

Register

April 8, 1974—Pages 12721-12848

MONDAY, APRIL 8, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 68

Pages 12721-12848

PART I



HIGHLIGHTS OF THIS ISSUE

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

LEAD-BASED PAINT—HEW requests information; hearing 5-20-74	12774
MEDICARE—HEW proposes limitation on liability; comments 5-8-74	12763
SUPPLEMENTAL SECURITY INCOME—HEW rules on verification of age; effective 4-8-74	12731
COMMUNITY FACILITIES—USDA rules on loans; effective 4-8-74	12728
NET WEIGHT LABELING—USDA extends comment period; comments by 5-31-74	12763
ENVIRONMENTAL IMPACT STATEMENTS—DoD rules on policy, preparation, and coordination; effective 4-15-74	12737
BIOMEDICAL RADIO TELEMETERING—FCC permits use of Band 38-41 MHz; effective 5-14-74	12748
PRIME TIME ACCESS RULE—FCC extends filing period for oppositions to petitions for reconsideration; oppositions by 4-3-74 and replies by 4-10-74	12748
ST. LAWRENCE SEAWAY—DoT prescribes penalties for rule violators; effective 4-1-74	12746

(Continued inside)

PART II:

NONFERROUS METALS MANUFACTURING POINT SOURCE CATEGORY—

EPA rules on effluent limitations guidelines; effective 6-7-74	12822
EPA proposal on effluent limitations guidelines; comments by 5-8-74	12829

PART III:

FERTILIZER MANUFACTURING POINT SOURCE CATEGORY—

EPA rules on effluent guidelines and standards; effective 6-7-74	12832
EPA proposal on effluent limitations guidelines; comments by 5-8-74	12842

PART IV:

PROPANE—FEO proposal on allocation; comments by 4-15-74	12845
---	-------

REMINDERS

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

Rules Going Into Effect Today

This list includes only rules that were published in the FEDERAL REGISTER after October 1, 1972.

page no.
and date

FCC—FM Broadcast stations in Marion,
Ohio..... 7790; 2-28-74
FHLBB—Mutual-to-stock conversions
(2 documents)..... 9142; 3-7-74
—Conversions of insured institutions
from mutual to stock form. 9142;
3-7-74

federal register

Phone 523-5240

Area Code 202



Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for \$5.00 per month or \$45 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

HIGHLIGHTS—Continued

MARINE FIXED AND MARINE RECEIVER TEST STATIONS—FCC rule on conversion from double sideband to single sideband radiotelephony; effective 5-14-74..... 12748

GRAIN AND GRAIN PRODUCTS—ICC rules on loss and damage claims..... 12753

EXPORT PROGRAMS—

USDA revokes payment rules on rice, wheat, and flour (3 documents); effective 4-8-74..... 12727, 12728

USDA rescinds marketing certificate regulations; effective 4-8-74..... 12727

MERCHANT VESSELS—DoT rules on lifeboats; comments by 5-5-74..... 12747

MEETINGS—

SEC: Advisory Committee on a Model Compliance Program for Broker-dealers, 5-20, 5-21, and 5-22-74.. 12800

VA: Medical Research Service Merit Review Boards, April and May meetings..... 12803

Treasury Department: Debt management advisory committees, 4-30 and 5-1-74..... 12772

National Foundation on the Arts and the Humanities: National Endowment for the Arts Visual Arts Advisory Panel, 4-10-74..... 12799

National Endowment for the Arts Museum Advisory Panel, 4-10 and 4-11-74..... 12799

HUD: Assistant Secretary for Equal Opportunity, 5-9 and 5-10-74..... 12774

Commission on Civil Rights: Massachusetts State Advisory Committee, 4-8-74..... 12780

Nevada State Advisory Committee, 4-11-74..... 12781

Arizona State Advisory Committee, 4-10-74..... 12780

Maine State Advisory Committee, 4-9-74..... 12780

CLC: Food Industry Wage and Salary Committee, 4-11-74..... 12781

Contents

AGRICULTURAL MARKETING SERVICE

Proposed Rules

Valencia oranges grown in Arizona and designated parts of California; extension of current size limitations..... 12762

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Rules and Regulations

Export wheat marketing certificate regulations; revocation.... 12727

AGRICULTURE DEPARTMENT

See Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Farmers Home Administration; Food and Nutrition Service; Packers and Stockyards Administration.

ALCOHOL, TOBACCO, AND FIREARMS BUREAU

Rules and Regulations

Carbon dioxide in non-domestic still wines; imports from Virgin Islands..... 12733

Notice

Granting of relief..... 12772

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Proposed Rules

Meat and poultry products inspection; extension of time for comments..... 12763

ARMY DEPARTMENT

See Engineers Corps.

ASSISTANT SECRETARY FOR EQUAL OPPORTUNITY OFFICE

Notices

Housing problems of Spanish speaking Americans; meeting... 12774

ATOMIC ENERGY COMMISSION

Notices

Commonwealth Edison Co.; availability of draft environmental statement..... 12775

Toledo Edison Co., et al.; assignment of members of the Atomic Safety and Licensing Appeal Board..... 12776

Virginia Electric and Power Co.; evidentiary hearing..... 12776

CIVIL AERONAUTICS BOARD

Rules and Regulations

Fuel consumption and inventories; reporting requirements; correction..... 12731

Notices

Hearings, etc.:

Los Angeles Airways, Inc.; correction..... 12780

International Air Transport Association (2 documents)..... 12776, 12778

Union de Transports Aeriens (U.T.A.); correction..... 12780

CIVIL RIGHTS COMMISSION

Notices

State Advisory Committee meetings:

Arizona..... 12780

Maine..... 12780

Massachusetts..... 12780

Nevada..... 12781

CIVIL SERVICE COMMISSION

Rules and Regulations

Excepted service; Department of Housing and Urban Development..... 12727

COAST GUARD

Rules and Regulations

Lifesaving equipment; lifeboats for merchant vessels..... 12747

Proposed Rules

Boundary lines of inland waters; Strait of Juan de Fuca, Haro Strait, and Strait of Georgia; amendment of lines of demarcation..... 12767

COMMODITY CREDIT CORPORATION

Rules and Regulations

Flour, rice and wheat export programs; terms and conditions (3 documents)..... 12727, 12728

COST OF LIVING COUNCIL

Notices

Food Industry Wage and Salary Committee; meeting..... 12781

COUNCIL ON ENVIRONMENTAL QUALITY

Notices

Environmental impact statements; availability..... 12781

DEFENSE DEPARTMENT

See Engineers Corps.

ENGINEERS CORPS

Rules and Regulations

Environmental impact statements; policies and procedures..... 12737

(Continued on next page)

12723

ENVIRONMENTAL PROTECTION AGENCY**Rules and Regulations**

- Effluent guidelines and standards:
Fertilizer manufacturing point
source category..... 12832
Nonferrous metals manufac-
turing point source category... 12822

Proposed Rules

- Effluent limitations guidelines:
Fertilizer manufacturing point
source category..... 12842
Nonferrous metals manufactur-
ing point source category..... 12829
State plans for the implementa-
tion of the national ambient air
quality standards; miscellane-
ous corrections..... 12769

Notices

- Receipt of applications for pesti-
cide registration; data to be con-
sidered in support of applica-
tions..... 12784

FARMERS HOME ADMINISTRATION**Rules and Regulations**

- Community facility loans..... 12728

FEDERAL AVIATION ADMINISTRATION**Rules and Regulations**

- Standard instrument approach
procedures; changes and pro-
cedures..... 12730

Proposed Rules

- Boeing model 727 series airplanes;
proposed inspection and/or re-
placement requirement; correc-
tion..... 12768
Control zones and transition
areas; alteration and designa-
tion (4 documents)..... 12769
RNAV Route; proposed altera-
tion; correction..... 12769

FEDERAL COMMUNICATIONS COMMISSION**Rules and Regulations**

- Radio broadcast services; prime
time access..... 12748
Radio frequency devices; low
power biomedical telemetering
equipment in certain frequency
band..... 12748
Stations on land in the Maritime
Services and Alaska-public fixed
stations; scheduled date for
conversion of marine fixed and
marine receiver test stations... 12748

Proposed Rules

- KSL, Inc.; extension of time for
filing reply comments..... 12771

Notices

- Hearings, etc.:*
Communications Satellite Corp. 12785
J. R. Broadcasting Co. and the
Pentecostal Church of God of
America, Inc..... 12785
KOWL, Inc..... 12846

FEDERAL ENERGY OFFICE**PROPOSED RULES:**

- Propane allocation program..... 12846

FEDERAL HIGHWAY ADMINISTRATION**Rules and Regulations**

- Bikeways and walkways in con-
junction with Federal and Fed-
eral-aid highways; correction... 12732

FEDERAL MARITIME COMMISSION**Notices**

- Agreements filed:
United States Gulf/Peru south-
bound pooling..... 12787
United States Gulf/Japan Cot-
ton Pool..... 12788
Applications for independent
ocean freight forwarder li-
censes..... 12786
Prudential-Grace Lines, Inc., et
al.; investigation and hearing... 12787

FEDERAL POWER COMMISSION**Rules and Regulations**

- Procedure permitting additional
time for filing after service by
mail..... 12731

Notices

- Hearings, etc.:*
Arizona Public Service Co..... 12788
Belco Petroleum Corp. et al.... 12788
Consolidated Gas Supply Corp.
et al..... 12789
Delmarva Power and Light Co... 12790
El Paso Natural Gas Co..... 12791
Iowa Power and Light Co..... 12792
Midwestern Gas Transmission
Co. (2 documents)..... 12792, 12793
Mississippi Power Co..... 12794
New England Power Co..... 12794
Northwest Pipeline Corp..... 12796
Panhandle Eastern Pipe Line
Co. et al (2 documents)..... 12796
Southern California Edison Co. 12797
United Gas Pipe Line Co. et al.. 12798

FOOD AND NUTRITION SERVICE**Rules and Regulations**

- National school lunch program;
school breakfast and nonfood
assistance programs and State
administrative expenses; re-
quirements for meals; correc-
tion..... 12727

GENERAL SERVICES ADMINISTRATION**Notices**

- Secretary of Defense; delegation
of authority..... 12798

HAZARDOUS MATERIALS REGULATIONS BOARD**Rules and Regulations**

- Transportation of hazardous ma-
terials; miscellaneous amend-
ments..... 12749

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

- See Social Security Administra-
tion.*

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

*See also Assistant Secretary for
Equal Opportunity Office.*

Rules and Regulations

- Office of Assistant Secretary for
Community Development; dele-
tion of certain regulations..... 12732

Notices

- Procedures for implementing the
Lead-Based Paint Act; request
for comments and information
and hearing..... 12774

INDIAN AFFAIRS BUREAU**Rules and Regulations**

- Roads projects; public hearings... 12732

Proposed Rules

- Osage Reservation lands; leasing
for oil and gas mining..... 12755

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)**Notices**

- Hearings, etc.:*
Old Ben Coal Co. et al..... 12799
Rex Coal Co..... 12799

INTERIOR DEPARTMENT

See also Indian Affairs Bureau.

Notices

- Fort Sumter and Fort Moultrie
National Monument, S.C.; avail-
ability of draft environmental
statement..... 12773

INTERNAL REVENUE SERVICE

*See Alcohol, Tobacco, and Fire-
arms Bureau.*

INTERSTATE COMMERCE COMMISSION**Rules and Regulations**

- Commercial zone; correction.... 12754
Handling of bulk grain and grain
products; loss and damage
claims..... 12753

Notices

- Assignment of hearings..... 12803
Baltimore and Ohio Railroad Co.
et al.; abandonment of certain
railroad lines (2 documents)... 12803
Central Railroad Company of New
Jersey; rerouting of railroad
traffic..... 12804
Fourth section application for re-
lief..... 12804
Motor Carrier Board transfer pro-
ceedings..... 12804

JUSTICE DEPARTMENT

*See Law Enforcement Assistance
Administration.*

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION**Notices**

- Criminal justice information sys-
tems; hearing..... 12773

MANAGEMENT AND BUDGET OFFICE

Notices

Clearance of reports; list of requests 12799

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Notices

Meetings:

Museum Advisory Panel..... 12799

Visual Arts Advisory Panel..... 12799

PACKERS AND STOCKYARDS ADMINISTRATION

Notices

Buster and Co., et al.; complaint, order of suspension and hearing 12773

POSTAL RATE COMMISSION

Notices

Visits to Post Offices..... 12800

SECURITIES AND EXCHANGE COMMISSION

Proposed Rules

Foreign access to the United States securities markets; extension of time for response to release No. 34-10634..... 12771

Notices

Broker-Dealer Model Compliance Program Advisory Committee; meeting 12800

Hearings, etc.:

Channing Bond Fund, Inc..... 12800

Channing Securities, Inc..... 12801

Channing Shares, Inc..... 12801

Channing Venture Fund, Inc... 12801

Geon Industries, Inc..... 12802

Transok Pipe Line Co. and Public Service Co. of Oklahoma... 12802

SOCIAL SECURITY ADMINISTRATION

Rules and Regulations

Supplemental security income for the aged, blind, and disabled; determination of age..... 12731

Proposed Rules

Hospital insurance benefits; limitation on liability of beneficiary where Medicare claims are disallowed 12763

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Rules and Regulations

Seaway regulations; criminal and civil penalties..... 12746

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Aviation Administration; Federal Highway Administration; Hazardous Materials Regulations Board; St. Lawrence Seaway Development Corporation.

TREASURY DEPARTMENT

See also Alcohol, Tobacco and Firearms Bureau.

Notices

Debt management advisory committees; meetings..... 12772

VETERANS ADMINISTRATION

Rules and Regulations

Chief Benefits Director; delegation of authority..... 12747

Notices

Medical Research Service Merit Review Boards; meetings..... 12803

List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1974, and specifies how they are affected.

5 CFR		18 CFR		38 CFR	
213.....	12727	1.....	12731	2.....	12747
7 CFR		20 CFR		40 CFR	
225.....	12727	416.....	12731	418.....	12832
778.....	12727	PROPOSED RULES:		421.....	12822
1481.....	12727	405.....	12763	PROPOSED RULES:	
1483 (2 documents).....	12728	23 CFR		52.....	12769
1823.....	12728	652.....	12732	418.....	12842
PROPOSED RULES:		24 CFR		421.....	12829
908.....	12762	41.....	12732	46 CFR	
9 CFR		500.....	12732	160.....	12747
PROPOSED RULES:		550.....	12732	47 CFR	
318.....	12763	25 CFR		15.....	12748
381.....	12763	162.....	12732	73.....	12748
10 CFR		PROPOSED RULES:		81.....	12748
PROPOSED RULES:		183.....	12755	PROPOSED RULES:	
211.....	12846	26 CFR		74.....	12771
14 CFR		170.....	12734	49 CFR	
97.....	12730	250.....	12735	171.....	12750
241.....	12731	251.....	12736	172.....	12750
PROPOSED RULES:		33 CFR		173.....	12751
39.....	12768	209.....	12737	174.....	12752
71 (2 documents).....	12768	401.....	12746	178.....	12752
75 (3 documents).....	12769	PROPOSED RULES:		1037.....	12753
17 CFR		82.....	12767	1048.....	12754
PROPOSED RULES:					
240.....	12771				

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 5—Administrative Personnel CHAPTER I—CIVIL SERVICE COMMISSION PART 213—EXCEPTED SERVICE Department of Housing and Urban Development

Section 213.3384 is amended to reflect the following title change: from one Staff Assistant to the Assistant Secretary to one Staff Assistant to the Deputy Assistant Secretary for Community Planning and Development.

Effective on April 8, 1974, § 213.3384 (d) (10) is amended as follows:

§ 213.3384 Department of Housing and Urban Development.

(d) Office of the Assistant Secretary for Community Planning and Development.

(10) One Staff Assistant to the Deputy Assistant Secretary.

