changing, and the normal economic expansion can be expected to lead to increased emissions in some local areas which previously were undeveloped. In some of these areas, the public may feel that the improved economic conditions do not justify the resulting environmental deterioration, even though that deterioration is insufficient to cause a quantifiable adverse impact on either the health or welfare of the population.

However, the future nationwide reduction in emissions, and hence in pollutant concentrations, will be significant. Although much of this reduction is being accomplished in highly industrialized urban areas in order to attain and maintain the national standards, a considerable reduction is also being accomplished in semi-urban areas already well below the standards. Depending upon the plan selected with which to prevent significant deterioration, much of this latter reduction could be used to accommodate future growth without significant deterioration. Further improvements in emission control technology would allow additional growth without causing significant deterioration. The proposed plans would serve to stimulate such improvements.

Nevertheless, it is not possible to rely solely on improved emission control technology to offset the increased emissions attendant to population and economic expansion and redistribution. Many areas of the country have virtually no man-made emissions. To establish a policy that new emissions can only be introduced to the extent that current emissions are reduced would, forever relegate these areas to an essentially undeveloped status. This feature would, in turn, require that new pollution sources be located only in the semi-urban and urban areas of the country in which improved control technology would have the greatest impact. This would force the majority of the new emissions into these areas in which the majority of the Nation's population resides.

The relative significance of air quality versus economic growth may be a variable dependent upon regional conditions. For example, relatively minor deterioration of the aesthetic quality of the air may be very significant in a recreational area in which great pride (and economic development) is derived from the "clean air." Conversely, in areas with severe unemployment and little recreational value, the same level of deterioration might very well be considered "insignificant" in comparison to the favorable impact of new industrial growth with resultant employment and other economic opportunities. Accordingly, the definition of what constitutes significant deterioration must be accomplished in a manner to minimize the imposition of inequitable regulations on different segments of the Nation.

Many States have expressed the desire that federal regulations be promulgated in a manner which would permit all States to prevent significant deterioration without placing any individual states in unfairly advantageous or disadvantageous positions for attracting new industry. It is therefore desirable to insure that industry is provided with no incentive to "shop" for areas in which efforts to prevent significant deterioration are deliberately relaxed. Because the competition for new industry is extremely keen among many States, this would require that the philosophy for preventing significant deterioration be enforced uniformly throughout the Nation, even though the definition of what constitutes significant deterioration could include regional variations.

The problem of preventing significant deterioration can be somewhat simplistically, stated as that of reducing emissions to the lowest practicable level, and then distributing those residual emissions in a manner in which they do the least harm. The four alternative plans discussed herein would accomplish this at requiring application of best available control technology to all new or significantly modified major sources regardless of any expected level of deterioration. In addition, each plan is based upon a different type of decision criterion which would be used to determine whether a proposed new or significantly modified source would be permitted to commence construction in any specific location. The four decision criteria would be based upon (1) definition of "significant deterioration" as a constant increment in air quality applicable nationwide, (2) definition of "significant deterioration" as the greater of either a percentage increase in emissions or an emission increment, (3) definition of "significant deterioration" on a case-by-case basis by the public in the local area affected, and (4) definition of "significant deterioration" as one of two air quality increments depending upon land use projections by the State. Each of these plans are discussed in subsequent sections. However, all four plans contain several common features which are worthy of consolidated discussion.

Pollutants Subject to Deterioration Control

Each of the alternative proposals set forth below would require, as a minimum, that best available control technology be applied to certain categories of new sources of sulfur dioxide, particulate matter, carbon monoxide, hydrocarbons, and nitrogen oxides. Thus, this requirement would apply directly or, in the case of photochemical oxidents, indirectly to all pollutants covered by national ambient air quality standards.

The second basic requirement is a review to determine that individual new sources within the specified source categories will not cause significant deterioration. This requirement would applied only to particulate matter and sulfur dioxide. The other pollutants covered by national standards are related primarily or substantially to motor vehicle emissions. As a result of the application of EPA's emissions standards for new motor vehicles, total motor vehicle emissions are decreasing and will continue decreasing well into the future. Accordingly, the purpose of preventing significant deterioration related to carbon monoxide, hydrocarbons, nitrogen oxides, and photochemical oxidants is in the Administrator's judgment, adequately served by the proposed additional requirement for applying best available technology to new stationary sources.

Furthermore, the formation of photochemical oxidants from hydrocarbons and nitrogen oxides and the formation of nitrogen dioxide from nitric oxides involve complex photochemical processes which are time-dependent and related to atmospheric conditions and the interaction of emissions from a variety of sources. It is not possible to relate a specific isolated point source of hydrocarbons or nitrogen oxides to a specific

ambient concentration of photochemical oxidents or nitrogen dioxide because the techniques and assumptions that permit correlation of emissions with ambient air quality in multiple-source areas generally are not valid for application to point sources in relatively clean areas.

SOURCES SUBJECT TO REVIEW

All the proposals set forth below would require preconstruction review of certain types of stationary sources. The proposed preconstruction review procedures are similar to those already required by State implementation plans. These procedures require that source owners or operators submit data to the State and apply for approval to construct, and that the State approves or disapproves the request based on specific criteria. In relation to air quality deterioration, the criteria for this "yes or no" decision are inherent in each plan proposed herein, and are described in the section on each plan.

The initial list of sources proposed for this specific review in each plan represents the Administrator's best judgment as to which sources, in and of themselves, have the potential for causing "significant deterioration" as defined by the four alternative plans. The proposed regulations contain sixteen source categories which currently account for approximately 30 percent of the particulate matter and 75 percent of the sulfur dioxide emitted into the atmosphere each year nationwide, and account for essentially all of these pollutants emitted in clean areas. The regulations also require that any other sources emitting more than 4000 tons of sulfur dioxide or particulate matter annually be subjected to this review.

It is important to note that under the three alternative plans which place a ceiling on pollutant concentrations or emissions from an area, this initial list of sources will be subject to revision as an area approaches its ceiling.

The list of source categories has been restricted in the proposed regulations because it is considered unwise and unnecessary to divert available resources from other air pollution control activities in order to review new sources which do not have the potential to violate the proposed decision-making criteria. It may eventually be necessary to establish a mechanism for making advance assessments of the aggregate air quality impact of smaller sources. Such a mechanism is likely to involve projections of future growth and estimates of air quality impact, similar to those required by the recently promulgated amendments (38 FR 15834, dated June 18, 1973) to new source review requirements applicable to State implementation plans.

BEST AVAILABLE CONTROL TECHNOLOGY

Each of the plans proposed herein would require, as a minimum, application of "best available control technology" (BACT) to specified categories of new sources. The proposed regulations spcify that control systems adequate to comply with new source performance standards (NSPS) promulgated under section 111 of the Clean Air Act generally will be considered BACT (with the exception noted below). The proposed regulations also specify that until such time as new source performance standards (NSPS) are promulgated, BACT for a particular source will be determined by considering: reasonably available control technology [as defined in Appendix B to the Administrator's regulations for the preparation, adoption, and submittal of state implementation plans (40 CFR Part 51)]; the processes, fuels, and raw materials to be employed by an affected source; the engineering aspects of the application of various types of control techniques; and the cost of employing the available control techniques, including hardware and alterantive processes, fuels, and raw materials. However, all specified sources are expected to be covered by NSPS within 18 to 24 months and, because NSPS generally represent the lowest practicable level of emissions, the attainment of NSPS will generally be compatible with application of BACT.

The proposed exception to this equivalency of NSPS to BACT exists with respect to sulfur dioxide emissions from fossil fuel-fired steam electric plants. The levels of emissions from these plants have an extremely wide range due to the varying amounts of sulfur in fuels available in different parts of the country. Current NSPS are set at a level which requires use of a control system on plants burning high sulfur coal. However, in some regions, coal with sulfur content low enough to meet the NSPS is readily available and would be used even in the absence of emission limitations. In these situations, use of the low sulfur regional coal with no additional efforts to control sulfur dioxide emissions would not automatically constitute application of BACT. This use of NSPS as a maximum emission limitation, with the possibility of requiring additional control on a case-by-case basis, is being proposed because the NSPS are designed for uniform application nationwide, whereas significant deterioration is essentially a local or regional issue. Therefore, each of the proposed regulations requires that a case-by-case analysis of fossil fuel-fired electric plants be conducted to determine if emissions can and should be further reduced.

Alternatively, control systems adequate to meet NSPS could be considered BACT in all cases where NSPS exist, including the case of fossil fuel-fired electric generating plants. Since NSPS are required to reflect "the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction) the Administrator determines has been adequately demonstrated," they could be considered to represent a sufficient degree of emission control to prevent significant deterioration "to the maximum extent practicable," in all areas. This alternative definition of BACT is not specifically included in the proposed regulations but since it is arguably consistent with the District Court's preliminary injunction, it is described herein and specifically called to the attention of all interested parties so that there will be an adequate opportunity for public comment thereon.

BASELINE FOR MEASURING DETERIORATION

Most of the plans which have been considered for preventing significant deterioration require that an identifiable level of air quality or emissions be established as a baseline from which to measure deterioration. The three principal alternatives which have been considered are the level existing in 1970 (to correspond to passage of the Clean Air Act), the level existing in 1972 (to correspond to the litigation to which these proposals are related), and the level existing in 1973 (to correspond to these proposed regulations.)

The use of 1970 as a nationwide baseline would present several practical problems. Foremost among these is that in the interim between 1970 and the current time, growth patterns have changed sufficiently that, although the nationwide air quality has improved substantially, in some (particularly non-urban) areas the air quality has already deteriorated—in some places to the extent that the deterioration could be considered significant under some alternative plans. The status of sources which have received prior authorization to construct in these areas would become questionable. Yet, it does not appear equitable to withdraw that authorization due to newly promulgated regulations. In many other areas, air quality could have improved so dramatically that use of 1970 as a baseline would render any deterioration regulations virtually meaningless.

In addition, the availability of air quality data from which to measure deterioration represents a severe problem. Generally, air monitoring has been most intensive in heavily polluted areas. There has been only scattered monitoring in relatively clean areas. However, it is in these relatively clean areas that the deterioration issue is most critical, and to effectively apply most deterioration plans it is essential that relatively precise baseline data be available. Even today, the precise air quality or emission levels in many of these areas are unknown; this, problem is compounded if baseline requirements are extended into the past.

However, the use of 1973 as a baseline year is also impractical, because the baseline must be established upon data for an entire year. Since annual data for 1973 could not be made available in sufficient time for initial application of these regulations, the use of 1973 would require that all data be estimated.

For these reasons, those plans discussed herein which require establishment of a baseline air quality or emission level are developed around the measured or estimated data for 1972. This minimizes, but does not eliminate, the problems associated with lack of data. It also tends to minimize many inequities associated with use of prior year baselines. It does, however, retain the problem regarding treatment of new or modified sources which

have already been approved for construction by the appropriate air pollution agency, but whose emissions and impact on air quality would not be included in the 1972 data base. Because it does not appear equitable to withdraw the construction approval from these sources, the 1972 baseline as defined in the proposed regulations consists of the measured or estimated air quality (or emissions) existing in 1972 as modified by the estimated impact of any source approved (prior to date of this proposal) for construction.

The selection of 1972 as the baseline year also introduces potential problems for a number of growth-oriented regions which improved their air quality in the period 1970–1972 to levels substantially superior to the national standards in anticipation of using that full increment to accommodate future economic expansion. The proposed regulations could substantially reduce that flexibility. The use of 1972 also tends to benefit those areas which were comparatively slow to implement emission reductions. These areas may now implement reductions in the future, and use the resulting air quality or emission increment for future economic expansion. Although this feature appears to penalize growth-oriented regions which implemented stringent controls to achieve air quality substantially superior to the national standards, the disadvantages of the alternative baseline concepts appear to be more significant. Hence, in all plans proposed herein requiring a baseline year, the year 1972 is used.

One or, possibly, some combination of the following four alternatives to prevent significant deterioration will be promulgated as Federal regulations to be enforced by the States until such time as each State possesses authority to enforce similar State regulations.

I. Air Quality Increment Plan

This section discusses a plan to prevent significant deterioration by establishing, for nationwide application, a maximum allowable increment in air quality above the baseline air quality. It is based upon the premise that "significant" deterioration can be defined as a finite increment in air quality, and that the resulting quantitative definition is appropriate for all sections of the country regardless of socio-elonomic conditions, and regardless of the current level of air quality (so long as national ambient air quality standards or other limitations are not exceeded). In addition to establishing this allowable increment, which is applicable to sulfur dioxide and particulate matter, the plan also incorporates the requirement common to all plans that all new or modified sources employ best available control technology.

Regulations which would implement this plan are proposed as the first set of alternative regulations in this notice. The regulations list the sixteen source categories for which deterioration review must be conducted, and also require the review of additional sources with potential emissions in excess of 4000 tons per year.

The definition of significant deterioration on which this plan is based consists of specific allowable increments to be added to the baseline air quality level. These increments are specified in the proposed regulations as:

For particulate matter:
10 $\mu g/m^3$ (annual average)
30 $\mu g/m^3$ (24 hour average)
For sulfur dioxide:
15 $\mu g/m^3$ (annual average)
100 $\mu g/m^3$ (24 hour average)
300 $\mu g/m^3$ (3 hour average)

The averaging times have been selected to be compatible with the existing secondary standards for these pollutants, and the times would be revised to be compatible with any revisions to the standards. This use of compatible time periods is necessary to insure maximum availability of baseline data, and also to facilitate incorporation of the deterioration review procedures into the existing new source review procedures.

Although there are no quantitative data to support the choice of any specific increment below the national standards, the increments proposed represent the Administrator's best judgment of increments which would prevent significant deterioration of currently clean areas, and yet not totally prevent the economic development of selected areas if that development were in the public interest.

If this proposed regulation were implemented, it would limit future development to the level of light industrial and residential complexes, or a very small amount of heavy industry such as stringently controlled power plants. For example, a recently constructed large apartment complex (15,375 units) in New York City is estimated to increase the 3-hour SO_2 concentration by 70 $\mu g/m^3$. This type of development would be allowed. A single well controlled large (1000–1500 MW) coal fired power plant can be expected to increase 24-hour SO_2 from 50 to 200 $\mu g/m^3$ depending on terrain conditions, the emission height and the dispersive characteristics of the atmosphere. The lower numbers represent typical values associated with construction in areas of good dispersion and relatively level terrain; a power plant of this type could be constructed to operate within the proposed criteria. The large increases represent plant construction in non-level terrain or areas of limited dispersion capability: If a plant were to locate in these areas a reduction in emissions beyond NSPS would be required. In general, most other types of sources would have a smaller impact on sulfur dioxide concentrations than a coal fired power plant and, if well controlled, could probably be constructed in most areas. However, in most areas if a source such as a power plant were constructed, the influence of emissions from this source would possibly raise the pollutant concentration over a large area (as great at 700 sq. miles) to a level which would be incompatible with any additional significant development.

The examples cited above assume that emission levels would be comparable to New Source Performance Standards. However, if a coal fired power plant used, for example, 80 percent efficient stack gas cleaning in addition to low sufur (approximately 0.7 percent) coal, the 24-hour SO_2 increase could be limited to 10–40 $\mu g/m^3$, thus permitting construction of several sources. This example further emphasizes that prevention of significant deterioration need not necessarily prevent significant economic development so long as major emphasis is placed on improving emission reduction techniques.

The proposed regulations for this plan would require that all applicable new or modified sources submit comprehensive data to the State describing the source, the type and amount of projected emissions, the type of controls planned, the impact that the new or modified source would have on air quality, and an estimate of the existing air quality in the vicinity of the source. This information would be used by the State, subject to the Administrator's approval, to determine if the source would exceed the allowable air quality or emission limitations and to insure that the source plans to apply best available control technology. Prior to making this determination, the State would be required to provide opportunity for public comment on all information available.

In addition, the proposed regulations require that, unless the State determines that there is already an adequate air quality monitoring network in the vicinity, the source install a minimum of two continuous air quality monitoring instruments and one meteorological instrument in the areas of expected maximum concentration. This feature would assist in developing adequate air quality information for monitoring of the source's impact, and for analysis of the potential impact of proposed future sources to insure that the deterioration ceiling is not exceeded.

Unfortunately, the type of air quality data needed to accurately establish the baseline air quality is not currently available in many clean areas of the country. It would therefore become necessary to initially estimate this information by use of diffusion modeling and other appropriate techniques.

Despite the problems generated by lack of data in most very clean areas, this alternative has some generally desirable features. The increments proposed would not totally prevent economic development of all currently clean areas, but they would force large sources to employ increasingly effective control techniques, would provide the incentive for strong control technology research and development, would prevent construction in difficult terrain areas such as valleys or mountainous areas with poor dispersion characteristics, and would also prevent clustering of large sources with the potential for high localized pollutant concentrations.

The impact of this alternative on currently developed regions is more difficult to assess. As time progresses, improved control technology will cause significant

improvements in the air quality of currently developed areas and these areas will therefore be capable of absorbing more new development than the currently clean areas. This plan would therefore cause currently clean areas to remain relatively clean, but only at the expense of forcing new sources back into the more highly developed and populated areas.

A basic problem of this plan is the land use implications implied with no provisions to insure that they are in the best interests of the public or compatible with public desires. Inherent in any plan with a single deterioration definition applied nationally is the arbitrarily equal treatment of all equally clean areas. It may not be wise to restrict the development of waste lands to the same degree that a scenic national park is restricted, particularly if that restriction forces additional air quality deterioration on the heavily populated regions of the nation.

II. Emission Limitation Plan

This section discusses an alternative plan to indirectly prevent significant deterioration of air quality by preventing significant increases in emissions. Although the correlation between emissions and air quality is often difficult to establish, control of emissions may result in the same effects as are intended by preventing significant deterioration of air quality. Although the national ambient air quality standards are intended to adequately protect the public health and welfare from adverse effects, there are suspected effects that may be related more closely to total atmospheric loading than to specific ambient concentrations. These effects include visibility reduction; reduction in solar radiation reaching the ground; acidification of rain, lakes, and streams; conversion of sulfurous and nitrogenous emissions into sulfates and nitrates; and increases in "background" concentrations. None of these effects have been quantified to the extent that a precise relationship between pollutant emissions, pollutant concentrations, and the degree of adverse effects can be stated. There is, however, at least a qualitative basis for the prevention of significant increases in the load of pollutants carried by the atmosphere.