((5 U.S.C. secs. 3301, 3302); E.O. 10577, 3 CFR 1954-58 comp. p. 218)

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

[FR Doc. 74-8003 Filed 4-5-74; 8:45 am]

Title 7—Agriculture CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE NATIONAL SCHOOL LUNCH PROGRAM; SCHOOL BREAKFAST AND NONFOOD ASSISTANCE PROGRAMS AND STATE ADMINISTRATIVE EXPENSES; SPECIAL FOOD SERVICE PROGRAM FOR CHILDREN

Requirements for Meals

Correction

In FR Doc. 6994, appearing at page 11247 in the issue for Wednesday, March 27, 1974, in Part 225, Appendix A, the table heading which reads "Nutritional levels of grain-fruit producers" should be changed to read "Nutritional levels of grain-fruit products."

CHAPTER VII—AGRICULTURE STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—SPECIAL PROGRAMS

[Amdt. 5]

PART 778—EXPORT WHEAT MARKETING CERTIFICATE REGULATIONS

Revocation

This amendment is issued to terminate the Export Wheat Marketing Certificate

Regulations which provide for the acquisition of export marketing certificates on exports of wheat. The Agriculture and Consumer Protection Act of 1973 provides that sections 379(d), 379(e), 379(f), 379(g), 379(h), 379(i) and 379(j), of the Agricultural Adjustment Act of 1938 which deal with marketing certificate requirements for processors and exporters of wheat shall not be applicable to wheat processed or exported during the period July 1, 1973 through June 30, 1978.

Amendment 4 (36 FR 13897) to the Export Wheat Marketing Certificate Regulations temporarily suspended the regulations.

Since the Agriculture and Consumer Protection Act of 1973 terminates the requirement for export marketing certificates during the period July 1, 1973, through June 30, 1978, it is the Department's view that to continue having the regulations appear in the Code of Federal Regulations is inadvisable and may lead exporters and the general public to believe that if the requirement for certificates is reinstated, the regulations now appearing in the Code of Federal Regulations would apply.

Since this amendment terminates the Export Wheat Marketing Certificate Regulations it is hereby found and determined that compliance with the notice, public procedure and 30-day effective date requirements of section 4 of the Administrative Procedure Act (60 Stat. 238, 5 U.S.C. 553) is unnecessary and contrary to the public interest and that this amendment shall become effective as hereinafter provided.

In view of the foregoing, Title 7, Code of Federal Regulations, Part 778, Export Wheat Marketing Certificate Regulations (32 FR 14727, 32 FR 16251, 33 FR 10183, 34 FR 6727, FR 9538 and 36 FR 13897) are hereby revoked.

AUTHORITY: 87 Stat. 228.

Effective date. This amendment shall become effective on April 8, 1974. This amendment shall not affect any claim arising under the regulations prior to such time.

Signed at Washington, D.C. on April 1, 1974.

DAVID L. HUME,
Vice President, Commodity
Credit Corporation and Administrator, Foreign Agricultural Service.

[FR Doc. 74-7924 Filed 4-5-74; 8:45 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—EXPORT PROGRAMS

[Amdt. 2]

PART 1481—RICE

Subpart—Rice Export Program (GR-369) Revision IV

Basis and purpose. This subpart contains the terms and conditions under which an exporter of milled or brown rice milled from rough rice produced in the United States may obtain an export payment from the Commodity Credit Corporation. The provisions of GR-369 are implemented through periodic announcements of export payment rates. Rates payable by CCC are in such amounts as CCC determines will accomplish the objective as described in 7 CFR 1481.101. Since December 21, 1972, a zero payment rate has been in effect since it has not been necessary to make export payments to accomplish the objectives of the program. It is anticipated that for the foreseeable future, a zero rate will continue in effect.

The Department is making an evaluation of the need for a rice export program in the future, and generally, the method of operating such a program. Results of the study so far show that certain changes would need to be made in the detailed operating regulations if a program is reinstated. It is the Department's view that to continue having the regulations appear in the Code of Federal Regulations is inadvisable and may lead the general public to believe that if the program be reinstated, the regulations now appearing in the Code of Federal Regulations would apply.

Certain provisions of GR-369 relate to the approval of sales made pursuant to the regulations issued under Pub. L. 480. In the future, appropriate provisions will be included in the purchase authorizations as to the method of obtaining approval of sales for financing under Pub. L. 480.

In view of the foregoing, the terms and conditions of Title 7, Code of Federal Regulations, Part 1481, Subpart Rice Export Program (GR-369) (35 FR 7880, FR 8472 and 35 FR 18956), are hereby revoked.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070 and 1072 (15 U.S.C. 714 b and c); sec. 102, 68 Stat. 454, as amended (7 U.S.C. 1702).

Effective date. This amendment shall become effective on April 8, 1974. This amendment shall not affect any contract entered into between exporters and CCC under GR-369 prior to such time.

Signed at Washington, D.C. on April 1, 1974.

DAVID L. HUME,
Vice President, Commodity
Credit Corporation and Ad-
ministrator, Foreign Agricul-
tural Service.

[FR Doc.74-7925 Filed 4-5-74;8:45 am]

[Amdt. 1]

PART 1483—WHEAT AND FLOUR

Subpart—Wheat Export Program (GR-345) Terms and Conditions

Basis and purpose. This subpart contains the terms and conditions under which an exporter of wheat produced in the United States may obtain an export payment from the Commodity Credit Corporation. The provisions of GR-345 are implemented through periodic announcements of export payment rates. Rates payable by CCC are in such amounts as CCC determines will accomplish the objective as described in 7 CFR 1483.101. Since September 22, 1972, a zero payment rate has been in effect since it has not been necessary to make export payments to accomplish the objectives of the program. It is anticipated that for the foreseeable future, a zero rate will continue in effect.

The Department is making an evaluation of the need for a wheat export program in the future, and generally, the method of operating such a program. Results of the study so far show that certain changes would need to be made in the detailed operating regulations if a program is reinstated. It is the Department's view that to continue having the regulations appear in the Code of Federal Regulations is inadvisable and may lead the general public to believe that if the program be reinstated, the regulations now appearing in the Code of Federal Regulations would apply.

Certain provisions of GR-345 relate to the approval of sales made pursuant to the regulations issued under Public Law 480. In the future, appropriate provisions will be included in the purchase authorizations as to the method of obtaining approval of sales for financing under Pub. L. 480.

In view of the foregoing, the terms and conditions of Title 7, Code of Federal Regulations, Part 1483, Subpart Wheat Export Program (GR-345) (36 FR 13899, 36 FR 14382 and 36 FR 14630), are hereby revoked.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070 and 1072 (15 U.S.C. 714 b and c), sec. 102, 68 Stat. 454, as amended (7 U.S.C. 1702).

Effective date. This amendment shall become effective on April 8, 1974. This amendment shall not affect any contract entered into between exporters and CCC under GR-345 prior to such time.

Signed at Washington, D.C. on April 1, 1974.

DAVID L. HUME,
Vice President, Commodity
Credit Corporation and Ad-
ministrator, Foreign Agricul-
tural Service.

[FR Doc. 74-7926 Filed 4-5-74;8:45 am]

[Amdt. 5]

PART 1483—WHEAT AND FLOUR

Subpart—Flour Export Program (GR-346) Terms and Conditions

Basis and purpose. This subpart contains the terms and conditions under which an exporter of flour milled from wheat produced in the United States may obtain an export payment from the Commodity Credit Corporation. The provisions of GR-346 are implemented through periodic announcements of export payment rates. Rates payable by CCC are in such amounts as CCC determines will accomplish the objective as described in 7 CFR 1483.201. Since January 10, 1973, except for refunds of domestic certificate costs, a zero payment rate has been in effect since it has not been necessary to make export payments to accomplish the objectives of the program. It is anticipated that for the foreseeable future, a zero rate will continue in effect.

The Agriculture and Consumer Protection Act of 1973 terminated the requirement for the acquisition of domestic marketing certificates for wheat processed on and after July 1, 1973. Accordingly, flour processed beginning July 1, 1973, which is exported has not been eligible for a refund of the domestic certificate under GR-346.

The Department is making an evaluation of the need for a flour export program in the future, and generally, the method of operating such a program. Results of the study so far show that certain changes would need to be made in the detailed operating regulations if a program is reinstated. It is the Department's view that to continue having the regulations appear in the Code of Federal Regulations is inadvisable and may lead the general public to believe that if the program be reinstated, the regulations now appearing in the Code of Federal Regulations would apply.

Certain provisions of GR-346 relate to the approval of sales made pursuant to the regulations issued under Public Law 480. In the future, appropriate provisions will be included in the purchase authorizations as to the method of obtaining approval of sales for financing under Pub. L. 480.

In view of the foregoing, the terms and conditions of Title 7, Code of Federal Regulations, Part 1483, Subpart

Flour Export Program (GR-346) (33 FR 15633, 33 FR 16071, 34 FR 609, 34 FR 6769, 35 FR 18505 and 36 FR 17028), are hereby revoked.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070 and 1072 (15 U.S.C. 714 b and c), sec. 102, 68 Stat. 454, as amended (7 U.S.C. 1702).

Effective date. This amendment shall become effective on April 8, 1974. This amendment shall not affect any contract entered into between exporters and CCC under GR-346 prior to such time.

Signed at Washington, D.C., on April 1, 1974.

DAVID L. HUME,
Vice President, Commodity
Credit Corporation and Ad-
ministrator, Foreign Agricul-
tural Service.

[FR Doc.74-7927 Filed 4-5-74;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FHA Instruction 442.1]

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

Subpart A—Community Facility Loans

Subpart A, Community Facility Loans, of 7 CFR Part 1823 (38 FR 29025), is herewith amended. Inasmuch as the changes are minor in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary. The following editorial and procedural changes are being made:

1. Section 1823.2(a) is amended to include the requirement for refinancing by borrowers under certain circumstances;
2. Section 1823.2(a)(1)(i) is amended by adding reference to § 1823.6(a);
3. Section 1823.3(c)(9)(i) is amended by changing "for" to "or";
4. Section 1823.5(b)(1) is amended to provide additional guidance when establishing initial payment dates;
5. Section 1823.13(b)(2) is deleted. The \$500,000 limit on nonpublic body notes has been deleted;
6. Section 1823.13(b)(3) has been redesignated as paragraph (2) without change;
7. Section 1823.24(d) is amended to include additional guidance when obtaining water purchase contracts;
8. Section 1823.27 is amended to show where guide construction contracts may be reviewed and obtained;
9. Section 1823.28 is amended by changing the reference in the last line from § 1823.13(b)(3) to § 1823.13(b)(2);

10. Section 1823.29(c)(3) is amended to provide for evidence of payment to be furnished for contracts when a performance and payment bond is not furnished;

11. Section 1823.45(a) is amended by deleting the \$500,000 limitation on promissory notes;

12. Section 1823.45(b) is amended by deleting the \$500,000 limitation on promissory note (in subparagraph (1)) and combining subparagraph (2) with paragraph (b);

13. Section 1823.45(c)(1) is amended by deleting the \$500,000 limitation on promissory notes;

14. Section 1823.46(c) is amended by including additional reference to annual interest payments;

15. Section 1823.47(a) is amended concerning the amount of bond instruments provided for in the bond resolution or ordinance;

16. Section 1823.47(e) is amended to provide additional guidance when establishing initial payment dates.

As amended Subpart A reads as follows:

§ 1823.2 Applicant eligibility and priority.

(a) Applicants eligible for loans include but are not limited to municipalities, counties and other political subdivisions of a State, such as districts and authorities; and associations, cooperatives and corporations operated on a not-for-profit basis, Indian tribes on Federal and State reservations and other Federally recognized Indian tribes, and existing private corporations even though organized under the general profit corporation laws may come within this definition if it actually will be operated on a not-for-profit basis under such charter, bylaws, mortgage, or supplementary agreement provisions as may be required as a condition of loan approval, which are unable to finance the proposed project from its own resources or through commercial credit at reasonable rates and terms; and have or will have the legal authority necessary for constructing, operating, and maintaining the proposed facility or service and for obtaining, giving security for, and repaying the proposed loan. FHA shall require an agreement that if at any time it shall appear to the Government that the Borrower is able to refinance the amount of the indebtedness then outstanding, in whole or in part, by obtaining a loan for such purposes from responsible cooperative or private credit sources, at reasonable rates and terms for loans for similar purposes and periods of time, the Borrower will, upon request of the Government, apply for and accept such loan in sufficient amount to repay the Government and will take all such action as may be required in connection with such loan.

(1) Loans for facilities providing a utility type service such as water and sewer systems, fire and rescue, natural gas distribution systems, cable TV and the like may be made to other than public body type organizations. Security for

such loans will be obtained in accordance with § 1823.6(a).

§ 1823.3 Eligible loan purposes.

(c) * * *
(9) * * *
(1) The debts were incurred for the facility or part thereof or service to be installed or improved with the loan.

§ 1823.5 Rates and terms.

(b) * * *
(1) Payment date. Insofar as loan payments are consistent with income availability, applicable State statutes, and commercial customs in the preparation of bonds, they should be scheduled on a monthly basis. If legally permissible and income is available on a monthly basis, bonds calling for payments on an annual or semiannual basis shall be supplemented with an agreement providing for monthly payments so long as they are held or insured by FHA. Such agreements will be accomplished not later than the time of loan closing. Where the evidence of indebtedness requires monthly payments, such payments will be scheduled beginning with the first day of the month following loan closing or the end of any approved deferment period. In those cases where evidence of indebtedness calls for annual or semiannual payments, they will be scheduled beginning with the first day of the sixth or twelfth full month, respectively, following loan closing or the end of any approved deferment period. Payments should be submitted to the FHA Finance Office by the borrower. The borrower will be given a monthly payment card packet at the time of loan closing.

§ 1823.13 Closing loans and fund delivery.

(b) Multiple advances. * * *
(2) Advances will be requested in sufficient amounts to insure that ample funds will be on hand to pay costs of construction, rights-of-way and land, legal, engineering, interest, and other expenses as needed. The applicant will prepare Form FHA 440-11, "Estimate of Funds Needed," to show the amount of funds needed during the 30-day period. Form AD-627, "Report of Federal Cash Transactions," will be prepared and submitted with each Form FHA 440-11 after the initial advance of funds is made. Payment for construction will be made in accordance with the amounts approved on Form FHA 424-18, "Partial Payment Estimate," and Form AD-629, "Outlay Report and Request for Reimbursement for Construction Programs." Each payment estimate must be approved by the governing body. The review and acceptance of partial payment estimates by FHA does not attest to the correctness of the quantities shown or that the work has been performed in accordance with the plans and

specifications. A final Form AD-627 will be submitted to FHA to include the final advance not later than 90 days after the final advance has been made.

§ 1823.24 Water purchase contracts.

(d) Run for a period of time which is at least equal to the repayment period of the loan. State Directors may approve contracts for shorter periods of time if the supplier cannot legally contract for such period, or if the applicant and supplier find it impossible or impractical to negotiate a contract for the maximum period permissible under State law, provided:

(1) The contract contains adequate provisions for renewal; or,
(2) A determination is made that in the event the contract is terminated, there are or will be other adequate sources of water available to the applicant that can be developed or purchased feasibly.

§ 1823.27 Construction contract forms.

A guide contract which meets the requirements of this Appendix for projects where a performance and payment bond is provided may be reviewed at the local FHA office. Applicants and their engineers may purchase copies of the contract from the Associated General Contractors or professional engineering societies. For those projects where a performance and payment bond is not provided, Form FHA 424-6, "Construction Contract" may be used. This form may be obtained from the local FHA office.

§ 1823.28 Performing construction.

Borrowers may accomplish construction through contracts with others or by using their own personnel and equipment, provided a licensed engineer or architect, as appropriate, inspects the construction and furnishes inspection reports as required by § 1823.32 of this Appendix B. In either case the requirements of § 1823.29 of this Appendix B apply. Payments for construction will be handled in accordance with § 1823.13 (b)(2).