Atmospheric loading is poorly indicated by ground level concentration measurement due to the influence of meteorological dispersion and source location. Emission density (regional emissions/regional area) is an excellent indicator of atmospheric loading. Furthermore, emission data are more readily available and easier to acquire than air quality distribution data. Thus, emission density is a relevant and practical measure of, and means of control for, types of ambient air deterioration not presently limited by ambient air quality standards.

The calculation of emission density requires the choice of an area over which emissions are to be averaged. The regulations proposed for this plan specify an Air Quality Control Region (AQCR) as this area. There are several reasons for this choice. The AQCR is an established geographical subdivision for purposes of air quality analysis. Considerable data are available on this basis. Furthermore, an area of median AQCR size is necessary in order to provide the kind of development flexibility required with currently available technology. If the averaging area is too small, then no large source of source cluster could locate within it without violating the emission ceiling. A larger averaging area allows the location of a few such large sources because the total emission increase can be allocated to a small portion of the land (thus assuring that the remaining area will remain at low emission density).

It is recognized that AQCRs differ in size and that rigid adherence to the AQCR subdivision could lead to inequitable development opportunity; therefore it is anticipated that, if this proposal is promulgated, States would develop procedures to permit subdivision of large AQCRs and aggregation of small ones. This would also permit relatively pollution free portions of Priority I and II AQCRs to be included in the regions covered by this plan during the AQCR size adjustment process. As the proposed regulations are currently written, this plan would apply only to Priority IA and III AQCRs.

Given the size of an AQCR or averaging region, the baseline annual emissions of sulfur dioxide and particulate matter can be determined. A ceiling emission rate is then calculated by adding either 20% to the baseline emissions, or by calculating a ceiling based on emission density, whichever is larger. This establishes the emission limits for the region. Implementation of this plan would then consist of insuring that the total annual emissions from the region remained below the established emission ceiling.

The incremental increase is difficult to select due to a deficiency of relevant data and theory on the relationship between emission density, atmospheric loading, and the effects to be limited. The emission density factors included in the proposed regulations are 10 tons/year/sq. mile for sulfur dioxide and 3 tons/year/sq. mile for particulates. No AQCR with sulfur dioxide emission densities below these has exhibited air quality poorer than secondary national standards. Particulate emission densities display no general correlation of this type. However, most relatively clean areas have manmade particulate emissions below this level. It should be noted, however, that sulfur dioxide emission densities as high as 200 tons/year/sq. mile may be compatible with Priority III status. The poor correlation between emission density and measured air quality is due to the effect of meteorological factors and source location, as mentioned earlier.

Given the size of the region the allowable emission density factor or percentage increase and the baseline emissions, the emission ceiling for each region can be calculated. The resulting ceilings apply to *all* emitters in the region. For practical reasons, only the large sources included in the proposed regulations must be given formal review, but the contributions of new and existing small sources to the total emissions must also be inventoried.

The regulations proposed for this plan would require each new or modified major source to provide information necessary for the determination of the probable emission rate, compliance with BACT, siting analysis under current new source review procedures, and for public information on which to base comments.

This plan would allow each region considerable flexibility on the selection and location of new emitting sources. The amount of new development possible under the emission ceiling depends critically on the degree of emission control applied to both new and existing sources. The ground level air quality at a given point in the region depends on the distribution of sources about that point. It is possible that the development of small residential and commercial sources could be limited because the available emission increment is used by a few large new emitters. It is also possible that ground level air quality could increase to secondary standards in one or more places due to large new sources or source clusters (although this would insure that air quality in the rest of the region would have no deterioration).

The determination of how emission density is to be distributed in each region would be the State's prerogative, and the Administrator would accept any distribution provided that the emission ceiling and national ambient air quality standards are observed. It is strongly recommended, however, that the allowable regional emissions be distributed in some rational and equitable manner so that the best available ground level air quality is maintained, development is balanced between industry, commerce, and residences, and that the review and approval of the sources specified in this regulation precludes the possibility that a few large sources usurp all of the available air resources of the region.

As an example of how this plan operates, assume that an AQCR of 10,000 square mile area has baseline emissions of 40,000 tons/year of sulfur dioxide. The applicable emission ceiling in this case would be 100,000 tons/year. Assume also that existing sources are expected to reduce emissions from 40,000 to 20,000 tons/year by 1980, and that small source growth is expected to equal 10,000 tons/year. The net available emissions through 1980 would amount to 70,000 tons/year. A coal fired power plant of 1,000 megawatt capacity which meets NSPS will emit about 50,000 tons of sulfur dioxide per year. Such a plant could be located in this AQCR, but it would use a large proportion of the available emission allowance. The State would have to balance its need for electricity against other anticipated emission increases to determine if such a power plant was desirable,

if this type of plant was necessary, or if the emissions from the plant should be reduced below NSPS by applying lower sulfur coal and/or more efficient stack gas cleaning equipment.

III. Local Definition Plan

One of the major problems in defining significant deterioration is that the level at which air quality deterioration becomes "significant" is essentially subjective, and is often logically dependent upon a large number of factors which vary from location to location. Accordingly, the proposed regulations supporting this alternative plan would ensure that the rate of deterioration is minimized in all areas and requires State decision-making, with public participation, on the question of whether the deterioration resulting from particular sources would be considered "significant." In order to accomplish this, the regulations incorporate the following four features:

All major new or modified sources would be required to incorporate Best Available Control Technology, as defined previously, thus insuring that deterioration by any major source is held to the lowest practicable minimum regardless of the air quality in the surrounding area.

Any proposed source would be required to submit detailed information to the State concerning the amount and type of emissions anticipated, and the projected impact of those emissions on the air quality in the surrounding areas. The requirement for this type of information is intended to insure that adequate information is available on which to base an objective assessment regarding the significance of any resulting deterioration. Although not specifically required by the proposed regulations, it is anticipated that in many cases the State or local agency would analyze this information in relation to other sources impacting on air quality in the area. This would permit identification of existing sources which could be candidates for additional emission control capable of minimizing or offsetting the potential deterioration attributed to the proposed new source. In any event, the analysis of this type of information would insure that the decisions regarding the significance of any projected deterioration would be based upon the best information available.

The State would be required to make full disclosure of all pertinent information and solicit public participation in the determination of what constitutes significant deterioration. As a minimum, the State would serve public notice of the proposed construction or modification, would make full disclosure of source and State generated information, and would allow at least 30 days for public comment. However, the regulations for this alternative would not preclude the holding of public hearings if the proposal is of sufficient public interest. The intent of this requirement is to insure that the definition of significant deterioration is based upon all pertinent air quality data, the attitudes and goals of the affected population, and the socio-economic conditions and requirements of the affected area.

The State would then determine whether the source would create significant deterioration of air quality. The regulations would provide sufficient legal authority for all States to prohibit construction or modification which could result in significant deterioration of air quality, but pertinent information would also be submitted to the Environmental Protection Agency for review. The Administrator could disapprove the State's determination of what constitutes Best Available Control Technology, or could disapprove the procedures by which the determination of significant deterioration was made, but so long as the required procedures were followed the Administrator would not have authority to reverse the State's judgment of what constitutes significant deterioration in any specific location.

Under this alternative, sufficient information, procedures, and legal authority would be provided to make a valid determination of what constitutes significant deterioration, in the view of the affected public, and to enforce the prevention of that deterioration regardless of any unique circumstances surrounding any individual case. However, sufficient safeguards would be included to insure that a State's determination that the resulting deterioration was not significant could not be used to circumvent other requirements dealing with National Ambient Air Quality Standards, New Source Performance Standards, State emission limitations, or any other legal requirements designed to protect the quality of the ambient air.

This approach has the major advantage that the governmental units and citizens most affected by decisions on maintenance of air quality would make those decisions, based upon conditions existing at that time, thereby ensuring that local requirements and preferences with regard to matters such as land use, economic development, and use of natural resources are taken into consideration. Thus, economic growth would not be arbitrarily restricted to conform to national views on nationwide deterioration, but, rather, would be subjected to State and local decisions as to the form, direction, extent, and distribution of such growth and as to the conditions to be imposed on the construction or modification of facilities which could have a significant impact on air quality.

A somewhat modified version of this plan is currently in restricted use in portions of several States. In these cases, the States have established extremely low ambient air quality standards for selected regions within their boundaries, in most cases to protect State parks, national forests, scenic vistas, etc. This is, of course, within the rights of all States, but many States do not currently have adequate legal authority to prevent construction or modification unless the national ambient air quality standards are threatened. It would, therefore, be necessary to promulgate Federal regulations of the type presented herein to give all States the required legal authority until they can pass suitable State legislation.

Although this alternative is intuitively attractive for a variety of reasons, it is not without drawbacks. There is some justifiable concern that State and local agencies and populations could be subjected to undue pressure exerted by industries desirous of locating within a particular area, and that this pressure could cause definitions of "significant" which might not be in the best long-range interests of these populations. Additionally, the local definition plan uses what is essentially a "sliding baseline" in that deterioration is always measured relative to the current air quality. Hence, there is no control over the ultimate level of deterioration, which could progress in finite increments up to the level of the secondary standards. A final major disadvantage of this alternative is that the long range impact of deterioration is not completely restricted to the local area. The proposed regulations associated with this plan require public comment from within "the area significantly affected by the potential emissions." However, it is entirely possible that the cumulative effects of a large number of "growth-oriented" regions could have a significant impact on the air quality of neighboring "clean-air oriented" regions, and these neighboring regions would thereby lose control over their own environment. Although the feature that the State, rather than the local population, has final authority for the definition of significant tends to mitigate this concern, it nevertheless remains a problem which could lead to inequitable treatment of some areas.

IV. Area Classification Plan

One of the major problems associated with the previously discussed Air Quality Increment Plan involves the possible inequities resulting from establishment of a single air quality increment applicable nationwide. The fourth alternative proposed herein partially alleviates this problem by defining two nationwide air quality increments which would be applied to the appropriate areas of the State compatible with the long range growth patterns and development objectives associated with each of those areas. The application of this proposed alternative would be similar to that of the Air Quality Increment Plan except for the features noted herein.

The proposed regulations would require each State to identify each area of its territory as belonging to one of the two "zones" of allowable deterioration. The following table presents the proposed zones with their associated deterioration increments.

PERMISSIBLE DETERIORATION INCREMENTS (μg/m³)

	Particulate Matter		Sulfur Dioxide		
	Annual	24 Hour	Annual	24 Hour	3 Hour
Zone I	5	15	2	5	25
Zone II	10	30	15	100	300

Deterioration above the Zone II levels would constitute, in the Administrator's judgment, a significant deterioration in most areas of the country. This level is identical to that of the Air Quality Increment Plan and, as discussed under that Plan, would permit a reasonable amount of growth potential so long as well developed air pollution control strategies are applied. This increment would provide a strong incentive for improved control technology, would prevent construction of new sources in locations conducive to higher than normal ground level concentrations, would prevent clustering of major new sources, and would require that both new and existing sources employ increasingly effective control technology in order to maintain a reasonable growth capability for the region. The proposed regulations specify that the Zone II criteria would become effective nationwide upon promulgation of these regulations.

Zone I represents an extremely stringent deterioration criteria, and application of this increment would prohibit the introductoin of even one small fossil fuel fired power plant, municipal incinerator, medium apartment complex (assuming oil heating), or any other medium scale residential or commercial development using normal emission control techniques. However, this does not necessarily mean that development would be totally prohibited: It means only that new emissions would be permitted only to the degree that current emissions are reduced. Strong incentives are therefore inherent for improved emission control technology and introduction of low-pollution development. Although Zone I could be applied to a semi-urban or urban area in which it was desired to inhibit further development; it is anticipated that Zone I would normally be applied to those ultra-clean areas such as national and state forests and parks, and other recreational areas in which it is desired to maintain essentially no deterioration of air quality.

The regulations proposed in support of this plan also contain provisions for exceptions to the required deterioration increments in special circumstances. It could be in the public interest to permit some isolated areas a higher increment in circumstances under which the resulting deterioration would not be considered significant. Each of these cases would require public hearings in the areas involved, and would require specific approval by the Administrator. It is expected that these cases would exist infrequently, but they might occur due to the unusual availability of raw materials in the area; or in order to support comprehensive, long-range development plans; or to avoid the necessity for locating relatively pollution-prone industries near populated areas where a larger deterioration increment might be available. As further insurance that the State's request for an exception is justified, the administrator would consider the extent to which the State has applied Zone I criteria as an expression of good faith efforts to comply with the intent of the proposed regulations.

The proposed regulations require that States accomplish initial zoning within six months from the date of promulgation of these regulations. Retention of the Zone II criteria in an area would be considered the norm, and the degree of public participation would be at the State's discretion. Assignment of Zone I would require that public hearings be held in the region affected due to the severe growth restrictions inherent in the Zone I criteria. If any State fails to submit the required plan, all areas of the State would remain under the Zone II criteria as assigned upon promulgation of these regulations.

Subsequent to submittal of the initial zoning plan, changes in the plan could be accomplished to accommodate changes in growth patterns and development plans; such proposed changes would be presented at public hearings in each of the affected areas.

It is important to note that the proposed regulations would not allow the Administrator to disapprove any assignment of zones made by the State so long as the required procedures are carried out. By requiring the establishment of these zones, and specifying the maximum allowable deterioration associated with each zone, it is not the Administrator's intention to establish how the land in any particular area should be used, nor to establish any particular relationship between current air quality and assigned zoning. Areas assigned to Zone I could retain an option for significant growth capability: The very stringent air quality criteria require only that any growth be restricted to a form which has a low air pollution potential. Use of the land is the prerogative of the State and local population, and hence complete flexibility is provided, consistent with prevention of significant deterioration as appropriate for each zone. In making the determinations necessary to implement this alternative, the States would be encouraged to consider many factors, including but not limited to; growth projections and local land use plans; existing land use; location of raw materials and markets; and existing constraints on land use imposed by other State, local, and Federal requirements.

Unfortunately, as with the Air Quality Increment Plan, the type of air quality data needed to accurately establish the baseline air quality for this alternative is not currently available in many clean areas of the country. It would therefore become necessary to estimate this information by use of diffusion modeling and other appropriate techniques. To eventually alleviate these problems, the plan would establish additional air quality monitoring requirements around new major sources.

Despite the data availability problems, this alternative has some very attractive features. Unlike the other ceiling plans proposed herein, this plan ensures that future developmental patterns can be based on rational planning rather than on previous growth patterns which form the basis for most other ceiling approaches. This alternative also seems superior to the "local definition" plan, in that it is not based on case-by-case local projections of growth patterns which may not be desirable from an overall point of view, but requires that the State establish long range growth patterns and goals. In essence, this plan puts emphasis on longer range strategic planning as opposed to short range case-by-case decisions. The plan also gives States the flexibility needed to meet their long range growth goals without the imposition of arbitrary constraints.

This alternative also has some drawbacks. The proposed regulations require that the State make very difficult and comprehensive decisions impacting on land use in a tight time frame. The results of these State decisions would have far reaching implications on the future of many States. There are no firm criteria which a State may use to make its decisions and as a result, the decisions would be somewhat subjective in nature. The required decisions also would force the States to exercise great care in establishing the boundaries between zones so that the effect of a source in a Zone II does not cause the air quality in a Zone I to increase more than allowed. This problem becomes more severe along State boundaries and would require cooperation among States. Nevertheless, of the available alternatives for preventing significant deterioration, this plan appears to be superior in many, if not all, respects.

OTHER PLANS OF INTEREST

Although the preceding plans (including variations and combinations of these) represent the more feasible alternatives for preventing significant deterioration, the Administrator has given a variety of other plans careful consideration. Two of the more interesting are based upon a volumetric emission density restriction, and application of an emission charge or penalty.

The application of a volumetric emission density restriction is the essential feature of a plan proposed by the Sierra Club. Under this plan, significant deterioration for most pollutants would be defined as either a small incremental increase, or a percentage increase in pollutant concentration, averaged either over that volume of air within one km of the source, or that ground level area within one km of the source, whichever gives the higher value. Although the impact of this criteria is highly dependent upon the instantaneous local meteorological conditions, the philosophy is essentially similar to that of more conventional air quality and emission limitation plans.

The fundamental difference is that the Sierra Club plan considers an exceptionally small area (or volume) on which to base the deterioration criteria. This requires that, in order to restrict regional deterioration to reasonable levels, the allowable increment applied to the one km baseline area must be very small. The result is that this plan would permit a large number of small sources to be uniformly distributed throughout the region, but would completely prohibit construction of conventional coal fired power plants and other major sources of the type listed in the proposed regulations, unless those sources were located in areas in which major improvements in air quality had been accomplished after the baseline level had been established. This feature would tend to drive all new major sources of air pollution into the more heavily populated sections of the country. This anomaly is the result of choosing too small an area (or volume) over which to average the emissions, and is no more a failure of the volumetric averaging technique than any technique in which emission density restrictions are applied to an excessively small area. Conversely, if too large an area is chosen, then the peak concentrations in a local area may become excessive even though total atmospheric loading is reduced. However, the volumetric averaging plan is not proposed herein primarily because the computation technique is unnecessarily complex and is only indirectly representative of the physical characteristics of pollution sources, the baseline data required (particularly for particulates) is largely nonexistent, the monitoring and control costs would be excessive, and simpler plans could be developed to achieve substantially the same results without the practical application problems inherent in the volumetric averaging concept.

A second type of plan containing interesting ramifications but which had to be rejected for practical reasons was one based on the imposition of emission charges. The general reasoning behind such a plan is that secondary NAAQS comprise adequate upper limits on pollutant concentrations, but air quality superior to those limits is desirable. The emission charge would provide a continuous incentive for sources to seek and apply emission controls to minimize their emission charges. The collective effect of these individual cost minimizations would be to maintain air quality at levels superior to NAAQS in most areas. The level of air quality maintained would be a function of the emission charge rate, the development potential of the area, and the state-of-the-art of emission control.

The major advantages of this plan are that the cost of emitting would be "internalized", i.e., it would be taken into consideration in the normal economic appraisal of plant design and location alternatives. Sources would have numerous options as to control method, cost, and degree of control from which to make the optimum choice. The state-of-the-art of emission control would be continuously advanced. Finally, the means of enforcement would be charge collection for which there is ample precedent and experience.

Unfortunately, several problems attend such a plan, particularly in view of the requirement that "significant deterioration" be prevented in any portion of any State. If significant deterioration of air quality is to be prevented by the emission charge, some relationship between the charge rate and the resultant air quality must be found. Such a relationship is not presently available. Even if this relationship were available, the emission charge rate would have to vary from place to place to offset the variation in developmental potential offered by different land areas and the variable capacity of the air to disperse waste under different meteorological and topographical conditions. But most important, an emission charge would not guarantee that significant deterioration could not take place in some portions of some States. Consequently, the emission charge, while possessing some desirable attributes, does not appear to be a practical means of preventing significant deterioration of air quality.