§ 1823.29 Procurement, bidding, and contract awards.

(c) * * *
(3) In all contracts for construction or facility improvement awarded in excess of \$100,000, the borrower shall require bonds assuring performance and payment of 100 percent of the contract cost. For contracts of lesser amounts the borrower may require such bonds. When a performance and payment bond is not provided, contractors will furnish evidence of payment in full for all materials, labor, and any other items procured under the contract. Form FHA 424-10, "Release by Claimants" and Form FHA 424-9, "Certificate of Contractor's Release" may be obtained at

the local FHA office and used for this purpose.

§ 1823.45 Multiple advances of FHA funds using permanent instruments.

(a) *First preference—Form FHA 440-22.* If legally permissible, use Form FHA 440-22, "Promissory Note (Association or Organization)" for insured loans.

(b) *Second preference—single instrument with amortized installments.* If Form FHA 440-22 is not legally permissible, use a single instrument showing on the face the full amount of the loan and providing for amortized installments with provisions for entering the date and amount of each FHA advance on the reverse of or on an attachment to the instrument. Form FHA 440-22 should be followed to the extent possible. Where interest-only payments are scheduled for the first installment due dates, no attempt should be to compute in dollar terms the amount of interest due on such dates. Rather the instrument should provide that "interest only" is due on these dates. Thereafter, regular amortized installments of a specified dollar amount will be due on each installment date.

(c) *Third preference—single instrument with installments of principal plus interest.* * * *

(1) The repayment terms described in § 1823.45(b) of the "Second Preference" apply.

§ 1823.46 Multiple advances of FHA funds using temporary debt instrument.

(c) A payment schedule providing for interest on outstanding principal at least annually.

§ 1823.47 Minimum bond specifications.

(a) *Type and denominations.* Bond resolutions or ordinances will provide that the instrument(s) be either a bond representing the total amount of the indebtedness or Serial bonds in denominations customarily accepted in municipal financing (ordinarily in multiples of not less than \$1,000). Single bonds may provide for either repayment of principal plus interest or amortized installments; amortized installments are preferable from the standpoint of FHA. Coupon bonds will not be used unless required by statute.

(e) *Payment date.* Insofar as loan payments are consistent with income availability, applicable State statutes, and commercial customs in the preparation of bonds, they should be scheduled on a monthly basis. If legally permissible and income is available on a monthly basis, bonds calling for payments on an annual or semiannual basis shall be supplemented with an agreement providing for monthly payments so long as they are held or insured by FHA. Such agree-

ments will be accomplished not later than the time of loan closing. Where the evidence of indebtedness requires monthly payments, such payments will be scheduled beginning with the first day of the month following loan closing or the end of any approved deferment period. In those cases where evidence of indebtedness calls for annual or semiannual payments, they will be scheduled beginning with the first day of the sixth or twelfth full month, respectively, following loan closing or the end of any approved deferment period. Payments should be submitted to the FHA Finance Office by the borrower. The borrower will be given a monthly payment card packet at the time of loan closing.

(7 U.S.C. 1989; delegation of authority by the Sec. of Agri., 38 FR 14944, 14948, 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 38 FR 14944, 14952, 7 CFR 2.70.)

Effective date. This amendment is effective on April 8, 1974.

Dated: March 20, 1974.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.
[FR Doc. 74-7959 Filed 4-5-74; 8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 13590; Amdt. 910]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAPs) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAPs for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 FR 5609).

SIAPs are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591. Copies of SIAPs adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue, SW., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order pay-

able to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of \$150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for \$30.00 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAPs, effective May 16, 1974.

Statesville, N.C.—Statesville Municipal Arpt., VOR-1, Orig., canceled

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAPs, effective April 25, 1974.

Dallas, Tex.—Dallas Love Field, LOC (BC) Rwy 31R, Amdt. 21

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, effective May 16, 1974.

Apalachicola, Fla.—Apalachicola Municipal Arpt., NDB Rwy 13, Amdt. 5

Statesville, N.C.—Statesville Municipal Arpt., NDB Rwy 20, Amdt. 1

* * * effective April 11, 1974

Pleasanton, Tex.—Pleasanton Municipal Arpt., NDB-A, Orig.

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, effective May 16, 1974.

Las Vegas, Nev.—McCarran Int'l. Arpt., ILS Rwy. 25, Amdt. 6

Correction

In Docket No. 13580, Amendment 909, to Part 97 of the Federal Aviation Regulations, published in the FEDERAL REGISTER under §§ 97.23, 97.25, 97.27 and 97.29, effective May 9, 1974—change effective date of Clinton, Okla.—Clinton-Sherman Arpt., VOR Rwy 35, Orig.; LOC (BC) Rwy 17, Orig.; NDB Rwy 17, Orig.; and ILS Rwy 35, Orig., all effective April 11, 1974.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1948 (49 U.S.C. 1438, 1354, 1421, 1510); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c) and 5 U.S.C. 552(a)(1)))

Issued in Washington, D.C., on March 28, 1974.

JAMES M. VINES,
Chief,
Aircraft Programs Division.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 FR 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 74-7918 Filed 4-5-74; 8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

[Reg. ER-840; Amdt. 11]

PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

Fuel Consumption and Inventories; Reporting Requirements

Correction

In FR Doc. 74-7209 in the issue of Friday, March 29, 1974, on page 11533, the table "List of Schedules in CAB Form 41 Report" is amended by removing from the schedule title after entry P-6, the words "all carrier groups".

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

[Docket No. R-434; Order No. 444-A]

PART 1—RULES OF PRACTICE AND PROCEDURE

Additional Filing Time After Service by Mail

MARCH 29, 1974.

By Order No. 444 issued December 7, 1971, in Docket No. R-434, 46 FPC 1298, and published in the FEDERAL REGISTER on December 16, 1971, 36 FR 23904, the Commission amended § 1.13 of its rules of practice and procedure, 18 CFR 1.13, by adding paragraph (g) thereto to provide that whenever a participant in a Commission proceeding has the right or is required to make a filing within a prescribed period after the date of service of a notice, motion, petition, complaint, order, or other pleading or document upon him, when such paper is served upon him by mail, five days is added to the prescribed period. More than two years experience with the operation of this provision has demonstrated that it effectively serves its intended purpose of providing participants in Commission proceedings the full time allotted to them under the rules for asserting or protecting their rights by making filings with the Commission. This experience has further demonstrated that the additional five days is not necessary in those instances in which the prescribed period for filing is more than 10 days. Accordingly, the Commission is revoking said paragraph (g) and is amending other rules of practice and procedure by changing prescribed periods for filing from 10 to 15 days. This will obviate the necessity for determining whether an additional 5 days should be added in any particular instance.

The Commission finds:

- (1) The revocation of amendments as herein adopted are necessary and appropriate for the administration of the Federal Power Act and the Natural Gas Act.
- (2) Since revocation and amendments herein adopted involve matters of the Commission procedure, notice required by 5 USC 553 is unnecessary.

The Commission, acting pursuant to

the authority granted by the Federal Power Act, particularly section 309 (49 Stat. 858, 16 USC 825h), and the Natural Gas Act, particularly section 16 (52 Stat. 830, 15 USC 717o), and in accordance with 5 USC 553, orders:

§ 1.13 [Revoked]

(A) Paragraph (g) of § 1.13, Part 1 of Subchapter A, Chapter I of Title 18 of the Code of Federal Regulations, is revoked.

§§ 1.7, 1.8, 1.12 and 1.33 [Amended]

(B) Paragraph (d) of § 1.7, paragraph (e) of § 1.8, paragraph (c) of § 1.12, and paragraph (a) (2) of § 1.33, all in Part 1 of Subchapter A, Chapter I of Title 18 of the Code of Federal Regulations, are amended by changing the time provided therein for the filing of answers from 10 to 15 days.

(Sec. 309, 49 Stat. 858 (16 U.S.C. 825h); sec. 16, 52 Stat. 830 (15 U.S.C. 717o))

(C) The revocation and amendments promulgated herein shall be effective upon the date of issuance of this order.

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

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc. 74-7952 Filed 4-5-74; 8:45 am]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. 16]

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart H—Determination of Age

On December 14, 1973, there was published in the FEDERAL REGISTER (38 FR 34468) a Notice of Proposed Rule Making and proposed Subpart H of Regulations No. 16, relating to determination of age with respect to the payment of supplemental security income to aged, blind, or disabled individuals under title XVI of the Social Security Act, as amended by section 301 of the Social Security Amendments of 1972 (Pub. L. 92-603), enacted October 30, 1972. These amendments to title XVI of the Social Security Act were effective January 1, 1974.

Interested parties were given 30 days within which to submit data, views, and arguments. No comments have been received. Accordingly, the proposed amendments are hereby adopted without change and are set forth below.

(Secs. 1102, 1601, 1616, 1631, and 1634, 49 Stat. 647, as amended, 86 Stat. 1465, 1474, 1475, 1478; 42 U.S.C. 1302, 1381-1385.)

Effective date. The amendments shall be effective April 8, 1974.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

Dated: March 8, 1974.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: April 2, 1974.

CASPAR W. WEINBERGER,
Secretary of Health,
Education, and Welfare.

Regulations No. 16 (20 CFR Part 416) is amended as follows:

Subpart H is added to read as follows:

Subpart H—Determination of Age

- Sec.
- 416.801 Evidence as to age—when required.
 - 416.802 Type of evidence to be submitted.
 - 416.803 Evaluation of evidence.
 - 416.804 Certified copy in lieu of original.
 - 416.805 When additional evidence may be required.
 - 416.806 Expedited adjudication based on some documentary evidence of age.

§ 416.801 Evidence as to age—when required.

An applicant for benefits under title XVI of the Act shall file supporting evidence showing the date of his birth if his age is a condition of eligibility for benefits or is otherwise relevant to the payment of benefits pursuant to such title XVI. Such evidence may also be required by the Administration as to the age of any other individual when such other individual's age is relevant to the determination of the applicant's eligibility or benefit amount. In the absence of evidence to the contrary, if the applicant alleges that he is at least 68 years of age and submits any documentary evidence at least 3 years old which supports his allegation, no further evidence of his age is required. In the absence of evidence to the contrary, if a State required reasonably acceptable evidence of age and provides a statement as to an applicant's age, no further evidence of his age is required unless a statistically valid quality control sample has shown that a State's determination of age procedures do not yield an acceptable low rate of error.

§ 416.802 Type of evidence to be submitted.

Where an individual is required to submit evidence of date of birth as indicated in § 416.801, he shall submit a public record of birth or a religious record of birth or baptism established or recorded before his fifth birthday, if available. Where no such document recorded or established before age 5 is available, the individual shall submit as evidence of age another document or documents which may serve as the basis for a determination of the individual's date of birth provided such evidence is corroborated by other evidence or by information in the records of the Administration.

§ 416.803 Evaluation of evidence.

Generally, the highest probative value will be accorded to a public record of birth or a religious record of birth or baptism established or recorded before age 5. Where such record is not available, and other documents are submitted as evidence of age, in determining their probative value, consideration will be given to when such other documents were established or recorded, and the circumstances attending their establishment or recordation. Among the documents which may be submitted for such purpose are: school record, census record, Bible or other family record, church record of baptism or confirmation in youth or early adult life, insurance policy, marriage record, employment record, labor union record, fraternal organization record, military record, voting record, vaccination record, delayed birth certificate, birth certificate of child of applicant, physician's or midwife's record of birth, immigration record, naturalization record, or passport.

§ 416.804 Certified copy in lieu of original.

In lieu of the original of any record, except a Bible or other family record, there may be submitted as evidence of age a copy of such record or a statement as to the date of birth shown by such record, which has been duly certified (see § 404.701(g) of this chapter).

§ 416.805 When additional evidence may be required.

If the evidence submitted is not convincing, additional evidence may be required.

§ 416.806 Expedited adjudication based on documentary evidence of age.

Where documentary evidence of age recorded at least 3 years before the application is filed, which reasonably supports an aged applicant's allegation as to his age, is submitted, payment of benefits may be initiated even though additional evidence of age may be required by §§ 416.801-416.805. The applicant will be advised that additional evidence is required and that, if it is subsequently established that the prior finding of age is incorrect, the applicant will be liable for refund of any overpayment he has received. If any of the evidence initially submitted tends to show that the age of the applicant or such other person does not correspond with the alleged age, no benefits will be paid until the evidence required by §§ 416.801-416.805 is submitted.

[FR Doc. 74-7982 Filed 4-5-74; 8:45 am]

Title 23—Highways**CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION****SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS****PART 652—BIKEWAYS AND WALKWAYS IN CONJUNCTION WITH FEDERAL AND FEDERAL-AID HIGHWAYS****Correction**

In FR Doc. 74-6734, appearing at page 10582 in the issue of Thursday, March 21, 1974, in the second line under § 652.2(h) the words "snow or" should appear between the words "on" and "ice".

Title 24—Housing and Urban Development**SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT****CHAPTER V—OFFICE OF ASSISTANT SECRETARY FOR COMMUNITY DEVELOPMENT****Deletion of Certain Parts**

EDITORIAL NOTE: It has been ascertained through communication with the Department of Housing and Urban Development that certain regulations in Title 24 are obsolete and are therefore deleted as follows:

PART 41—[DELETED]

1. Part 41, Relocation Payments, is deleted from Subtitle A, Office of the Secretary, Department of Housing and Urban Development.

PART 500—RENEWAL ASSISTANCE**Subpart B—[Deleted]****PART 550—[DELETED]**

2. Subpart B, Relocation Payments, of Part 500, and Part 550, Neighborhood Facilities, in Chapter V, Office of Assistant Secretary for Community Development, are deleted.

This deletion of regulations is made pursuant to 1 CFR 8.2.

Title 25—Indians**CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF INTERIOR****SUBCHAPTER O—RIGHTS-OF-WAY—ROADS****PART 162—ROADS OF THE BUREAU OF INDIAN AFFAIRS****Construction and Maintenance**

APRIL 2, 1974.

This notice is published in the exercise of rulemaking authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32

FR 13938). The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

Beginning on page 3958 of the FEDERAL REGISTER of January 31, 1974 (39 FR 3958), there was published a notice of proposed rulemaking to revise § 162.2 and §§ 162.10-162.19 and to revoke § 162.20 of Part 162 of Title 25 of the Code of Federal Regulations. The purpose for the proposed revisions was to separate the requirements of the Environmental Protection Act from the requirements for the planning and development of road projects. This opportunity was also taken to improve the wording and to clarify the intent of certain sections. The revisions were proposed pursuant to the authority contained in the Act of May 26, 1968 (45 Stat. 750, 25 U.S.C. 318a).

The proposed revisions included a proposal to add a new paragraph (d) to § 162.2 to define the term "Superintendent" as used in the regulations. The public was given until March 4, 1974, to submit written comments, suggestions, or objections regarding the proposed revision to the Commissioner, Bureau of Indian Affairs. However, this proposed revision of § 162.2 has been republished with proposed revisions of § 162.1 through § 162.9 on page 9197 of the FEDERAL REGISTER of March 8, 1974 (39 FR 9197). The period for submitting written comments, suggestions, or objections on the proposed revision of § 162.2 was extended to April 8, 1974.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed revision of §§ 162.10-162.19 and the revocation of § 162.20.

After consideration of all such relevant matter as was presented by interested persons, the amendment as so proposed is hereby adopted with the following change:

1. The fourth sentence of § 162.16(c) is revised by changing the word "public" to the term "hearing audience."

These regulations shall become effective on May 8, 1974.

MORRIS THOMPSON,
Commissioner of Indian Affairs.

Section 162.20 is revoked and §§ 162.10 through 162.19 are revised to read as follows:

PUBLIC HEARINGS ON ROAD PROJECTS

Sec.	
162.10	Purpose and objectives.
162.11	Criteria.
162.12	Need for public hearing determined.
162.13	Notice of road construction projects.