Problems Common to All Deterioration Plans

Jurisdictional Ambiguities—There is a potential jurisdictional problem associated with all plans proposed to prevent significant deterioration. The problem could arise whenever a source in one State is degrading the air quality of a second State. The problem is compounded when small deterioration increments or ceilings are established because a relatively small external source may "use up" a large portion of the growth potential available to the neighboring regions. The region in question would have no apparent resource, and its own growth potential would thereby be curtailed. The recent court order has established the Administrator's authority to prevent significant deterioration regardless of the source's location, but the Administrator has no criteria by which he can dictate whether the allowable deterioration should be allocated to an internal or external source. Hence, in cases such as this, any allowable deterioration increment would have to be allocated on a "first come, first served" basis, regardless of the location of the source.

De Facto Land Use Decisions—It has been pointed out previously that all currently practical plans to prevent significant deterioration essentially impose restrictions on the use of the air resource, and hence, use of land. Depending upon the plan selected, these restrictions would be imposed by local, State, or Federal decisions. However, in all cases, there is a certain amount of flexibility inherent in the regulations regarding land use, and the States are encouraged to exploit this flexibility in order to make most effective use of the available resources. This exploitation is expected to take the form of State legislation permitting State determination of the type and amount of developmental growth authorized to "use" the allowable air quality increment. Complimentary to enactment of this legislation would be long range planning actions to determine the type of growth desired, any constraints on this growth in addition to air quality deterioration constraints, and any additional means for air quality improvements which might, in turn, make possible additional growth. In the absence of such State action, it can be anticipated that the allowable deterioration increment will be used up quite rapidly in many areas, and that this use would be made on a "first come—first served" basis without regard for the longer range requirements and goals of the region. In effect, Federal promulgation of any of the alternatives proposed herein will force States to develop and implement additional land use planning activities through which the available air resource can be allocated for the optimum purposes. These activities will be actively encouraged by the Administrator, and it is planned that eventually the prevention of significant deterioration will be accomplished solely through State Implementation Plan procedures, although such SIPs would have to be in accordance with Federal guidelines.

The Impact of Urban Sprawl—This problem refers to the characteristic trend of most urban areas to spread in to the surrounding countryside thereby creating gradual air quality deterioration due to reseidential heating and associated small but numerous sources of emission. There is no adequate deterioration plan which can automatically accommodate this deterioration, and yet urban sprawl can use up a large portion of any allowable deterioration increment. The periodic development of emission inventories, and routine air quality sampling, will track the effect of this sprawl, but it must also be projected into the future in order to insure that its impact, in addition to the impact of new major sources, does not violate the deterioration restrictions. For this reason, it may become desirable to include requirements for growth projections in the proposed regulations in a manner similar to those of the recently promulgated complex source regulations.

The Impact of Fuel Switching—Many sources have the capability to switch among various types of fuel—i.e., natural gas, low and high sulfur oil, low and high sulfur coal, etc.—thus altering their emission levels. Although there is generally sufficient low sulfur fuel available, in conjunction with other emission reduction techniques, to attain and maintain the national standards nationwide, there is not currently sufficient fuel of this type (particularly low sulfur coal) to satisfy all potential users. Accordingly, it may become necessary for some sources in relatively clean areas to temporarily switch to higher sulfur fuel in order to make available additional low sulfur

fuel for use in areas in which the ambient air quality could have an adverse impact on public health. Because pollutant emissions are approximately proportional to the sulfur content of the fuel (i.e., a switch from 1 percent to 3 percent sulfur coal would approximately triple sulfur oxides emissions) this procedure would tend to temporarily degrade air quality in clean areas. A preliminary review indicates that most plans to prevent deterioration could accommodate this temporary increase in emissions. However, it is conceivable that there may be unusual cases, as where a source might have to switch from natural gas to coal, which could not be accommodated within some proposed deterioration limits. The Administrator solicits all available information concerning cases of this type, and is interested in comments on the advisability of including variance procedures in the proposed regulations to accommodate temporary emission increases of this type.

The Right of Regional Self-Sufficiency—It is desirable that all participants in this rulemaking carefully consider the full impact of deterioration restrictions, particularly as they would influence relatively clean areas in which the allowable deterioration increments might be very small. Due impart to the threat to the NAAQS, most large urban areas can no longer provide enough electrical power to supply their own needs; their power must come from non-urban, relatively clean, areas. However, in the future it may develop that even non-urban areas will not be able to supply their own power needs due to the threat of significant deterioration. For example, Iowa can be considered as a typical agricultural State with only nominal heavy industry. It is estimated that by 1980, the rural areas of Iowa will require approximately 1,700 megawatts of additional power per year. The production of that power, with application of best available control technology and regionally available fuel, would produce approximately 160,000 tons of sulfur dioxide per year, or an approximately fifty percent increase in emissions over the 1970 levels for those areas. Any deterioration plan must consider factors such as these to insure that the impact on each individual region can be tolerated and is consistent with the public interest.

OPPORTUNITY FOR PUBLIC PARTICIPATION

The Administrator solicits widespread public involvement in all aspects of the significant deterioration issue, and interested indivduals and groups are encouraged to actively participate in this rulemaking. In order to assist in the development of objective comments and debate, the Environmental Protection Agency's Office of Public Affairs and the Regional Offices will have available sets of technical documentation summarizing types and sizes of typical sources, typical emissions, estimated costs of emission controls, breakouts of total national emissions by type and type source, distribution of current emissions by AQCR, and associated data of value in assessing the impact of alternative deterioration plans. Copies of this information will be made available to the public upon request. Requestors should reference this issue of the FEDERAL REGISTER.

There are several questions on which EPA is particularly interested in receiving public comments and relevant data. One of the most important involves the concepts of "deterioration of air quality" and "significant deterioration of air quality." With respect to the term "deterioration," the question arises as to what type of change in ambient air quality represents "deterioration." With respect to "significant deterioration," questions arise as to whether it should be interpreted in the absolute or relative sense, and whether it should be determined on a national, State, or regional basis. Attention is therefore expressly directed to, and public comment requested on, the questions of what might appropriately be considered "deterioration" and, further, what degree of deterioration might appropriately be considered "significant."

Other questions on which public comment and relevant data are particularly requested include: whether, if an Air Quality Increment Plan or Emission Limitation Plan is adopted, the specific increments or limitations proposed herein are appropriate to prevent significant deterioration without severely disrupting growth and development; whether it is necessary and appropriate to require application of best available control technology as a minimum requirement of any plan for preventing significant deterioration; and whether the proposed definition of best available technology is appropriate. EPA also requests information which would explicitly define the possible economic impact of each of the proposed alternatives. Finally, the fact that four alternatives are specifically presented does not preclude interested parties from offering others for consideration.

Public hearings on these proposals are scheduled as follows:

Washington, D.C.: August 27 and 28
Time and place to be announced.

Atlanta: September 4 and 5; 10:00 a.m.
Civic Center
395 Piedmont Avenue, N.E.

Dallas: September 5 and 6; 9:00 a.m.
Environmental Protection Agency
Suite 1000
Conference Rooms A and B
1600 Patterson Street

Denver: September 5 and 6; 9:00 a.m.
U.S. Post Office Auditorium
Room 269
1823 Stout Street

San Francisco: September 5 and 6; 9:00 a.m. to 5:00 p.m.
Hyatt Regency Hotel
Seacliff Room
Embarcadero Center

Written comments in triplicate may also be submitted to the Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attn: Mr. Padgett. All relevant comments received not later than 90 days after the date of publication of this notice will be considered. Receipt of comments will be acknowledged but substantive responses will not be provided. Comments received will be available for public inspection during normal business hours at the Office of Public Affairs, 401 M Street, SW., Washington, D.C. 20460.

These alternative amendments are being proposed pursuant to an order of the U.S. Court of Appeals for the District of Columbia Circuit in the case of Sierra Club, et al., V. Administrator of EPA, case No. 72–1528. This notice of proposed rulemaking is issued under the authority of section 301(a) of the Clean Air Act as amended (42 U.S.C. 1857, et seq.).

Dated: July 12, 1973.

ROBERT W. FRI,
Acting Administrator,
Environmental Protection Agency.

Subpart A, Part 52, Chapter I, Title 40, Code of Federal Regulations, is proposed to be amended by adding to § 52.21 a new paragraph (b) and one of the paragraphs herein designated (c), (d), (e), and (f):

§ 52.21 Significant deterioration of air quality.

(a) Subsequent to May 31, 1972, the Administrator reviewed State implementation plans to determine whether or not the plans permit or prevent significant deterioration of air quality in any portion of any State where the existing air quality is better than one or more of the secondary standards. The review indicates that State plans generally do not contain regulations or procedures specifically addressed to this problem. Accordingly, all State plans are disapproved to the extent that such plans lack procedures or regulations for preventing significant deterioration of air quality in portions of States, where air quality is now better than the secondary standards. The disapproval applies to all States listed in Subparts B through DDD of this part. Nothing in this section shall invalidate or otherwise affect the obligations of States, emission sources, or other persons with respect to all portions of plans approved or promulgated under this part.

(b) For purposes of this section:

(1) The term "baseline air quality concentration" means the maximum air quality concentrations measured or estimated in an area in which the proposed source has a significant effect representative of the year 1972 plus the estimated increase in those concentrations caused by all sources granted approval for construction prior to the date of proposal of this section in the FEDERAL REGISTER but not operating during the year 1972.