- Sec.
162.14 Notice of public hearing.
162.15 Record of hearing proceedings.
162.16 Conducting the public hearing.
162.17 Written statements.
162.18 Hearing statement.
162.19 Appeals.

AUTHORITY: 45 Stat. 750; 25 U.S.C. 318a, Interpret or apply Sec. 6, 49 Stat. 1521, as amended; 25 U.S.C. 318b.

PUBLIC HEARINGS ON ROAD PROJECTS

§ 162.10 Purpose and objectives.

The regulations in this subpart govern the calling and conducting of public hearings on Bureau of Indian Affairs road projects beginning with road projects scheduled to begin construction in Fiscal Year 1975, and thereafter. In order to promote coordination and comprehensive planning of construction activities on Indian reservations, the objectives for conducting public hearings on proposed road projects are to:

- Inform interested persons of the road proposals which affect them and allow such persons to express their views at those stages of a project's development when the flexibility to respond to these views still exists.
- Insure that road locations and designs are consistent with the reservations' objectives and with applicable Federal regulations.

§ 162.11 Criteria.

A public hearing shall be held for each project that:

- Is a new route being constructed,
- Would significantly change the layout or function of connecting or related roads or streets,
- Would have an adverse effect upon adjacent real property, or
- Is expected to be of a controversial nature.

§ 162.12 Need for public hearing determined.

The Superintendent will call a meeting of representatives from the tribe, the Bureau of Indian Affairs, and other appropriate agencies to determine for each road project if a public hearing is needed. The determination will be based on the criteria given in § 162.11. More than one public hearing may be held for a project if necessary.

§ 162.13 Notice of road construction projects.

When no public hearing is scheduled for a road construction project, notice of the road construction project must be given at least 90 days before the date construction is scheduled to begin. Such notice should give the project name and location, the type of improvement planned, the date construction is scheduled to start, and the name and address of the office where more information can be obtained. The notice should be posted or published as determined by the Superintendent.

§ 162.14 Notice of public hearing.

Notice will be given to inform the local public of the scheduled hearing. The no-

tice should give the date, time, and place of the scheduled hearing; the project location; the proposed work to be done; the place where the preliminary plans may be reviewed; and the place where more information on the project can be obtained. The notice should be posted or published as determined by the Superintendent. Notice should be given at least 15 days before the scheduled date of the public hearing and again, at least 5 days before the hearing date.

§ 162.15 Record of hearing proceedings.

A record of the hearing shall be made. The record shall include written statements submitted at the hearing or within 5 days following the hearing.

§ 162.16 Conducting the public hearing.

(a) The Superintendent will appoint a tribal or Bureau of Indian Affairs official to preside at the public hearing and to maintain a medium for free and open discussion designed to reach early and amicable resolution of issues.

(b) The Superintendent shall be responsible for maintaining a record of the hearing and shall make arrangements for appropriate officials to be present at the hearing to be responsive to questions which may arise.

(c) The purpose of the hearing and an agenda of items to be discussed should be presented at the beginning of the hearing. It should be made clear at the hearing that the tribal chairman or his designated roads committee are the officials responsible for setting reservation road priorities and considering the merits of one road project over another. Sufficient maps and project plans will be available at the hearing for public review. The hearing audience should be informed of the Bureau's road construction and right-of-way acquisition procedures on reservations. If the project will require relocating residences or businesses, information on relocation services and authorized payments will be given.

§ 162.17 Written statements.

Written statements may be submitted as well as oral statements made at the public hearing. Written statements may also be submitted during the 5 days following the hearing.

§ 162.18 Hearing statement.

If significant issues develop at the public hearing which remain unresolved, the Superintendent will issue a hearing statement summarizing the results of the public hearing and his determination as to the further action to be taken in connection with the proposed project. The hearing statement shall be issued within 20 days of the date of the public hearing. The hearing statement will be posted at the place where the hearing was held, and shall be sent to interested persons upon request. The hearing statement will outline procedures whereby the determination may be appealed.

§ 162.19 Appeals.

Any determination concerning the proposed road project may be appealed

in accordance with the procedures set forth in Part 2 of this Title.

§ 162.20 [Removed]

[FR Doc.74-7915 Filed 4-5-74;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY SUBCHAPTER E—ALCOHOL, TOBACCO AND OTHER EXCISE TAXES

[T.D. AFT 10]

MISCELLANEOUS AMENDMENTS

Background. Producers of still wine are permitted by law to add controlled amounts of carbon dioxide to their wine for preservative purposes. The law also provides for a tolerance, in an amount to be specified by regulation, to the statutory maximum amount of carbon dioxide permitted to be contained in still wine. This tolerance is intended to cover those situations where small discrepancies are due to mechanical variations which could not be completely controlled under good commercial practices. Such a tolerance is currently permitted by regulation to domestically produced still wine. However, imported still wine is not currently allowed this tolerance. The primary purpose of these amendments is to allow a tolerance with respect to imported still wine that is equal to the tolerance currently allowed domestically produced still wine. Other miscellaneous amendments are also being made at this time. All amendments are described in more detail below.

CARBON DIOXIDE TOLERANCE

In 26 CFR 240.533, a tolerance of 0.009 gram of carbon dioxide per 100 milliliters of wine is allowed, in the case of domestic producers of still wine, to the maximum statutory limitation on carbon dioxide in still wine (which is 0.277 gram of carbon dioxide per 100 milliliters of wine). Importers of foreign still wine have requested that this tolerance be extended to them as well. Since no jeopardy to the revenue is involved, this amendment would grant this request. However, as in the case of domestic wine, the tolerance will not be allowed where the maximum statutory limitation has been continuously or intentionally exceeded. [§§ 250.53 and 250.223 amended; and §§ 250.53a and 250.223a added]

SUMMARY OF CHANGES SUBSEQUENT TO NOTICE OF PROPOSED RULE MAKING

On October 7, 1972, a notice of proposed rule making to amend 26 CFR Parts 170, 250, and 251 was published in the FEDERAL REGISTER (37 FR 21330). In accordance with the notice, interested persons were afforded an opportunity to submit written comments or suggestions pertaining thereto. No comments or requests for a public hearing were received; therefore, the amendments to 26 CFR Parts 170, 250, and 251 are hereby adopted as published in the notice of proposed rule making, subject to the changes set forth below:

Provision for continuing Form 2609. In the notice of proposed rule making, we proposed to continue the requirement that Form 2609, Application for Transfer of Spirits and/or Denatured Spirits in Bond, be prepared for each transfer from customs custody to internal revenue bond of bulk distilled spirits from the Virgin Islands and foreign countries, and to reduce (from four to three) the number of copies of Form 2609 to be prepared. It has been determined that we should conform these regulations to those governing shipments of domestic bulk spirits, in which a single, continuing Form 2609 can cover all shipments as long as the receiving plant maintains sufficient bond coverage. In the case of imported spirits, the primary purpose of Form 2609 is to assure the customs officer that there is a sufficient bond at the receiving premises, so that he can safely release the spirits for shipment. For the convenience of those importers who make few shipments, provision for a single-transaction Form 2609 has been retained. [§§ 170.125 and 251.172 further amended; and §§ 170.127 and 251.173 amended]

Procurement of red strip stamps in Puerto Rico. Due to establishment of a separate Bureau of Alcohol, Tobacco and Firearms, proprietors in Puerto Rico will no longer order red strip stamps through the Internal Revenue Service, but will order them through an office of the Bureau. Proprietors are now doing this pursuant to individual letters. Also, provision is made for ordering stamps directly from the Bureau of Engraving and Printing. [§§ 250.141, 250.142, 250.143, and 250.185 amended]

Form 2260 procedure. Puerto Rican proprietors currently send completed Forms 2260, Record and Report of Red Strip Stamps, to an office of the Internal Revenue Service. With the establishment of the Bureau of Alcohol, Tobacco and Firearms, it will be necessary that these forms be filed with an office of the new Bureau. In addition, the deadline for filing these forms has been extended. [§ 250.146 amended]

Conforming changes. Certain official titles, definitions, and terms have been updated to reflect the status of the new Bureau of Alcohol, Tobacco and Firearms. [§§ 170.125 and 251.172 further amended; and §§ 170.127, 250.11, 250.141, 250.142, 250.143, 250.146, 250.185, 251.11, and 251.173 amended]

SPECIFIC CHANGES SUBSEQUENT TO NOTICE OF PROPOSED RULE MAKING

Paragraph 1. In order to indicate the additional amendments being made by this Treasury decision that were not contained in the notice of proposed rule making, the introduction to the document is changed to read:

In order to (1) provide for a tolerance to the maximum statutory limitation on carbon dioxide in nondomestic still wine, (2) reduce by one the number of Forms 2609 required to be submitted to the alcohol, tobacco and firearms officer prior to transfer of imported or Virgin Islands spirits in bulk containers from customs

custody to internal revenue bond, (3) provide for a continuing Form 2609 in connection with transfers of imported or Virgin Islands spirits in bulk containers from customs custody to internal revenue bond, (4) give a new address for the procurement of red strip stamps in Puerto Rico and for the submission of Forms 2260, (5) provide an optional procedure for the shipment of red strip stamps directly to the Puerto Rican insular revenue agent from the Bureau of Engraving and Printing, and (6) relax the deadline for filing Forms 2260 from 10 days to 15 days following the close of each quarter, the regulations in 26 CFR Parts 170, 250, and 251 are amended as follows:

PART 170—MISCELLANEOUS REGULATIONS RELATING TO LIQUOR

Par. 2. Because additional sections of 26 CFR Part 170 are being changed by this document, the introductory language to Paragraph A is changed to read: "Paragraph A. The regulations in 26 CFR Part 170 are amended as follows:"

Par. 3. The paragraph describing amendments to § 170.125 is redesignated as subparagraph A1, and § 170.125 is further amended by:

(a) Providing for use of a continuing Form 2609 (in addition to a single-transaction Form 2609);

(b) Striking the words "internal revenue" wherever they appear and inserting the words "alcohol, tobacco and firearms";

(c) Striking from the second sentence the words "assistant regional commissioner" and inserting instead the words "regional director."

As amended, subparagraph A1 reads as follows:

1. Section 170.125 is amended to require the submission of Form 2609 in triplicate rather than in quadruplicate, to permit the filing of a continuing Form 2609, and to update certain terms. As amended, § 170.125 reads as follows:

§ 170.125 Application, Form 2609.

(a) *Application for continuing Form 2609.* The proprietor of a distilled spirits plant desiring to withdraw distilled spirits as authorized in § 170.124, shall submit an application on Form 2609, in triplicate, to the alcohol, tobacco and firearms officer. The application shall be modified by the applicant to cover the transfer of distilled spirits from customs custody, by naming the port of entry through which the spirits are to be withdrawn, and inserting the name and address of the regional director for the region in which is located the plant to which the spirits are to be transferred. If spirits are to be withdrawn through more than one port of entry, a separate continuing Form 2609 shall be filed for each port. The application will not be approved unless the applicant's bond on Form 2601 is in the maximum penal sum, or, if in less than the maximum penal sum, is sufficient to cover the tax on the spirits to be transferred in addition to all other liabilities chargeable against such bond, nor shall any application for withdrawal of spirits in bulk con-

tainers be approved unless the applicant has provided suitable facilities as provided in § 201.239 of this chapter. (See § 170.130 of this subpart with respect to need for consent of surety on bond, Form 2601.) When the alcohol, tobacco and firearms officer approves Form 2609, he shall retain one copy for his files and return the original and one copy to the applicant. The applicant shall retain the copy and forward the original of Form 2609 to the importer or other person responsible for the release of the spirits from customs custody, who shall submit the form to the customs officer at the port of entry from which the distilled spirits will be withdrawn. The customs officer shall retain the form in his records.

(b) *Application for single-transaction Form 2609.* If the Form 2609 is to cover a single transaction only, the procedure described in paragraph (a) of this section shall be followed, and in addition the application shall appropriately identify the spirits to be withdrawn.

(c) *Termination.* An applicant may terminate an approved continuing application, Form 2609, at any time by giving written notice to the customs officer where the original is on file, retrieving the original of Form 2609 filed with the customs officer, and returning this original with his own copy to the alcohol, tobacco and firearms officer for cancellation.

(68A Stat. 907, as amended, 72 Stat. 1322, 82 Stat. 1328, as amended (26 U.S.C. 7652, 5007, 5232))

Par. 4. A new subparagraph A2 is added to read as follows:

2. Section 170.127 is amended to update terminology and to require that the customs officer have on file an approved Form 2609 before Virgin Islands spirits can be released from customs custody. As amended, § 170.127 reads as follows:

§ 170.127 Customs inspection and release.

The customs officer will not release distilled spirits without payment of internal revenue tax until he has determined that he has on file an approved Form 2609 as prescribed in § 170.125 of this subpart, from the proprietor of the distilled spirits plant to which the spirits are to be transferred. Prior to release from customs custody, the customs officer shall inspect the spirits, and, if it appears that losses in transit were sustained from any container, he shall gauge the spirits in such container. The customs officer shall then prepare Form 236 (in quadruplicate, when the spirits are to be removed in packages; in quintuplicate, when the spirits are to be removed by pipeline or by bulk conveyance) appropriately modified to show:

(a) Serial number and date of the Form 2609,

(b) Customs port of entry and entry number,

(c) The consignee,

(d) Kind of spirits,

(e) The name of the importer,

- (f) The name of the producer, followed by "Virgin Islands",
- (g) If in packages, the serial numbers thereof,
- (h) The number and date of the pertinent Form 27-B Supplemental,
- (i) The applicable rate of rectification tax (if any),
- (j) Method of transfer,
- (k) Elements of bulk gauge (if any),
- (l) Quantity to be transferred,
- (m) Customs seals used (if any),
- (n) Date of release, and
- (o) Signature and title of the customs officer in lieu of the proprietor.

When shipments are made in tanks, tank barges, sealand containers, or similar bulk containers (other than barrels, drums, or similar portable containers), the results of the inspection or the details of the gauge of each such bulk container shall be reported separately. In the case of barrels, drums, or similar portable containers, the results of the inspection shall be reported on the Form 236 and the details of the gauge, if any, shall be reported on Form 2630 in triplicate. On compliance with the requirements of customs regulations, and on completion of Form 236 (and Form 2630, if prepared), the customs officer shall release the spirits for transfer, retain one copy of Form 236 (and Form 2630, if any), forward one copy of Form 236 to the regional director at the address shown on Form 2609, and forward the original and remaining copy (or copies) of Form 236 (and Form 2630, if any) to the alcohol, tobacco and firearms officer at the distilled spirits plant.

(68A Stat. 907, as amended, 72 Stat. 1322, 82 Stat. 1328, as amended (26 U.S.C. 7652, 5007, 5232))

PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO

Par. 5. A new subparagraph B1 is inserted immediately following the introductory language to paragraph B, to describe a conforming change to § 250.11. As added, subparagraph B1 reads as follows:

1. Section 250.11 is amended to provide, in alphabetical order, a definition of "Chief, Puerto Rican Operations." As amended, § 250.11 reads as follows:

§ 250.11 Meaning of terms.

Chief, Puerto Rican Operations. The primary representative in Puerto Rico of the Bureau of Alcohol, Tobacco and Firearms. His complete address is: Chief, Puerto Rican Operations, Bureau of Alcohol, Tobacco and Firearms, Post Office Box 111, Government Post Office, San Juan, Puerto Rico 00902.

Par. 6. Subparagraphs B1 and B2 are redesignated as subparagraphs B2 and B3, respectively.

Par. 7. A new subparagraph B4 is added, immediately following redesignated subparagraph B3, to describe amendments to § 250.141.

As added, subparagraph B4 reads as follows:

4. Section 250.141 is amended to give a new address for the procurement of red strip stamps and to eliminate the requirement that the stamps be used within 90 days of requisition to supply existing orders and/or anticipated requirements. As amended, § 250.141 reads as follows:

§ 250.141 Requisition, Form 428.

The distiller, rectifier, or bottler, or his duly authorized agent, in Puerto Rico shall make requisition on ATF Form 428, in quadruplicate, addressed to the Chief, Puerto Rican Operations, for the procurement of red strip stamps for affixing to taxpaid distilled spirits and shall attach thereto a supporting statement. Such statement shall be signed by the applicant, and immediately above the signature there will appear the following statement:

"I declare under the penalties of perjury that the stamps requested on the Form 428 are required, and will be used for taxpaid distilled spirits, which will be shipped to the United States."

(72 Stat. 1358 (26 U.S.C. 5205))

Par. 8. A new subparagraph B5 is added, immediately following new subparagraph B4, to describe amendments to § 250.142. As added, subparagraph B5 reads as follows:

5. Section 250.142 is amended to eliminate the requirement that red strip stamps be used within 90 days of requisition to supply existing orders and/or anticipated requirements. As amended, § 250.142 reads as follows:

§ 250.142 Approval of requisition.

The distiller, rectifier, or bottler, or his duly authorized agent, shall submit all copies of Form 428, together with the supporting statement, to the insular revenue agent, who will approve Form 428 if he is satisfied that the stamps are required for taxpaid distilled spirits to be shipped to the United States. The insular revenue agent will retain one copy of Form 428 and the supporting statement for his files, and return the original and two copies of the approved form to the applicant.

(72 Stat. 1358 (26 U.S.C. 5205))

Par. 9. A new subparagraph B6 is added, immediately following new subparagraph B5, to describe amendments to § 250.143. As added, subparagraph B6 reads as follows:

6. Section 250.143 is amended to give a new address for the procurement of red strip stamps and to provide an optional procedure for the shipment of red strip stamps to the Puerto Rican insular revenue agent. As amended, § 250.143 reads as follows:

§ 250.143 Procurement and custody of red strip stamps.

(a) *General.* The distiller, rectifier, or bottler, or his duly authorized agent, shall submit the original and two copies of the approved Form 428 to the Chief, Puerto Rican Operations, who will issue the number of stamps covered by the approved requisition, enter the serial num-

bers of the stamps issued, and stamp the date of issue on all copies of Form 428. The issuing office will retain the original for its files, send one copy with the strip stamps to the revenue agent at the bottling plant, and one copy to the Secretary. The revenue agent will issue stamps to the bottler for affixing to bottles of taxpaid distilled spirits as desired upon application from the proprietor.

(b) *Alternative method.* When the Chief, Puerto Rican Operations determines that the interests of the government will be best served thereby, the stamps may be shipped directly to the insular revenue agent at the plant from the Bureau of Engraving and Printing. In such case, orders for standard size red strip stamps shall be in multiples of 100,000 stamps, and orders for small-size (less than one-half pint) shall be in multiples of 50 stamps (one sheet). After approval by the revenue agent, the applicant shall send the original and two copies to the Chief, Puerto Rican Operations. The latter shall prepare Form 5003 and send the original and two copies thereof to the Bureau of Engraving and Printing; then he shall stamp the date of preparation of Form 5003 on all copies of Form 428 and send them to the revenue agent. When the stamps arrive, the revenue agent shall indicate the serial numbers (if any) of the stamps received and acknowledge receipt thereof, noting any discrepancies, on the original and two copies of Form 428 returned from the Chief, Puerto Rican Operations. The revenue agent shall retain one copy of the form and forward the original and one copy to the Chief, Puerto Rican Operations. The Chief, Puerto Rican Operations shall retain the original for his files and send the copy to the Secretary.

(72 Stat. 1358 (26 U.S.C. 5205))

Par. 10. A new subparagraph B7 is added, immediately following new subparagraph B6, to describe amendments to § 250.146. As added, subparagraph B7 reads as follows:

7. Section 250.146 is amended to relax the deadline for filing Form 2260 from 10 days to 15 days following the close of each quarter and to provide for an additional copy of Form 2260 to be sent to the Chief, Puerto Rican Operations. As amended, § 250.146 reads as follows:

§ 250.146 Record and report of red strip stamps.

Revenue agents having custody of red strip stamps shall maintain for each day a transaction in red strip stamps occurs a daily record of such stamps by size (small or standard), showing the number received, used, lost, mutilated, destroyed or otherwise disposed of, and on hand at the beginning and at the end of the day. The record shall also show the number and size of bottles to which the stamps were affixed, except that bottles of less than ½ pint capacity shall be recorded as one item. No form is prescribed for the daily records but such records shall be retained to support the quarterly report. Within 15

days following the close of business March 31, June 30, September 30, and December 31, of each year, the revenue agent will prepare a report, in quadruplicate, of the strip stamps received and used during the period on Form 2260, properly modified. The agent will retain one copy and forward three copies to the Secretary; the Secretary will retain one copy and forward one copy to the regional director and one copy to the Chief, Puerto Rican Operations.

(72 Stat. 1358 (26 U.S.C. 5205))

Par. 11. A new subparagraph B8 is added, immediately following new subparagraph B7, to describe amendments to § 250.185. As added, subparagraph B8 reads as follows:

8. Section 250.185 is amended to give a new address for the procurement of red strip stamps. As amended, § 250.185 reads as follows:

§ 250.185 Stamps.

U.S. internal revenue red strip stamps which are to be affixed to containers of spirits intended for shipment to the United States shall be procured from the Chief, Puerto Rican Operations. Where the tax is to be paid in accordance with the provisions of this subpart, the stamps may be affixed to the containers prior to taxpayment. The provisions of §§ 250.135 through 250.143 and § 250.146 shall govern the procurement, affixing, reporting, etc., of red strip stamps procured and used under this subpart. Where taxpaid distilled spirits intended for shipment to the United States are in containers of more than 1 gallon, distilled spirits stamps shall be procured and affixed, and the containers released, as provided in §§ 250.88 through 250.91.

(72 Stat. 1358 (26 U.S.C. 5205))

Par. 12. Subparagraphs B3 and B4 are redesignated as subparagraphs B9 and B10, respectively.

PART 251—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

Par. 13. A new subparagraph C1 is inserted immediately following the introductory language to paragraph C, to describe a conforming change to § 251.11. As added, subparagraph C1 reads as follows:

1. Section 251.11 is amended to provide, in alphabetical order, a definition of "Alcohol, tobacco and firearms officer." As amended, § 251.11 reads as follows:

§ 251.11 Meaning of terms.

Alcohol, tobacco and firearms officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms duly authorized to perform any function relating to the administration or enforcement of this part.

Par. 14. Subparagraphs C1 and C2 are redesignated as subparagraphs C2 and C3, respectively.

Par. 15. Redesignated subparagraph C3 is extensively revised to include the following new amendments to § 251.172:

a. Provision is made for use of a continuing Form 2609 (in addition to single-transaction Form 2609);

b. The words "internal revenue" are stricken wherever they appear, and in their place are inserted the words "alcohol, tobacco and firearms";

c. The words "assistant regional commissioner" are stricken from the second sentence, and in their place are inserted the words "regional director".

As amended, subparagraph C3 reads as follows:

3. Section 251.172 is amended to require the submission of Form 2609 in triplicate rather than quadruplicate, to permit the filing of a continuing Form 2609, and to update certain terms. As amended, § 251.172 reads as follows:

§ 251.172 Application, Form 2609.

(a) *Application for continuing Form 2609.* The proprietor of a distilled spirits plant desiring to withdraw distilled spirits as authorized in § 251.171, shall submit an application on Form 2609, in triplicate, to the alcohol, tobacco and firearms officer. The application shall be modified by the applicant to cover the transfer of distilled spirits from customs custody by naming the port of entry through which the spirits are to be withdrawn. If spirits are to be withdrawn through more than one port of entry, a separate continuing Form 2609 shall be filed for each port. The application will not be approved unless the applicant's bond on Form 2601 is in the maximum penal sum, or, if in less than the maximum penal sum, is sufficient to cover the tax on the spirits to be transferred in addition to all other liabilities chargeable against such bond, nor shall any application for withdrawal of spirits in bulk containers be approved unless the applicant has provided suitable facilities as provided in § 201.239 of this chapter. (See § 201.312 of this chapter with respect to need for consent of surety on bond, Form 2601.) When the alcohol, tobacco and firearms officer approves Form 2609, he shall retain one copy for his files and return the original and one copy to the applicant. The applicant shall retain one copy and forward the original of Form 2609 to the importer or other person responsible for the release of the spirits from customs custody, who shall submit the form to the customs officer at the port of entry from which the distilled spirits will be withdrawn. The customs officer shall retain the form in his records.

(b) *Application for single-transaction Form 2609.* If the Form 2609 is to cover a single transaction only, the procedure described in paragraph (a) of this section shall be followed, and in addition the application shall appropriately identify the spirits to be withdrawn.

(c) *Termination.* An applicant may terminate an approved continuing application, Form 2609, at any time by giving written notice to the customs officer where the original is on file, retrieving the original of Form 2609 filed with the customs officer, and returning this original with his own copy to the alcohol, tobacco and firearms officer for cancellation.

(72 Stat. 1314, as amended, 1322, 82 Stat. 1328, as amended (26 U.S.C. 5001, 5007, 5232))

Par. 16. A new subparagraph C4 is added immediately following redesignated subparagraph C3, to describe amendments to § 251.173. As added, subparagraph C4 reads as follows:

4. Section 251.173 is amended to update terminology and to require that the customs officer have on file an approved Form 2609 before imported spirits can be released from customs custody. As amended, § 251.173 reads as follows:

§ 251.173 Customs gauge and release.

The customs officer will not release distilled spirits without payment of internal revenue tax until he has determined that he has on file an approved Form 2609 from the proprietor of the distilled spirits plant to which the spirits are to be transferred. Prior to release from customs custody, the customs officer shall prepare Form 236 (in quadruplicate, when the spirits are to be removed in packages; in quintuplicate, when the spirits are to be removed by pipeline or by bulk conveyance) appropriately modified to show:

(a) Serial number and date of the Form 2609,

(b) Customs port of entry and entry number,

(c) The consignee,

(d) Kind of spirits,

(e) The name of the importer,

(f) Country of origin (manufacture or production),

(g) Method of transfer,

(h) Elements of bulk gauge (if any),

(i) Quantity to be transferred,

(j) Customs seals used (if any),

(k) Date of release, and

(l) Signature and title of the customs officer in lieu of the proprietor.

When shipments are made in tank cars or tank trucks, the details of the gauge of each tank car or tank truck shall be reported separately. In the case of barrels, drums, or similar portable containers, the details of the gauge shall be shown on Form 2630, in triplicate. In addition, the customs officer shall ascertain and enter on each copy of Form 236 the rate of customs duty paid on the distilled spirits and, if the distilled spirits are imported for nonbeverage purposes, the rate of customs duty which would have been applicable had such spirits been imported for beverage purposes. On compliance with the requirements of customs regulations (including determination of duties due), and on completion of Form 236 (and Form 2630, where required), the customs officer shall release the spirits for transfer, retain one copy of Form 236 (and Form 2630, if any), forward one copy of Form 236 to the regional director at the address shown on Form 2609, and forward the original and remaining copy (or copies) of Form 236 (and Form 2630, if any) to the alcohol, tobacco and firearms officer at the distilled spirits plant.

(72 Stat. 1314, as amended, 1322, 82 Stat. 1328, as amended (26 U.S.C. 5001, 5007, 5232))

This Treasury decision shall become effective on the first day of the first

month beginning not less than 30 days following the date of publication in the FEDERAL REGISTER.

(68A Stat. 917 (26 U.S.C. 7805))

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

Approved: March 29, 1974.

JAMES B. CLAWSON,
Acting Assistant Secretary
of the Treasury.

[FR Doc. 74-7964 Filed 4-5-74; 8:45 am]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

[ER 1105-2-507]

PART 209—ADMINISTRATIVE PROCEDURE

Environmental Impact Statements

Notice is hereby given that the regulations set forth below in final form by the Secretary of the Army (acting through the Chief of Engineers) prescribe the policies and provide guidance on the preparation and coordination of environmental impact statements (EIS). These policies will be incorporated in related regulations for use by Division and District Engineers.

Draft of proposed regulation was published in 38 FR 31626, November 15, 1973. Consideration was given to comments, suggestions or objections thereto which were submitted in writing on or before December 31, 1973. Received comments and Corps of Engineers responses along with draft final regulation were published in the notices section of the FEDERAL REGISTER on March 21, 1974 (39 FR 10608).

This regulation is effective April 15, 1974.

Dated: April 3, 1974.

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

TABLE OF CONTENTS

Subject	Paragraph
Purpose	(a)
Applicability	(b)
References	(c)
Policy	(d)
General	(d) (1)
Preparation of the Environmental Statements.	(d) (2)
Systematic Review	(d) (3)
Further Guidance	(d) (4)
Specific Actions Requiring Environmental Statements.	(e)
Legislation	(e) (1)
Proposals Under Continuing Authorities.	(e) (2)
Construction or Land Acquisition Not Started.	(e) (3)
Requests for Initiation of Construction or Land Acquisition.	(e) (4)
Continuing Construction or Land Acquisition.	(e) (5)
Operation, Maintenance, and Management.	(e) (6)
Regulatory Permits	(e) (7)

Subject	Paragraph
Non-Federal Participation in Authorized Projects.	(e) (8)
Disposal of Lands for Port and Industrial Uses.	(e) (9)
Research and Development—Three Year Schedule (RCS DAEN-CWO-43) (R1).	(e) (10)
Revising or Supplementing Statements.	(g)
Specific Actions Excluded from Statements	(h)
Considerations in Preparing a Statement	(i)
The Annual Budget	(j)
Requests for Initiation of Construction and Land Acquisition.	(j) (1)
Request for Continuing Construction or Land Acquisition and O&M Activities.	(j) (2)
Expression of Capability for Construction.	(j) (3)
Listings	(j) (4)
Coordination	(k)
Time Limits	(k) (1)
Expedited Filing	(k) (2)
Federal Agencies	(k) (3)
State and Local Agencies	(k) (4)
Availability of Statements	(l)
Draft Environmental Statements.	(l) (1)
Final Environmental Statements.	(l) (2)
Comments of Other Agencies.	(l) (3)
Number of Copies	(l) (4)
Public Review	(l) (5)
Public Availability	(l) (6)
Relationship to Project Planning, Construction and Operation.	(m)
Project Planning	(m) (1)
Section 122, Effect Assessment.	(m) (1) (1)
Authorized Projects	(m) (2)
Operation, Maintenance and Management.	(m) (3)
Regulatory Permits	(m) (4)
Public Participation	(n)
Pre-Authorization Project Studies.	(n) (1)
Post-Authorization Project Studies.	(n) (2)
Statement of Findings	(o)
Processing	(p)
Survey Reports	(p) (1)
Special Projects and Continuing Authorities.	(p) (2)
Authorized Projects Not Started.	(p) (3)
Continuing Construction and O and M.	(p) (4)
Regulatory Permit Applications.	(p) (5)
Disposal of Land for Port and Industrial Use	(p) (6)

§ 209.410 Environmental impact statements.

(a) *Purpose.* This regulation provides guidance for preparation and coordination of Environmental Statements as required by section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91-190), the Council on Environmental Quality Guidelines for Statements on Proposed Federal Actions Affecting the Environment, dated 1 August 1973 and section 122 of the River and Harbor Act of 1970 (Pub. L. 91-611), which is covered in separate guidelines.

(b) *Applicability.* This regulation applies to all elements of the Corps of Engineers with responsibilities for planning, design, construction, management, and

regulation of civil works activities and is applicable to pre-authorization and post-authorization project activities.

(c) *References.* (1) ER 1165-2-500, "Environmental Guidelines for the Civil Works Program of the Corps of Engineers."

(2) National Environmental Policy Act of 1969 (Pub. L. 91-190; 83 Stat. 852; 42 U.S.C. 4331 et seq.) hereinafter referred to as NEPA.