(2) The term "baseline emissions" means the annual emissions for the year 1972 plus the estimated emissions from

all sources granted approval for construction prior to the date of proposal of this section in the FEDERAL REGISTER but not operating during the year 1972.

(3) The term "potential emission rate" means the total weight rate at which sulfur dioxide or particulate matter, in the absence of any air cleaning device, would be emitted from a stationary source when such source is operated at its rated capacity. Total weight rates shall be those actually expected for a specified source but in the absence of such information, it shall be estimated on the basis of the emission factors specified in "Compilation of Air Pollution Emission Factors," Office of Air Programs Publication No. AP-42, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, February 1972.

(4) The term "air cleaning device" means any article, machine, equipment, or other contrivance, chemical or process, the use of which may eliminate, reduce or control the emission of air pollutants into the atmosphere.

(c) *Regulation for preventing significant deterioration of air quality through application of an air quality increment.* (1) This paragraph applies to sources identified below, the construction or modification of which is commenced after the date of proposal of this paragraph in the FEDERAL REGISTER.

(i) Any new or modified stationary source of a type listed below:

(*a*) Fossil-Fuel Fired Steam Electric Plants of more than 1000 million B.t.u. per hour heat input.

(*b*) Coal Cleaning Plants (thermal dryers).

(*c*) Kraft Pulp Mill Recovery Furnaces.

(*d*) Portland Cement Plants.

(*e*) Primary Zinc Smelters.

(*f*) Iron and Steel Mill Metallurgical Furnaces.

(*g*) Primary Aluminum Ore Reduction Plants.

(*h*) Primary Copper Smelters.

(*i*) Municipal Incinerators capable of charging more than 250 tons of refuse per day.

(*j*) Sulfuric Acid Plants.

(*k*) Petroleum Refineries.

(*l*) Lime Plants.

(*m*) Phosphate Rock Processing Plants.

(*n*) By-Product Coke Oven Batteries.

(*o*) Sulfur Recovery Plants.

(*p*) Carbon Black Plants (furnace process).

(ii) Any new or modified stationary source not identified in subdivision (i) of this subparagraph having a total annual potential emission rate on any premises equal to or greater than 4000 tons for any of the following pollutants.

(*a*) Particulate matter.

(*b*) Sulfur dioxide.

(*c*) Nitrogen oxides.

(*d*) Hydrocarbons.

(*e*) Carbon monoxide.

(2) No owner or operator shall commence construction or modification of a source to which this paragraph is applicable unless:

(i) The State in which the source is or will be located determines in accordance with this paragraph:

(*a*) That the effect on air quality of the source or modification of the source considered with the effect on air quality of existing, new or modified sources, will not cause the air quality to be increased above the baseline air quality concentration by more than any of the following:

(*1*) 10 $\mu g/m^3$ of particulate matter, annual geometric mean.

(*2*) 30 $\mu g/m^3$ of particulate matter, 24-hour maximum.

(*3*) 15 $\mu g/m^3$ of sulfur dioxide, annual arithmetic mean.

(*4*) 100 $\mu g/m^3$ of sulfur dioxide, 24-hour maximum.

(*5*) 300 $\mu g/m^3$ of sulfur dioxide, 3-hour maximum.

(*b*) That the source or modified portion of the source will be constructed and operated to employ best available control technology for minimizing emissions of particulate matter, sulfur dioxide, nitrogen oxides, hydrocarbons, and carbon monoxide.

(ii) The Administrator approves the State's determination under subdivision (i) of this subparagraph.

(3) In making the determinations required by subparagraph (2) (i) of this paragraph, the State shall, as a minimum, require the source to submit: Site information, plans, descriptions, specifications, and drawings showing the design of the source, calculations showing the nature and amount of emissions, a description of the manner in which the source will be operated and controlled, the cost of control, measurements or estimates of existing air quality levels, and the impact that the construction or modification will have on air quality levels and the air environment around the source.

(4) (i) In determining best available control technology, the following shall be considered:

(*a*) Reasonably available control technology as defined in Appendix B to Part 51 of this chapter,

(*b*) The process, fuels, and raw materials employed,

(*c*) The engineering aspects of the application of various types of control techniques,

(*d*) Process and fuel changes, and

(*e*) The cost of the application of the control techniques, process changes, alternative fuels, etc.

(ii) A system of control which is determined by the State and approved by the Administrator to be adequate to comply with standards of performance for new stationary sources under Part 60 of this chapter may be deemed to constitute best available control technology.

NOTE: Under the alternative definition of Best Available Control Technology, as set forth in the preamble, subdivision (iii) would be eliminated.

(iii) In the case of sources identified at subparagraph (1) (i) (*a*) of this paragraph, best available control technology for sulfur oxides shall consist, as a minimum, of a control strategy determined to be capable of complying with standards of performance for new stationary sources specified in Part 60 of this chapter. However, individual analysis of each new or modified source which considers the availability of fuel and the cost and efficiency of other or additional control strategies may result in additional control for individual plants.

(5) Subject to subdivision (x) of this subparagraph, the owner or operator of a source subject to the provisions of subparagraph (2) of this paragraph shall install, or cause to be installed, a minimum of two continuous ambient air quality monitoring instruments for sulfur dioxide and/or two intermittent ambient air quality monitoring instruments for particulate matter.

(i) The State shall specify which pollutant(s) the source shall monitor.

(ii) When source, meteorological and/or terrain conditions warrant, the State may require additional samplers above the minimum number specified in this paragraph.

(iii) Such systems shall include one site equipped to monitor wind speed and wind direction.

(iv) The instruments shall meet the performance and operating specifications of § 51.17(a) (1) of this chapter.

(v) The locations of such instruments shall be located in areas of expected maximum concentrations determined by meteorological diffusion modeling or best judgment.

(vi) The instruments shall be maintained, calibrated, and operated in accordance with the methods prescribed by the manufacturer of such instrument(s) and other procedures consistent with good engineering practice.

(vii) The owner or operator of the source subject to this paragraph shall maintain a record of all measurements required by this subparagraph. Measurement results shall be summarized monthly and reported to the State semiannually, and shall be submitted within 45 days after the end of the reporting period. Reporting periods are January 1–June 30 and July 1–December 31, with the initial reporting period starting as indicated in subdivision (viii) of this subparagraph.

(viii) The continuous monitoring and recordkeeping requirements of this subparagraph shall become applicable 6 months after initial start-up of the source.

(ix) Information collected pursuant to this subparagraph shall be made available to the Administrator upon his request.

(x) The State may demonstrate to the Administrator that the existing air quality surveillance system in the area in which a source is to be constructed or modified meets the requirements of this subparagraph.

(6) (i) Prior to making the determinations required by subparagraph (2) (i) of this paragraph, the State shall provide opportunity for public comment on the information submitted by the owner or

operator and on the State's analysis of the effect of such construction or modification on ambient air quality. Opportunity for public comment shall include, as a minimum:

(*a*) Availability for public inspection, in at least one location in the region affected, of the information submitted by the owner or operator, and the State or local agency's analysis of the effect on air quality,

(*b*) a 30-day period for submittal of public comment, and

(*c*) a notice by prominent advertisement in the region affected of the location of the source information and analysis specified in subparagraphs (2)(i), and (3) of this paragraph.

(ii) Within 90 days from an owner or operator's submission of the information required under subparagraph (3) of this paragraph, the State shall publicly announce and transmit in writing to the Administrator its determinations under subparagraph (2)(i) of this paragraph, together with:

(*a*) Copies of all information prepared by the State under subparagraph (2)(i) of this paragraph; (*b*) a copy of the public notices issued in conformity with subdivision (i) of this subparagraph and (*c*) a statement that the State has complied with the requirements of this paragraph.

(7)(i) The Administrator will notify the State of his determination and the reasons for any disagreement under subparagraph (2)(ii) of this paragraph no later than 25 days following the State's submission of the information required under subparagraph (6)(ii) of this paragraph.

(ii) The State will notify the owner or operator in writing of the approval or denial to construct or modify a source within 120 days of the owner or operator's submission of the information required under subparagraph (3) of this paragraph.

(8) The Administrator may cancel an approval to construct if the construction is not begun within two years from the date of issuance, or if during the construction, work is suspended for one year.

(9) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with all local, State, or Federal regulations which are part of the applicable plan.

(d) *Regulation for preventing significant deterioration of air quality through application of an emission ceiling.* (1) This paragraph applies to sources identified below, the construction or modification of which is commenced in any Air Quality Control Region (AQCR) classified Priority Ia or III with respect to sulfur dioxide and/or particulate matter, after the date of proposal of this paragraph in the FEDERAL REGISTER.

(i) Any new or modified stationary source of a type listed below:

(*a*) Fossil-Fuel Fired Steam Electric Plants of more than 1000 million B.t.u. per hour heat input.

(*b*) Coal Cleaning Plants (thermal dryers).

(*c*) Kraft Pulp Mill Recovery Furnaces.

(*d*) Portand Cement Plants.

(*e*) Primary Zinc Smelters.

(*f*) Iron and Steel Mill Metallurgical Furnaces.

(*g*) Primary Aluminum Ore Reduction Plants.

(*h*) Primary Copper Smelters.

(*i*) Municipal Incinerators capable of charging more than 250 tons of refuse per day.