(3) Executive Order 11514, "Protection and Enhancement of Environmental Quality," 5 March 1970 (35 FR 4247, March 7, 1970) (attached as Appendix A).

(4) Guidelines for Statements on Proposed Federal Actions Affecting the Environment, Council on Environmental Quality (CEQ) (38 FR 20550, August 1, 1973) (attached as Appendix B).

(5) Section 309 of the Clean Air Amendments of 1970 (Pub. L. 91-604; 84 Stat. 1709; 42 U.S.C. 1857h-7).

(6) Freedom of Information Act (Pub. L. 89-487; 81 Stat. 54; 5 U.S.C. 552) hereinafter referred to as Freedom of Information Act.

(7) Section 122 of the River and Harbor Act of 1970 (Pub. L. 91-611; 84 Stat. 1823) hereinafter referred to as section 122, 1970 R&HA.

(8) 33 CFR 209.405, "Public Meetings." (ER 1105-2-502.)

(9) ER 1105-2-11, "Preservation, Restoration and Administration of Historic and Cultural Environment."

(10) ER 1105-2-12, "Archaeological Investigations and Salvage Activities."

(11) 33 CFR 209.400, "Guidelines for Assessment of Social, Economic, and Environmental Effects." (ER 1105-2-105.)

(12) Fish and Wildlife Coordination Act of 1958 (Pub. L. 85-624; 72 Stat. 563; 16 U.S.C. 661 et seq.).

(13) Federal Water Pollution Act Amendments of 1972 (Pub. L. 92-500; 86 Stat. 816; 33 U.S.C. 1151 et seq.).

(14) ER 1105-2-129, "Preservation and Enhancement of Fish and Wildlife Resources."

(15) Endangered Species Act of 1973 (Pub. L. 93-205; 87 Stat. 884).

(16) 38 FR 28708, "Statement of Findings." (ER 1105-2-509.)

(17) 33 CFR 209.120, "Permits for Activities in Navigable Waters or Ocean Waters." (ER 1145-2-303.)

(d) *Policy.* (1) *General.* From the initiation of pre-authorization planning through post-authorization planning and design, construction, and operation and management, all Corps of Engineers actions will be evaluated in terms of their impact on the environment within this overall policy. NEPA mandates a view of traditional policies and missions in light of NEPA's national environmental policy which requires all Federal agencies and officials to use all practicable means and measures to enhance, preserve and protect the quality of the environment to the fullest extent possible.

(i) Early and continuing coordination will be undertaken so as to develop a full interchange of views between the Corps of Engineers officials and appropriate local, State, and Federal agencies and

the interested public. These Federal and Federal-State agencies and their relevant areas of expertise include those identified in Appendix II of CEQ's guidelines (38 FR 20557).

(ii) The District Engineer will develop, analyze, study and utilize or adopt all practicable means and measures, including the "no-action" alternative and other alternatives to the proposed action, which will enhance, protect and preserve the quality of the environment, restoring environmental quality previously lost, minimizing and mitigating unavoidable adverse effects; and analyze and study the environment together with engineering, economic, social and other considerations to insure balanced decision making in the total public interest.

(iii) During Corps of Engineers project planning and the related decision making process, a systematic and interdisciplinary approach will be utilized to insure proper weighing and balancing of environmental effects together with the engineering, economic, and social and other considerations affecting the total public interest. Sections 102(2) (A) and (B) of NEPA and section 122, 1970 R&HA.

(2) *Preparation of the environmental statements.* (i) Environmental statements are required by section 102(2) (C) of NEPA. They will constitute an integral part of the interdisciplinary plan formulation process and will serve as a summation and evaluation of the effects, both beneficial and adverse, that each alternative action would have on the environment and as an explanation and objective evaluation of the finally recommended plan.

(ii) Should the District Engineer determine in assessing the impact of a minor action that an environmental statement is not required, the determination to that effect will be placed in the project file. This determination shall be made available to the public upon request and shall include a statement of the facts and the signer's basis and reasons for his decision. It will be signed by the District Engineer or higher commander and brought to the attention of the public by publication in the 3-year schedule (paragraph (f) of this section). Where move timely notification is essential, public notices may also be used. A minor action is defined as one which, following the completion of an environmental assessment, is determined not to have a significant impact on the quality of the human environment. If the District or Division Engineer is in doubt as to whether or not a statement should be prepared, further guidance must be requested in accordance with paragraph (d) (4) of this section. These determinations are reversible should controversy or other later events require an environmental statement to be written.

(iii) Prior to forwarding, environmental statements will be carefully reviewed by District and Division Engineers to insure that the statement fully complies with the requirements of this regulation and the references cited herein.

(3) *Systematic Review.* NEPA requires

an environmental statement in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. To support the spirit of NEPA fully, a systematic review of all Corps of Engineers actions will be conducted and environmental statements prepared in accordance with paragraph (d) (2) of this section.

(4) *Further Policy Guidance.* If after taking all measures within his authority, the District or Division Engineer need further assistance in satisfying the requirements of paragraph (d) (2) of this section, he will report the matter to HQDA (DAEN-CWZ-P) WASH DC 20314, and request the necessary authority or guidance.

(e) *Specific Actions Requiring Environmental Statements.* Listed below are types of Corps of Engineers actions that require the preparation of an environmental statement by reporting officers. For actions not identified in this paragraph, reporting officers should request further guidance from HQDA (DAEN-CWZ-P) WASH DC 20314. Environmental statements will be revised or supplemented in accordance with paragraph (g) of this section.

(1) *Legislation.* Recommendations or reports to the Congress on proposals for legislation affecting Corps of Engineers programs including proposals to authorize projects (survey, review, and authorization reports) and other legislation, exclusive of appropriations.

(2) *Proposals Under Continuing Authorities.* Recommendations or reports on proposals for authorization of projects by the Chief of Engineers or the Secretary of the Army under special authorities, including reports recommending approval of projects under the following special continuing authorities:

(i) Section 205, 1948 FCA, as amended (Pub. L. 87-874; 62 Stat. 1182; 33 U.S.C. 701s).

(ii) Section 107, 1960 R&HA, as amended (Pub. L. 87-645; 74 Stat. 486; 33 U.S.C. 577).

(iii) Section 103, 1962 R&HA, as amended (Pub. L. 87-874; 76 Stat. 1178; 33 U.S.C. 577).

(iv) Section 2, 1937 FCA, as amended by Section 208, 1954 FCA (Pub. L. 208, 75th Congress; 68 Stat. 1266; 33 U.S.C. 701g).

(v) Section 3, 1945 R&HA (Pub. L. 14, 79th Congress; 59 Stat. 23; 33 U.S.C. 603a).

(vi) 1909 R&HA, as amended (Pub. L. 317, 60th Congress; 35 Stat. 818; 33 U.S.C. 5).

(vii) Section 111, 1968 R&HA (Pub. L. 90-483; 82 Stat. 735; 33 U.S.C. 426i).

(3) *Construction or Land Acquisition Not Started.* Initiation of construction or land acquisition on projects (unless exempt under provisions of paragraph (d) (2) (ii) of this section) not yet started but for which funds have been appropriated or are provided by the current FY Appropriation Act.

(4) *Requests for Initiation of Construction or Land Acquisition.* Budget

submissions requesting funds for the initiation of construction or land acquisition on authorized projects.

(5) *Continuing Construction or Land Acquisition.* Environmental statements for projects in continuing construction or land acquisition status will be submitted in accordance with the criteria and the schedule established in compliance with paragraph (f) of this section. The project will be covered in one comprehensive environmental statement, even if a portion or feature is funded separately. If the project is to be constructed and operated as part of a basin plan or a system of other projects, the environmental effects of the overall plan or system should be covered in reasonable depth.

(6) *Operation, Maintenance, and Management.* (i) Pursuant to the requirements of NEPA, District Engineers are to make an environmental assessment of all projects in an operation and maintenance status. If the assessment indicates that the effects of the individual O&M projects are too insignificant to warrant preparation of a statement he will prepare a written finding to that effect in accordance with the procedures in paragraph (d) (2) (ii) of this section. See paragraph (k) (3) (ii) (b) of this section for EPA Coordination. If the assessment indicates a statement is needed such statement should be prepared.

(a) Composite statements grouping several projects under a single statement may be prepared when projects serve the same general purpose, are closely associated geographically or because of the interdependence of natural ecosystems and involve similar environmental impacts. The composite statement should address the cumulative environmental impacts of the projects as a group rather than on an individual basis. Such grouping of similar projects will be confined to projects in a single class category such as Channel and Harbor, or Lock and Dam, or Flood Control Reservoirs, etc. For example; several small boat harbors along an intercoastal waterway, or several flood control reservoirs which are operated under a network plan, or several harbors either for recreation or commercial purposes in a specific geographical area, could be appropriately covered by a composite statement.

(b) Separate statements for a project should be prepared where the operation and maintenance activities are unique or where known substantial environmental conflicts presently exist or can reasonably be expected to exist.

(ii) Certain administrative actions regarding utilization of project resources such as leases, permits, easements and licenses, may lead to significant effects on the environment and therefore would require separate consideration. These actions will have been included in general terms under the overall project statement; however, separate environmental statements would still be required for those specific actions that are determined by the District Engineer to signifi-

cantly affect the quality of the environment or to significantly affect future land or resource use.

(iii) *Exceptions:* (a) Completed projects turned over to local interests for operation and maintenance.

(b) Projects where only infrequent periodic maintenance is performed. Statements may be deferred until funds for maintenance are requested.

(7) *Regulatory Permits.* (i) Subject to the guidance contained in the regulations on policies and procedures for regulatory permits, an assessment of the impact of a proposed activity on all aspects of the quality of the environment is required. That assessment will include consideration of environmental information provided by the applicant, all advice received from Federal, State and local agencies, and comments from the public.

(ii) When the District Engineer determines after evaluating the environmental assessment that an environmental statement need not be prepared for the proposed activity, he will follow the procedure outlined in paragraph (d) (2) (i) of this section. See paragraph (k) (3) (i) (b) of this section for EPA coordination. If a public meeting is to be held in such cases, a summary of environmental considerations will be included with the announcement of the public meeting.

(iii) If, after an environmental assessment, the District Engineer believes that granting the permit may be warranted but that the proposed activity would significantly affect the quality of the human environment, he will prepare an environmental statement which shall be noted on the three-year schedule pursuant to paragraph (f) of this section.

(iv) If another Federal agency is the lead agency as defined by section 1500.7 (b) of the CEQ guidelines (38 FR 20553), the District Engineer will coordinate with that agency to insure that the resulting environmental statement adequately describes the impact of the activity which is subject to Corps permit authority.

(v) If the proposed activity is part of a continuing program of similar activities in an area for which an overall environmental statement has been filed with CEQ ("umbrella statement"), that "umbrella statement" will be used in the evaluation of the environmental impact of the proposed activity. However, separate supplementary environmental statements may be needed to adequately cover subsequent permit actions.

(vi) If the proposed activity involves fixed structures or artificial islands on the outer continental shelf lands which are under mineral lease from the Bureau of Land Management, Department of the Interior, the District Engineer's decision to issue a Corps of Engineers permit will be based on an evaluation of the impact of the proposed activity on navigation and national security only. An environmental statement by the Corps of Engineers is not required in such cases, and inquiries concerning environmental consideration will be referred to the Department of the Interior.

(8) *Non-Federal Participation in Authorized Project.* When a non-Federal agency cooperates with the Corps of Engineers by construction or other participation, a final environmental statement will be prepared by the District Engineer and filed with CEQ prior to advertisement of the work. The non-Federal agency may furnish environmental data; however, the District Engineer will be responsible for independent verification and use of the data and for the environmental statement.

(9) *Disposal of Lands for Port and Industrial Uses.* For disposal of surplus project lands for development of port and industrial facilities pursuant to section 108 of River and Harbor Act of 1960 (Pub. L. 86-645; 74 Stat. 487; 33 U.S.C. 578), the District Engineer will prepare an environmental statement and process it with the proposed action to higher authority.

(10) *Research and Development.* Procedures for the development of periodic evaluations and the determination as to whether an environmental statement is required on Civil Works research and development programs, will be in accordance with § 1500.6(d) (2) of CEQ guidelines (38 FR 20552).

(11) *Three Year Schedule of Submission of Environmental Impact Statements (Reports Control Symbol DAEN-CWO-43) (R1).* Each District will develop by the end of each fiscal year, and updated quarterly, a schedule which develops for the following three years the environmental statements to be prepared or revised on projects in Survey, Continuing Authorities, AE&D, Construction, O&M Permits and Research and Development Status. All schedules and quarterly updates will be submitted in ten copies within 15 days of preparation to HQDA (DAEN-CWO-C) WASH DC 20314. HQDA will provide a copy of this schedule to CEQ at this time. Appendix E contains the format for the schedule.

(1) Priority effort will be assigned to Continuing Construction projects for which an environmental statement has not been filed with CEQ and Operation and Maintenance projects having a significant impact on the environment or those O&M actions such as dredging operations and dredge disposal which, once taken, preclude adoption of alternative plans.

(2) In so far as practicable the schedule should consider the priorities expressed by appropriate agencies, groups and individuals on the project mailing list. The schedule is to be available to the public upon request.

(3) Where a composite environmental statement is prepared for a group of O&M projects the listing on the schedule should include the names of all the projects included in the statement.

(4) Where the District Engineer's environmental assessment of a proposed project indicates that an environmental statement is not required, such action and the negative assessment will be noted in the three-year schedule and in the annual budget request. Permit applications for which negative assessments

have been made need not be included in the three-year schedule. However, permit negative assessments will be widely distributed via public notice and mailing list and will conform to requirements in paragraph (d) (2) (ii) of this section. The mailing list will include all agencies, groups or individuals who have ever expressed an interest in the project.

(g) *Revising or Supplementing Statements.* Whenever necessary, an appropriate revision or supplement to a final environmental statement on file with CEQ shall be prepared by the District Engineer. The extent of the revision and further coordination with other agencies, groups and individuals on the project mailing list will be based on paragraph (n) of this section and the following:

(1) If the final environmental statement previously filed clearly failed to comply with the requirements of NEPA: e.g. failed to discuss alternatives or failed to disclose the environmental impacts of the proposed action, or if there has been a major change in the plan of development or method of operation of the proposed action, a revised environmental statement (draft and final) must be prepared and filed with CEQ. The 90 and 30 day waiting periods of CEQ guidelines § 1500.11(b) (38 FR 20556) will apply. Revised draft and final environmental statements will be circulated in accordance with paragraph (1)(4) of this section.

(2) Whenever the final environmental statement on file becomes deficient because certain environmental effects of the project were not discussed or design features or project purposes were modified significantly subsequent to the filing of the original environmental statement, an appropriate supplement to the final statement shall be prepared. The supplement will be prepared in the draft and final format with a 45-day review and comment period allowed after publication by CEQ in the FEDERAL REGISTER for the draft. The 90 and 30 day waiting periods outlined in § 1500.11(b) of CEQ guidelines (38 FR 20556) are not applicable. The draft supplement will be circulated to agencies, groups and individuals on the project mailing list. Both the draft and final supplement will be filed with CEQ and noted in a separate category in CEQ's weekly listing in the FEDERAL REGISTER. Reporting officers will furnish five copies of all draft supplements directly to CEQ (See Appendix C for sample letter and processing instructions). Ten copies will be transmitted to higher authority (five for HQDA (as appropriate) WASH DC 20314 and five for the Division Engineer). Twenty copies of the final supplement will be transmitted to higher authority (15 for OCE and five for the Division Engineer) for processing to CEQ. OCE will notify Division and District Engineers of any revisions made in the final supplement by the Chief of Engineers or the Secretary of the Army in advance of CEQ's notice in the FEDERAL REGISTER. This will allow the District Engineer time to make necessary revisions and have sufficient copies of the final supplement available for timely dis-

tribution to agencies, groups and individuals on the project mailing list.

(3) Whenever it is necessary only to clarify or amplify a point of concern raised after the final environmental statement was filed with CEQ (and such point of concern was considered in making the initial decision) or if comments on the final environmental statement are received from Federal, State or local governmental agencies or the public, the clarification, amplification or response to the comments received shall be prepared and filed with CEQ. No waiting periods are required. Reporting officers will provide 20 copies of the above cited information to higher authority (15 for OCE and five for Division Engineers) for processing to CEQ.

(h) *Specific Actions Excluded from Statements.* Specifically excluded from the administrative requirement for the preparation of an environmental statement are the following emergency or hardship actions which do not permit delays necessary to process environmental statements.

(1) Emergency and disaster recovery actions performed under Pub. L. 99, 84th Congress, 69 Stat. 186, 33 U.S.C. 701n, except that for major post-flood restoration or rehabilitation actions, an environmental assessment will be undertaken to determine the environmental consequences of the proposed action. If any formal negative assessments are completed on these actions during the previous three-month period, they will be shown on the next quarterly submission of the three-year schedule. See Appendix E;

(2) Emergency Bank Protection for Highways, Highway Bridge Approaches and Public Works, section 14, FCA of 1946, 60 Stat. 653, 33 U.S.C. 701r;

(3) Emergency snagging and clearing accomplished under Section 3, R&HA of 1945, as amended, 59 Stat. 23, U.S.C. 603a; except where disposal of sedimentation and dredged materials are involved;

(4) Emergency actions directed by the Federal Disaster Assistance Administration (FDAA) under the provisions of Pub. L. 91-606, 84 Stat. 1744, except where FDAA determines that an environmental statement is required, the District Engineer will provide all necessary information to FDAA upon request;

(5) In hardship cases or to avoid unusual land price escalation, acquisition of land with appropriations made for the Land Acquisition Fund, initially established by Congress in connection with the passage of the Public Works for Water, Pollution Control and Power Development and Atomic Energy Commission Appropriations Act, 1971 (Pub. L. 91-439).

(i) *Considerations in Preparing a Statement.* The environmental statement is to fully discuss the primary and secondary environmental effects including the social and economic impacts of all Corps of Engineers civil works activities. It should summarize accurately the detailed appraisals and analyses of

Federal and State agencies with jurisdiction by law or special expertise with respect to environmental impacts and the concerns, views and comments expressed by conservation and environmental action groups and the public and the author's evaluation thereof. These agencies and their relevant areas of expertise are listed in Appendix II of CEQ guidelines.

(1) Environmental statements are public documents and may receive broad exposure in the news media and intense public scrutiny.

(2) They should be prepared in coordination with and be reviewed by District Counsel.

(3) Interdisciplinary environmental investigations leading to the preparation of environmental statements should be undertaken simultaneously with and to the same depth and scope as study or project related engineering, economic and technical studies.

(4) The environmental statement will bring together and summarize the various findings of other documents with respect to environmental considerations. It will summarize information and cite sources of overall appraisals and responsible judgements of complex environmental matters and inter-relationships (e.g., water quality by EPA, fish and wildlife resources by the Bureau of Sport Fisheries and Wildlife or other authoritative sources). It should make appropriate reference to those documents which are summarized and should indicate how such information may be obtained, in the case of documents not easily accessible.

(5) Where another agency is directly involved with the Corps in an action or group of actions directly related to each other because of their functional interdependence and geographical proximity, consideration should be given to the designation of a lead agency to assume responsibility for the preparation of a single environmental statement to cover all of the Federal actions involved. Section 1500.7(b) of CEQ guidelines (38 FR 20553) provides further guidance on this and multi-agency actions.

(6) The environmental statement shall be considered as an integral part of the Corps planning process and is only one of the documents upon which a decision on a major Federal action is based. It must be written so as to substantively stand on its own and will be submitted as a separate document for review by the public and other governmental agencies.

(7) Environmental statements will be based on CEQ "Guidelines" Appendix B; the guidance of Appendix C, and the following:

(i) Describe the proposed action concisely using simple terms. Describe the environmental impacts and effects sufficiently to provide a careful assessment, evaluation, and independent appraisal of the favorable and adverse environmental, social and economic primary and secondary effects of the recommended proposal and each consid-

ered alternative. This discussion will include the impacts associated with O&M requirements during the life of the project. In no case will possible adverse effects be ignored or slighted in an attempt to justify an action previously recommended or currently supported. Conversely, avoid overstating either favorable or unfavorable effects.

(ii) Discuss significant relationships between the proposed project and other existing, proposed and anticipated developments either public or private which may be affected by the project. This should include a discussion of the geographical setting of the area with and without the project; land usage including approved Federal, State and local land use plans, policies and controls; general trends including population and economic growth characteristics and projections and cumulative impacts induced by the project and the significance of the regional, national and international impact of the project, as applicable, supported by information indicating the relative scarcity or abundance of the environmental resources in question and other regional, national and international factors.

(iii) Use objective analysis. Use general costs comparisons rather than detailed cost breakdowns to illustrate quantifiable environmental, economic or social tradeoffs necessary to achieve objectives. Although every effort should be made to obtain quantifiable values for environmental, economic or social tradeoffs, the nature and extent of non-quantifiable tradeoffs should be described and included in the analyses.

(iv) Comments received in response to the draft environmental statement are to be included in the final environmental statement. See Appendix C, paragraph 4k(4). Comments can be summarized by topic with appropriate responses. All comments received must be given full consideration and analysis. Irreconcilable opposing views must be included in the final environmental statement and fully discussed.

(v) Discuss any existing State or Federal legislation, program, or study that concerns the study area or would have an effect upon it. Examples of such legislation and studies are those dealing with Wild and Scenic Rivers, Wilderness Areas, National Recreation Areas, National Parks, National Forests, Registered Historic Sites, Federal Water Pollution Control Act Amendments, etc.

(vi) The draft environmental statement should discuss coordination activities with the Bureau of Sport Fisheries and Wildlife and the agencies administering the fish and wildlife resources of the concerned state or states in accordance with section 2(a) of the Fish and Wildlife Coordination Act of 1958 (reference (c)(12) of this section). It should include appropriate references to reports or documents prepared by these agencies and discussed in the statement and how such information may be obtained. Coordination activities with the

National Marine Fisheries Service on proposed actions in the coastal zones should also be discussed. A statement concerning the effect or impact of the proposed action on threatened, rare and endangered species of fish and wildlife should be provided (reference 3.0. and Appendix G). Coordination with EPA, especially comments received under paragraph (k) (3) (ii) of this section will be discussed.

(vii) Include information indicating that the National Register of Historic Places has been consulted and that no National Register properties will be affected by the project, or a listing of the properties to be affected, an analysis of the nature of the effects, a discussion of the ways in which the effects were taken into account, and an account of steps taken to assure compliance with section 106 of the National Historic Preservation Act of 1966 (Pub. L. 89-665; 80 Stat. 915; 16 U.S.C. 470f) in accordance with procedures of the Advisory Council on Historic Preservation as they appear in the FEDERAL REGISTERS of 25 January 1974 and subsequent issues (reference (c) (9) of this section).

(viii) The environmental statement should include a discussion of Steps taken to comply with sections 2(b) and 1(3) of Executive Order 11593, Protection and Enhancement of the Cultural Environment, 13 May 1971 (see ER 1105-2-11 and ER 1105-2-12).

(ix) Pertinent correspondence inclosed with the environmental statement should include a written request to the Department of the Interior for investigations of historical, archeological and paleontological resources and contact with the State Archeologist and the Historic Preservation officer of the State regarding the effect of the proposed action upon these resources within the project area. In addition to necessary coordination with these State officials prior to preparation of the environmental statement, a copy of the draft environmental statement should in all cases be provided them and the Advisory Council on Historic Preservation for review and comment. In the event the Department of the Interior advises in writing that it is unable to provide timely information on historical, archeological and paleontological resources for inclusion in environmental statements, District Engineers may contract with outside experts to provide limited, reconnaissance-level information. The scope and monetary limitation of these outside contracts has been provided by other guidance.

(j) *The Annual Budget.* The time requirements for the filing of final environmental statements, prepared and coordinated in accordance with section 102 (2)(C) of NEPA, have been established with a view to meeting, to the maximum extent, the requirements specified by the Council on Environmental Quality. Section 1500.12(b) of the CEQ guidelines. (38 FR 20556)

(1) *Requests for Initiation of Construction and Land Acquisition.* For budget recommendations in this category, final environmental statements must

have been filed with the CEQ prior to 1 September of the calendar year in which the budget recommendation is being submitted by Division and District Engineers. However, for non-controversial projects the draft environmental statement must be filed with CEQ (Appendix C) by 1 September and the final environmental statement submitted to appropriate staff elements in OCE by 1 November.

(2) *Requests for Continuing Construction or Land Acquisition and Operation and Maintenance Activities.* Environmental statements on projects in these categories shall be submitted in accordance with the three-year schedule required by paragraph (1) of this section.

(3) *Expression of Capability for Initiation of Construction.* Prior to the expression of any construction or land acquisition only capability on a project, a final environmental statement should be on file with the CEQ. For projects for which a draft environmental statement has been filed with CEQ and for which there is a firm schedule for filing the final environmental statement by the second quarter of the budget fiscal year, a qualified capability may be expressed subject to the actual filing of the final environmental statement.

(4) *Listings.* The annual budget recommendations of Division Engineers will provide a listing of projects recommended in each budget category indicating the time of actual or scheduled submission of the final environmental statements to the CEQ.

(k) *Coordination.* Use existing coordination procedures to obtain the views of agencies, groups and individuals on the project mailing list on review of draft environmental statements. For recirculation of revisions or supplements see paragraph (g) of this section. If the project is in litigation, furnish the draft or final environmental statements to all the litigants.

(1) *Time Limits.* Reporting Officers should establish a time limit of not less than 45 days for reply after date of publication of Draft environmental statement by CEQ in the FEDERAL REGISTER. In the absence of a specific request for an extension of time, a lack of response may be presumed to indicate that the agency consulted has no comment to make. In unusually large and complex actions consideration should be given to a reply period longer than 45 days to allow agencies, groups and the public adequate time to review and comment on the draft environmental statement. No administrative action will be taken regarding the proposal sooner than 90 days after a draft environmental statement has been filed with CEQ and noticed in the FEDERAL REGISTER, or sooner than 30 days after the final environmental statement has been made available to CEQ and the public and noticed in the FEDERAL REGISTER. The 30-day period required for public review of final environmental statements before administrative action can be taken commences on date that notice of final environmental statement is published in FEDERAL REGISTER or on date of delivery to post office for mailing of

copies of final environmental statements to agencies, groups and individuals on the project mailing list whichever is later. Administrative actions are defined for this purpose to include initial land acquisition, advertising of the initial construction contract, and regulatory permit approval.

(2) *Expedited Filing.* In certain exceptional cases where the work must be performed within critical time restraints, but does not fall within the emergency actions listed in paragraph (h) of this section, an expedited filing process may be recommended in accordance with § 1500.11(e) of CEQ guidelines (38 FR 20556). In such cases, Reporting Officers will provide all information and facts to HQDA (DAEN-CWZ-P) WASH DC 20314, and request the necessary authority and guidance. At the same time, the Reporting Officer should initiate informal coordination with the appropriate Federal, State, and local agencies to insure prompt review of the environmental statement.

(3) *Federal Agencies.* (i) Use Appendix B, CEQ "Guidelines," (38 FR 20557) to determine the Federal agencies with jurisdiction by law or special expertise to whom the draft environmental statement is to be sent for comment on the environmental impacts. See Appendix F for special coordination requirements of individual Federal agencies. Draft environmental statements on Civil Works projects to be forwarded to other headquarters elements within the Department of Defense will be submitted to appropriate staff elements in OEC for necessary coordination.

(ii) Section 1500.9(b) of CEQ "Guidelines" (38 FR 20555) require in addition to normal coordination procedures, the following coordination with the Environmental Protection Agency (EPA):

(a) Comments of the Administrator or his designated representative will accompany each final environmental statement on matters related to air or water quality, noise control, solid waste disposal, pesticides, radiation criteria and standards, or other provisions of the authority of EPA.

(b) Copies of basic proposals (studies, proposed legislation rules, leases, permits, etc.) will be furnished to EPA with each environmental statement. For actions for which environmental statements are not being prepared but which involve the authority of EPA, EPA will be informed that no environmental statement will be prepared and that comments are requested on the proposal within 15 days.

(4) *State and Local Agencies.* Coordination of the environmental statement with State and local agencies authorized to develop and enforce environmental standards may be obtained directly with the agencies and with the appropriate State, regional, or metropolitan clearinghouse unless the Governor has designed some other source for obtaining this review.

(1) *Availability of Statements.* Draft and final environmental statements, revisions and supplements, including comments received during review, will be

made available to the public in accordance with paragraph (n) of this section, section 2(b) of Executive Order 11514, "Protection and Enhancement of Environmental Quality" and §§ 1500.9, .10, and .11 of the CEQ "Guidelines" (38 FR 20554) as follows:

(1) *Draft Environmental Statements.* The District Engineer will furnish copies of draft environmental statements to agencies, groups and individuals on the project mailing list and in addition will furnish copies in response to requests from the public and will furnish public information file copies to the Division of Office and the appropriate State, regional and metropolitan clearinghouses. Additional copies will be available in the responsible District Engineers office and a copy will also be available for review in the Public Affairs Office in OCE.

(2) *Final Environmental Statements.* At the same time as the final environmental statement is filed with CEQ, the District Engineer will furnish copies to agencies, groups and individuals on the project mailing list including those contacted during departmental review of Survey Reports. This is to enable the agency and public an opportunity to comment on the final environmental statement to CEQ and/or the Corps if they so desire, within the 30 day period as noted in paragraph (k) (1) prior to the administrative actions being taken. Additional copies will be available in the responsible District Engineers office and a copy will also be available for review in the Public Affairs Office in OCE. Any changes in the final environmental statement made by the Chief of Engineers or the Secretary of the Army will be communicated to the District Engineer as soon as possible to allow for necessary revisions and timely distribution.

(3) *Comments of Other Agencies.* In response to specific requests from the general public, District Engineers will make available the comments received from other agencies on the draft statement prior to the availability of the final environmental statement. Such release of comments will be in accordance with the provisions of the Freedom of Information Act.

(4) *Number of Copies.* In order to comply with § 1500.11(a) CEQ "Guidelines," (38 FR 20555) reporting officers will furnish five copies of all draft, revised draft, and draft supplemental environmental statements directly to CEQ (Appendix C) and provide 10 copies to higher authority (five for appropriate staff elements in OCE and five for Division Engineers) at the time coordination with agencies, groups and individuals on the project mailing list is initiated. Twenty copies of the final, revised final, and final supplemental environmental statement will be transmitted to higher authority (15 for appropriate staff elements in OCE and five for Division Engineers) for further processing to CEQ. Each planning report submitted should be accompanied by an environmental statement.

(5) *Public Review.* News releases concerning draft and final environmental statements, revisions and supplements by District Engineers will be given as wide a coverage as deemed sufficient to accomplish the purpose of this directive and the intent of § 1500.9(d) of the CEQ "Guidelines" (38 FR 20555). When significant environmental impacts or public concern have become apparent subsequent to the last public meeting, reporting officers will determine whether a public meeting should be held prior to or during coordination of the statement.

(6) *Public Availability.* District Engineers will prepare sufficient copies of draft and final environmental statements, revisions and supplements to cover all agencies, groups and individuals on the project mailing list. See paragraph (n). In accordance with 31 U.S.C. 483, 5 U.S.C. 552, and § 1500.11(d) of CEQ "Guidelines," (38 FR 20556) charges to cover reproduction costs may be assessed generally in accordance with the following:

(i) Where cost of reproduction is insignificant compared to collection and accounting costs, draft and final statements will be furnished without charge in single copies to individuals requesting copies. For multiple copy requests, reproduction costs will be recouped from the requestor.