(*j*) Sulfuric Acid Plants.

(*k*) Petroleum Refineries.

(*l*) Lime Plants.

(*m*) Phosphate Rock Processing Plants.

(*n*) By-Product Coke Oven Batteries.

(*o*) Sulfur Recovery Plants.

(*p*) Carbon Black Plants (furnace process).

(ii) Any new or modified stationary source not identified in subdivision (i) of this subparagraph having a total annual potential emission rate on any premises equal to or greater than 4000 tons for any of the following pollutants:

(*a*) Particulate matter.

(*b*) Sulfur dioxide.

(*c*) Nitrogen oxides.

(*d*) Hydrocarbons.

(*e*) Carbon monoxide.

(2) No owner or operator shall commence construction or modification of a source to which this paragraph is applicable unless:

(i) The State in which the source is or will be located determines in accordance with this paragraph:

(*a*) That the source or modified portion of the source considered with the cumulative effect on emission levels of all existing, new or modified stationary sources will not cause the maximum allowable emissions as determined by subparagraph (9) of this paragraph to be exceeded.

(*b*) That the source or modified portion of the source will be constructed and operated to employ best available control technology for minimizing emissions of particulate matter, sulfur dioxide, nitrogen oxides, hydrocarbons, and carbon monoxide.

(ii) The Administrator approves the State's determination under subdivision (i) of this subparagraph.

(3) In making the determinations required by subparagraph (2)(i) of this paragraph, the State shall, as a minimum, require the source to submit: Site information, plans, descriptions, specifications, and drawings showing the design of the source, calculations showing the nature and amount of emissions, a description of the manner in which the source will be operated and controlled, and the cost of control.

(4) (i) In determining best available control technology, the following shall be considered:

(*a*) Reasonably available control technology as defined in Appendix B to Part 51 of this chapter,

(*b*) The process, fuels, and raw materials employed,

(*c*) The engineering aspects of the application of various types of control techniques,

(*d*) Process and fuel changes, and

(*e*) The cost of the application of the control techniques, process changes, alternative fuels, etc.

(ii) A system of control which is determined by the State and approved by the Administrator to be adequate to comply with standards of performance for new stationary sources under Part 60 of this chapter may be deemed to constitute best available control technology.

(iii) In the case of sources identified at subparagraph (1)(i)(*a*) of this paragraph, best available control technology for sulfur oxides shall consist, as a minimum, of a control strategy determined to be capable of complying with standards of performance for new stationary sources specified in Part 60 of this chapter. However, individual analysis of each new or modified source which considers the availability of fuel and the cost and efficiency of other or additional control strategies may result in additional control for individual plants.

NOTE: Under the alternative definition of Best Available Control Technology, as set forth in the preamble, subdivision (iii) would be eliminated.

(5) (i) Prior to making the determinations required by subparagraph (2)(i) of this paragraph, the State shall provide opportunity for public comment on the information submitted by the owner or operator and on the agency's review of such information. Opportunity for public comment shall include, as a minimum:

(*a*) Availability for public inspection, in at least one location in the region affected, of the information submitted by the owner or operator, and the State or local agency's analysis of such information.

(*b*) A 30-day period for submittal of public comment, and

(*c*) A notice by prominent advertisement in the region affected of the location of the source information and analysis specified in subparagraphs (2)(i), and (3) of this paragraph.

(ii) Within 60 days from an owner or operator's submission of the information required under subparagraph (3) of this paragraph, the State shall also publicly announce and transmit in writing to the Administrator its determinations under subparagraph (2)(i) of this paragraph, together with:

(*a*) A copy of the public hearing notices issued in conformity with subdivision (i) of this subparagraph and

(*b*) A statement that the State has complied with the requirements of this paragraph.

(6) (i) The Administrator will notify the State of his determination and reasons for any disagreement under subparagraph (2)(ii) of this paragraph no later than 25 days following the State's submission of the information required under subparagraph (5)(ii) of this paragraph. (ii) The State will notify the

owner or operator in writing of the approval or denial to construct or modify a source within 90 days of an owner or operator's submission of the information required under subparagraph (3) of this paragraph.

(7) The Administrator may cancel an approval to construct if the construction is not begun within two years from the date of issuance, or if during the construction, work is suspended for one year.

(8) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with all local, State, or Federal regulations which are part of the applicable plan.

(9) The maximum allowable emissions for an Air Quality Control Region shall be the following:

(i) For particulate matter the product of the area (square miles) for an AQCR and 3 tons of particulate matter/year/square mile or 120 percent of the baseline emissions for particulate matter, whichever is greater.

(ii) For sulfur oxides the product of the area (square miles) of an AQCR and 10 tons of sulfur dioxide/year/square mile or 120 percent of the baseline emissions for sulfur dioxide, whichever is greater.

(10) The State shall make available to the Administrator upon his request:

(i) The baseline emission inventory for particulate matter and sulfur dioxide, and

(ii) An annually updated emission inventory for each affected AQCR for all pollutants to which this paragraph is applicable.

(e) *Regulation for preventing significant deterioration of air quality through a local definition of significant deterioration.* (1) This paragraph applies to sources identified below, the construction or modification of which is commenced after the date of proposal of this paragraph in the FEDERAL REGISTER.

(i) Any new or modified stationary source of a type listed below:

(*a*) Fossil-Fuel Fired Steam Electric Plants of more than 1000 million B.t.u. per hour heat input.

(*b*) Coal Cleaning Plants (thermal dryers).

(*c*) Kraft Pulp Mill Recovery Furnaces.

(*d*) Portland Cement Plants.

(*e*) Primary Zinc Smelters.

(*f*) Iron and Steel Mill Metallurgical Furnaces.

(*g*) Primary Aluminum Ore Reduction Plants.

(*h*) Primary Copper Smelters.

(*i*) Municipal Incinerators capable of charging more than 250 tons of refuse per day.

(*j*) Sulfuric Acid Plants.

(*k*) Petroleum Refineries.

(*l*) Lime Plants.

(*m*) Phosphate Rock Processing Plants.

(*n*) By-Product Coke Oven Batteries.

(*o*) Sulfur Recovery Plants.

(*p*) Carbon Black Plants (furnace process).

(ii) Any new or modified stationary source not identified in subdivision (i) of this subparagraph having a total annual potential emission rate on any premises equal to or greater than 4000 tons for any of the following pollutants.

(*a*) Particulate matter.

(*b*) Sulfur dioxide.

(*c*) Nitrogen oxides.

(*d*) Hydrocarbons.

(*e*) Carbon monoxide.

(2) No owner or operator shall commence construction or modification of a source to which this paragraph is applicable unless:

(i) The State in which the source is or will be located determines in accordance with this paragraph:

(*a*) That the source or modified portion of the source will be constructed and operated to employ best available control technology for minimizing emissions of particulate matter, sulfur dioxide, nitrogen oxides, hydrocarbons, and carbon monoxide.

(*b*) That particulate matter and sulfur dioxide emissions from the source when controlled by best available control technology will not cause significant deterioration in air quality;

(ii) The Administrator approves the State's determination under subdivision (i) (*a*) of this subparagraph.

(iii) The Administrator approves the procedure employed by the State in making the determination required by subdivision (i) (*b*) of this subparagraph.

(3) No owner or operator shall operate a source to which this paragraph applies unless the emission control system determined to constitute best available control technology and approved by the Administrator under this paragraph is fully installed and properly functioning.

(4) No determination or approval under this paragraph shall relieve any source from compliance with any local, State or Federal requirement which is part of the implementation plan, including any standard of performance under Part 60 of this chapter.

(5) (i) In determining best available control technology, the following shall be considered:

(*a*) Reasonably available control technology as defined in Appendix B to Part 51 of this chapter,

(*b*) The process, fuels, and raw material employed,

(*c*) The engineering aspects of the application of various types of control techniques,

(*d*) Process and fuel changes, and

(*e*) The cost of the application of the control techniques, process changes, alternative fuels, etc.

(ii) Except as provided in subdivision (iii) of this subparagraph a system of control which is determined by the State and approved by the Administrator to be adequate to comply with standards of performance for new stationary sources under Part 60 of this chapter may be deemed to constitute best available control technology.

(iii) In the case of sources identified at subparagraph (1) (i) (*a*) of this paragraph, best available control technology for sulfur oxides shall consist, as a minimum, of a control strategy determined to be capable of complying with standards of performance for new stationary sources specified in Part 60 of this chapter. However, individual analysis of each new or modified source which considers the availability of fuel and the cost and efficiency of other or additional control strategies may result in additional control for individual plants.

NOTE: Under the alternative definition of Best Available Control Technology, as set forth in the preamble, subdivision (iii) would be eliminated.

(6) In making the determinations required by subparagraph (2) (i) of this paragraph, the State shall, as a minimum, require the source to submit: site information, plans, descriptions, specifications, and drawings showing the design of the source, calculations showing the nature and amount of emissions, a description of the manner in which the source will be operated and controlled, the cost of control, an estimate of existing air quality levels, and the impact that the construction or modification will have on air quality levels and the air environment around the source.

(7) (i) Prior to making the determinations required by subparagraph (2) (i) of this paragraph, the State shall provide opportunity for public comment on the information submitted by the owner or operator and on the agency's analysis of the effect of such construction or modification on ambient air quality. Opportunity for public comment shall include, as a minimum:

(*a*) Availability for public inspection, in at least one location in the region affected, of the information submitted by the owner or operator, and the State or local agency's analysis of the effect on air quality.

(*b*) A 30-day period for submittal of public comment, and

(*c*) A notice by prominent advertisement in the region affected of the location of the source information and analysis specified in subparagraphs (2) (i), and (3) of this paragraph.

(ii) Within 90 days from an owner or operator's submission of the information required under subparagraph (3) of this paragraph, the State shall also publicly announce and transmit in writing to the Administrator its determinations under subparagraph (2) (i) of this paragraph, together with: (*a*) copies of all information prepared by the State under subparagraph (2) (i) of this paragraph; (*b*) a copy of the public notices issued in conformity with subdivision (i) of this subparagraph and (*c*) a statement that the State has complied with the requirements of this paragraph.

(8) (i) The Administrator will notify the State of his determination and reasons for any disagreement under subparagraph (2) (ii) of this paragraph no later than 25 days following the State's submission of the information required under subparagraph (6) (ii) of this paragraph.

(ii) The State will act within 120 days on an owner or operator's submission of

the information required under subparagraph (6) of this paragraph and will notify the owner or operator in writing of the approval or denial to construct or modify a source.

(9) The Administrator may cancel an approval to construct if the construction is not begun within two years from the date of issuance, or if during the construction, work is suspended for one year.

(f) *Regulation for preventing significant deterioration of air quality through application of area classification.* (1) This paragraph applies to sources identified below, the construction or modification of which is commenced after the date of proposal of this paragraph in the FEDERAL REGISTER.

(i) Any new or modified stationary source of a type listed below:

(a) Fossil-Fuel Fired Steam Electric Plants of more than 1000 million B.t.u. per hour heat input.

(b) Coal Cleaning Plants (thermal dryers).

(c) Kraft Pulp Mill Recovery Furnaces.

(d) Portland Cement Plants.

(e) Primary Zinc Smelters.

(f) Iron and Steel Mill Metallurgical Furnaces.

(g) Primary Aluminum Ore Reduction Plants.

(h) Primary Copper Smelters.

(i) Municipal Incinerators capable of charging more than 250 tons of refuse per day.

(j) Sulfuric Acid Plants.

(k) Petroleum Refineries.

(l) Lime Plants.

(m) Phosphate Rock Processing Plants.

(n) By-Product Coke Oven Batteries.

(o) Sulfur Recovery Plants.

(p) Carbon Black Plants (furnace process).

(ii) Any new or modified stationary source not identified in subdivision (i) of this subparagraph having a total annual potential emission rate on any premises equal to or greater than 4000 tons for any of the following pollutants:

(a) Particulate matter.

(b) Sulfur dioxide.

(c) Nitrogen oxides.

(d) Hydrocarbons.

(e) Carbon monoxide.

(2) For purposes of this paragraph areas of a State classified as Zone I or Zone II shall be limited to increases in pollutant concentrations shown below:

AREA CLASSIFICATION

Pollutant	Zone I	Zone II
Particulate matter:		
Annual geometric mean	5	10
24-hour maximum	10	30
Sulfur dioxide:		
Annual arithmetic mean	2	15
24-hour maximum	5	100
3-hour maximum	25	300

(3) (i) All areas of all States are classified as Zone II as of the effective date of this regulation.

(ii) The State may, within six (6) months subsequent to the effective date of this regulation:

(a) Submit to the Administrator, after a public hearing has been held, a designation showing certain areas of the State which are classified Zone I.

(b) Submit for the Administrator's approval plans showing certain limited areas of the State which may be allowed to increase concentrations of particulate matter and sulfur dioxide up to the national ambient air quality standards provided that:

(1) Public hearings are held.

(2) Appropriate documentation is submitted to justify such a request. This documentation shall include an explanation of the special characteristics of the area which demonstrates why this area should be allowed to increase in concentration up to the national standard. This explanation shall include such materials as developmental plans, location of raw materials such as mineral deposits, markets, growth and economic projections. In addition, the State must demonstrate that they considered classifying as Zone I areas of he State of recreational, ecological, and scenic value.

(4) No owner or operator shall commence construction or modification of a source to which this paragraph is applicable unless:

(i) The State in which the source is or will be located determines in accordance with this paragraph:

(a) That the effect on air quality concentrations of the source or modification considered with the effect on air quality concentrations of all other existing, new, and modified sources will not cause the baseline air quality concentration in any zone of the State to be increased above the limits shown in subparagraph (2) of this paragraph.

(b) That the source or modified portion of the source will be constructed and operated to employ best available control technology for minimizing emissions of particulate matter, sulfur dioxide, nitrogen oxides, hydrocarbons, and carbon monoxide.

(ii) The Administrator shall approve the State's determination under subdivision (i) of this paragraph.

(5) In makng the determinations required by subparagraphs (4)(i) of this paragraph, the State shall, as a minimum, require the source to submit: Site information, plans, descriptions, specifications, and drawings showing the design of the source, calculations showing the nature and amount of emissions, a description of the manner in which the source will be operated and controlled, the cost of control, an estimate of existing air quality levels, and the impact that the construction or modification will have on air quality levels and the air environment around the source.

(6) (i) In determining best available control technology, the following shall be considered:

(a) Reasonably available control technology as defined in Appendix B to Part 51 of this chapter,

(b) The process, fuels, and raw materials employed.

(c) The engineering aspects of the application of various types of control techniques,

(d) Process and fuel changes, and

(e) The cost of the application of the control techniques process changes, alternative fuels, etc.

(ii) A system of control which is determined by the State and approved by the Administrator to be adequate to comply with standards of performance for new stationary sources under Part 60 of this chapter may be deemed to constitute best available control technology.

(iii) In the case of sources identified at subparagraph (1)(i)(a) of this paragraph, best available control technology for sulfur oxides shall consist, as a minimum, of a control strategy determined to be capable of complying with standards of performance for new stationary sources specified in Part 60 of this chapter. However, individual analysis of each new or modified source which considers the availability of fuel and the cost and efficiency of other or additional control strategies may result in additional control for individual plants.

NOTE: Under the alternative definition of Best Available Control Technology, as set forth in the preamble, subdivision (iii) would be eliminated.

(7) The owner or operator of a source subject to the provisions of subparagraph (4) of this paragraph shall install, or cause to be installed, a minimum of two continuous ambient air quality monitoring instruments for sulfur dioxide and/or two intermittent ambient air quality monitoring instruments for particulate matter.

(i) The State shall specify which pollutant(s) the source shall monitor.

(ii) When source, meteorological and/or terrain conditions warrant, the State may require additional samplers above the minimum number specified in this paragraph.

(iii) Such systems shall include one site equipped to monitor wind speed and wind direction.

(iv) The instruments shall meet the performance and operating specifications of § 51.17(a)(1) of this chapter.

(v) The locations of such instruments shall be located in areas of expected maximum concentrations determined by meterological diffusion modeling or best judgment or in any other area specified by the State.

(vi) The instruments shall be maintained, calibrated, and operated in accordance with the methods prescribed by the manufacturer of such instrument(s) and other procedures consistent with good engineering practice.

(vii) The owner or operator of the source subject to this paragraph shall maintain a record of all measurements required by this subparagraph. Measurement results shall be summarized monthly and reported to the State semi-annually, and shall be submitted within 45 days after the end of the reporting period. Reporting periods are January 1–June 30, July 1–December 31, with the

initial reporting period starting as indicated in subdivision (viii) of this subparagraph.

(viii) The continuous monitoring and recordkeeping requirements of this subparagraph shall become applicable six months after initial start-up of the source.

(ix) Information collected pursuant to this subparagaraph shall be made available to the Administrator upon his request.

(x) The State may demonstrate to the Administrator that the existing air quality surveillance system in the area in which the source is to be constructed or modified meets the requirements of this subparagraph.

(8) (i) Prior to maikng the determinations required by subparagraphs (4) (i) of this paragraph, the State shall provide opportunity for public comment on the information submitted by the owner or operator and on the agency's analysis of the effect of such construction or modification on ambient air quality. Opportunity for public comment shall include, as a minimum:

(*a*) Availability for public inspection, in at least one location in the region affected, of the information submitted by the owner or operator, and the State or local agency's analysis of the effect on air quality.

(*b*) A 30-day period for submittal of public comment, and

(*c*) A notice by prominent advertisement in the region affected of the location of the source information and analysis specified in subparagraph (4) (i) of this paragraph.

(ii) Within 90 days from an owner or operator's submission of the information required under subparagraph (5) of this paragraph, the State shall also publicly announce and transmit in writing to the Administrator its determination under subparagraph (4) (i) of this paragraph, together with:

(*a*) Copies of all information prepared by the State under subparagraph (4) (i) of this paragraph,

(*b*) A copy of the public notices issued in conformity with subdivision (i) of this subparagraph, and

(*c*) A statement that the State has complied with the requirements of this paragraph.

(9) (i) The Administrator will notify the State of his determination and reasons for any disagreement under subparagraph (4) (ii) of this paragraph no later than 25 days following the State's submission of the information required under subparagraph (8) (ii) of this paragraph. (ii) The State will notify the owner or operator in writing of the approval or denial to construct or modify a source within 120 days of the owner or operator's submission of the information required under subparagraph (5) of this paragraph.

(10) The Administrator may cancel an approval to construct if the construction is not begun within two years from the date of issuance, or if the construction work is suspended for one year.

(11) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with all local, State, or Federal regulations which are part of the applicable plan.

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