(ii) For large environmental statements and where substantial reproduction costs are incurred, individuals requesting copies should be advised that copies are available from the District Engineer at the cost of reproduction and also advised of the nearest point at which copy is available for public inspection. They should also be advised of the availability (at cost) of the Statement from the Environmental Law Institute, 1346 Connecticut Avenue, NW., Washington, D.C. 20036.

(m) *Relationship to Project Planning, Construction and Operation.* (1) *Project Planning.* In the formulation of new project proposals, environmental considerations will be integrated into the planning process from the beginning. Preliminary identification of possible environmental impacts and effects of the project and of all alternatives considered will be made and discussed fully at early stages in the study. Consultation and coordination with all agencies, groups and individuals on the project mailing list (see paragraph (n) of this section) will be accomplished at the earliest practicable time in the planning process and will continue throughout the life of the project. Reporting officers will insure that such consultation has been sufficient to identify all significant impacts prior to forwarding of environmental statements to higher authority.

(i) *Section 122, Effect Assessment.* Effect assessment procedures in response to section 122, 1970 R&HA are contained in ER 1105-2-105. All significant adverse effects (including environmental) of proposed Corps actions are identified and evaluated and the feasibility and cost of

eliminating or minimizing such adverse effects are considered fully in the planning and decision-making process. The effect assessment procedure, particularly the study of the environmental effects of various project alternatives, will provide a valuable source of information for the Environmental Impact Statement.

(2) *Authorized Projects.* On projects that were recommended, authorized or under construction prior to the National Environmental Policy Act of 1969, the opportunity to study and evaluate a full range of alternatives may be more limited. However, to the extent feasible, alternative solutions and opportunities for environmental enhancement, preservation, restoration, and mitigation will be investigated prior to preparation of the statement. Regardless of the level at which formal coordination is to take place, reporting officers will carefully examine and evaluate, in coordination with appropriate Federal, State, and local agencies and the public, the environmental impact of all reasonable alternatives prior to preparing a recommendation or an environmental statement.

(3) *Operation, Maintenance, and Management.* In the development of plans for operation, maintenance, and management activities, consider all significant effects on the environment and comply with all legal requirements. Such considerations differ from those for a project in planning status and discussion should address only the environmental effects of the operation of the project and on-going O&M programs. Include alternative uses of available resources when the proposed O&M activity will change the quality of the environment, modify the beneficial uses of the environment, or serve some purposes to the disadvantage of other environmental goals. Typical examples of these activities which could have an impact on the environment are as follows:

(i) Disposal of dredged material in wetlands or marshlands.

(ii) Disposal of polluted dredged material in unconfined or open water areas.

(iii) Debris collection and disposal activities.

(iv) Resource management programs involving the cutting, sale and/or disposal of forest resources; extensive plant disease eradication; predator or vector control; and aquatic plant control.

(v) Reservoir regulation in which some environmental benefits must be sacrificed for other environmental benefits or economic considerations, e.g., drawdown to provide water for power and for downstream water quality control.

(vi) Leases, licenses, rights-of-way, administrative permits, and other actions involving use by others of project resources, if impact is significant and not otherwise covered in another environmental statement.

(vii) Redesignation of project land under management by the Corps from scenic buffer or "green belt," undeveloped natural area, or wild life management area to more intensive type of public use or some other type of use.

(4) *Regulatory Permits.* In evaluating permit applications, the District Engineer will carefully evaluate the effect on the environment of the proposed action considering environmental information provided by the applicant, all advice received from Federal, State and local agencies and comments of the public. Where the environmental effect is believed to be significant, an environmental statement will be prepared, except when an "umbrella statement" has been filed with the CEQ (paragraph (e) (7) of this section).

(n) *Public Participation.* Public participation will be planned and incorporated into the conduct of all Corps of Engineers civil works activities and must be viewed as an integral part of the planning and administrative process. Public participation is a continuous two-way communication process which involves keeping the public fully informed on the status and progress of studies and findings of plan formulation and evaluation activities; actively soliciting from all agencies groups and individuals on the project mailing list their opinions and perceptions of objectives and needs; and determining public preferences regarding resources use and alternative development or management strategies plus any other information and assistance relevant to plan formulation and evaluation. Each District maintains a list of agencies, groups, and individuals who have requested they be listed for the project in question or from whom comments have been requested or received at any stage in the planning of the project and in the preparation and coordination of the draft and final environmental statements. This list will be kept current and all revisions and supplements to the environmental statements required to be recirculated for public comment will be sent to all those listed. All those listed will be notified of all meetings, workshops and public hearings held in connection with the project. Drafts of: (1) Environmental statements (2) revisions and (3) supplements should be made available to the public at least 15 days before any public meeting or hearing.

(1) *Pre-authorization Project Studies.* Public meetings, informal meetings and workshops within the project area and the use of news media are means to develop free-flowing dialogue to assist in the identification of the environmental concerns and develop appropriate measures within the proposed plan to mitigate, eliminate, or reduce environmental impact. Unresolved environmental conflicts must be clearly set forth with a full and complete discussion of both sides of the issue.

(2) *Post-authorization Project Studies.* Public meetings as specified in ER 1105-2-502 will be held during post-authorization planning studies to insure that views of interested parties will be considered in the development of the plan and that all interested parties will be kept informed of study progress. Full coordination with agencies groups and individuals on the project mailing list will

be maintained during post-authorization planning. A public meeting should be held in special situations such as unusual interest or controversy, unusual time lapse or significant changes in the authorized project or environmental effects where either the public or the Corps, or both, would benefit by the exchange of views and information.

(o) *Statement of Findings.* A Statement of Findings (SOF) ER 1105-2-509, will accompany final environmental statements. The SOF for regulatory permits will be filed with CEQ when a decision on the permit application has been made.

(1) On continuing construction and operation and maintenance projects, an SOF will accompany the final environmental statement after the agency and public review comments on the draft environmental statement have been considered and the final environmental statement is forwarded to the Division Engineer. The SOF will be signed at each level of review (i.e. District, Division, and OCE) as the final environmental statement progresses, indicating concurrences or changes, and the original copy will be returned to the reporting officer for his action file when the final environmental statement is filed with CEQ.

(2) In the case of survey reports, an extracted SOF will accompany the revised draft environmental statement when the District Engineer transmits the survey report to the Division Engineer for further review and processing by Federal agencies at Washington level. The extracted SOF will be signed at each level of review (i.e. District, Division, and OCE), indicating changes or concurrences, and furnished to CEQ by the Secretary of the Army with the final environmental statement. A SOF is not required for unfavorable survey reports.

(p) *Processing.* Environmental Statements will be prepared by the officer initially preparing the recommendation or report (normally the District Engineer). The initiating officer is recognized as the responsible Federal official within the meaning of section 102(2)(c) of NEPA except for such changes as reviewing authorities may deem necessary in the original proposal and covering statement, to be consistent with the policies of the Chief of Engineers and the Secretary of the Army. Agency comments and the views expressed should be directed at the environmental impacts and should be no older than 12 months for new proposals nor older than three calendar years for previously authorized projects. More recent coordination will be required if significant changes of fact have occurred in the period since filing that affects the proposal, the action being initiated, or the associated environment.

(1) *Survey Reports.* (i) A written summary of environmental considerations in the project area will be prepared and presented at the Checkpoint I Conference. This summary will be based on information developed in a project-related environmental inventory.

(ii) The summary of environmental

considerations which includes an analysis of probably environmental effects of the considered project alternatives will be presented at each public meeting in a degree of detail commensurate with that in which the engineering, economic or other aspects of alternatives are discussed.

(iii) During the formulation stage public meeting, all anticipated environmental impacts and effects of each potentially feasible solution under active consideration will be identified and discussed. Environmental data obtained from effect assessment procedures, as required by section 122, 1970 R&HA, will provide useful data for evaluating various project alternatives. A Summary of Environmental Considerations will be attached or inclosed to the public meeting announcement in order to generate meaningful and thorough discussion during the meeting.

(iv) A draft environmental statement will be prepared and circulated for review and comment at least 15 days before late stage meetings. The draft environmental statement will present and discuss the anticipated environmental effects of the plan which may be recommended by the District Engineer along with the probably environmental impacts of the alternative plans considered in the study. The statement will also reflect the information and data inputs provided by the coordination accomplished during the study with various Federal, State, and local agencies.

(v) The District Engineer will circulate, together with the draft environmental impact statement, an appropriate number of copies of advance drafts of the Corps basic decision document—the survey report—to concerned Federal and state agencies for review and comment prior to the late stage meeting. The plan formulation section of the advance draft survey report will be as complete as possible. It will include appropriate discussions of project alternatives and tentative selection of the plan that the District Engineer considers to provide the best balanced solution which he may ultimately recommend. This review of the project decision document will constitute formal project review at this stage of the planning process; it will also permit the agencies to provide more substantive comments on the draft environmental statement. If the proposed plan subsequently should be modified in response to the comments received, changes will be noted by the District Engineer in later versions of the survey report and will be discussed in revised draft environmental statements.

(vi) At the same time, District Engineers will circulate draft environmental statements for formal review and comment to other agencies, groups and individuals on the project mailing list. Letters of transmittal sending out draft environmental statements will indicate that copies of the advance drafts of the Corps basic decision document (the survey report) are available for review in the office of the responsible District En-

engineers. Five copies of the draft environmental statement will be furnished directly to CEQ (see Appendix C for sample letter and processing instructions). Ten copies will be transmitted to higher authority (five to HQDA (DAEN-CWP-E, -C or -W as appropriate) WASH DC 20314, and five for the Division Engineer). The date published by CEQ in the FEDERAL REGISTER of the draft environmental statement starts the official agency review period. At the same time of the circulation of the draft environmental statement, the District Engineer will prepare and issue a news release stating that single copies of the draft environmental statement may be obtained from the District Engineer.

(vii) If the District Engineer desires, he may circulate the draft environmental statement with the announcement of the Late Stage Public Meeting provided a minimum of 15 days is allowed for review and comment between the date of Public availability of the statement and the date of public meeting. In view of the extensive mailing list used in circulating the announcement, the District Engineer need provide draft environmental statements only to those agencies, groups, and individuals on the project mailing list. In either case, however, a Summary of Environmental Considerations will be attached to the announcement of the Public Meeting. The announcement will also include a specific reference indicating that the draft environmental statement is in process to or on file with CEQ and that copies are available for public review and comment upon request from the District Engineer and will also be available at the public meeting.

(viii) When the District Engineer completes his report, he will finalize his recommended plan of improvement and prepare an appropriately updated and revised draft environmental statement. All comments received will be attached as Appendix A and summarized in Paragraph 9—Coordination With Others. Numerous repetitive comments received from the public should be noted with an appropriate summarization of the issues and Corps response, including a typical letter with a list of names of those submitting similar letters. Paragraph 9 should also discuss the environmental issues raised at the public meeting not included as part of the written comments in Appendix A. The District Engineer will transmit the report, the revised draft environmental statement and an extracted SOF to the Division Engineer for further review and processing to BERH and appropriate staff elements in OCE. The Division Engineer will review and comment on the revised draft environmental statement when he transmits his report to the Board of Engineers for Rivers and Harbors (BERH). Interested parties also will have an opportunity to comment on the report and the environmental statement subsequent to the Division Engineer's notice when the report and environmental statement are with BERH for review.

(ix) BERH and OCE will review the revised draft environmental statement at the same time it reviews the project report. A BERH staff presentation of environmental issues and impacts will be made to the Board with controversial issues receiving special consideration. The Board report will summarize the Board's views upon environmental issues. If extensive revisions are required as a result of BERH or OCE review, the revised draft environmental statement will be returned to the reporting officers for revision and resubmission to BERH or OCE as appropriate.

(x) The revised draft environmental statement will be circulated for review and comment with the survey report to the concerned State or States and Federal agencies at the Washington level in accordance with established procedures. The revised draft environmental statement, the proposed report of the Chief of Engineers, the report of BERH and supplemental economic data will be furnished CEQ by OCE at this time. Copies of the revised draft environmental statement will be provided Division and District Engineers. District Engineers will transmit public information file copies to the appropriate State, regional and metropolitan clearinghouses and to those agencies, groups and individuals on the project mailing list not contacted by OCE.

(xi) Upon completion of Departmental review, all letters and comments received on the revised draft environmental statement will be sent to the District Engineer for preparation on the final environmental statement. The District Engineer will prepare appropriate responses, make necessary revisions to the main text due to comments received and forward (through Division) 25 copies to OCE. It will accompany the Chief's final report on the project to Office, Secretary of Army (OSA). All letters received in OCE during Department review will be furnished BERH or MRC for staff review as considered appropriate. Formal BERH or MRC reconsideration of its previous recommendations will only be accomplished in those instances when the Chief of Engineers determines that new information obtained is of such significance as to warrant reconsideration by the full Board or Commission.

(xii) When OSA transmits the final report to Congress, it will also transmit the final environmental statement to CEQ. At the same time OCE will notify Division and District engineers of the transmittal to allow for timely distribution of the final statement to agencies, groups and individuals on the project mailing list. OCE Public Affairs Office will prepare and issue a news release stating that a final environmental statement has been filed with CEQ, is available for review at the Office of the Chief of Engineers and that single copies may be obtained from the District Engineer.

(2) *Special Projects and Continuing Authorities.* All required consultation with Federal, State and local agencies,

and the public concerning the environmental aspects will be accomplished at field level by District Engineers without further referral to any of these agencies by the Office, Chief of Engineers.

(i) A draft environmental statement will be prepared and circulated for review and comment before preparation of the final report and recommendations. The District Engineer will circulate, together with the draft environmental impact statement, an appropriate number of copies of the draft Detailed Project Report to concerned Federal and state agencies for their review and comment. This review of the project decision document with the draft environmental impact statement will permit agencies to provide more substantive comments and will constitute their formal review. If the proposed plan of improvement should be significantly modified as a result of the comments received, additional coordination of the report and environmental statement will be necessary before the District Engineer completes the DPR and final environmental statement. At the same time, District Engineers will circulate draft environmental statements for review and comment to other agencies, groups and individuals on the project mailing list. When there is a late stage public meeting, this draft environmental statement will be made available to the public at least 15 days before the meeting. Letters transmitting the draft environmental statement will indicate that a copy of the draft Corps decision document, the DPR, is available for review in the office of the responsible District Engineer.

(ii) Five copies of the draft environmental statement will be furnished directly to CEQ (see Appendix C for sample letter and processing instructions). Ten copies will be transmitted to higher authority (five for HQDA (DAEN-CWP-E, -C or -W as appropriate) WASH DC 20314, and five for the Division Engineer). Three copies of the draft report should accompany the draft environmental statement when sent forward, to higher authority. The date of publication by CEQ in the FEDERAL REGISTER starts the official agency review period and the 90-day period before the administrative action of project approval can be taken. At the same time the District Public Affairs Office will prepare and issue a news release stating that single copies of the draft environmental statement may be obtained from the District Engineer. The District Engineer may circulate the draft environmental statement with the announcement of the late stage public meeting as discussed in paragraph (p) (1) (vii) of this section. If the project is in litigation or potential litigation exists, the draft environmental statement should be reviewed by Division Counsel and the Office of General Counsel, OCE, HQDA (DAEN-GCE) WASH DC 20314.

(iii) After receipt and evaluation of agency review comments, comments of the interested public and information obtained at the public meeting the Dis-

district Engineer will prepare the final environmental statement and complete the project report. The report together with twenty copies of the final environmental statement will be transmitted to higher authority (15 for HQDA (DAEN-CWP-E, -C, or -W) WASH DC 20314 and five for the Division Engineer) for further processing.

(iv) The Division Engineer will review the project formulation and technical aspects of the project report and the adequacy of the final environmental statement. Upon completion of Division office review, the project report and accompanying statement will be transmitted to OCE for further processing.

(v) OCE will review the project report and final environmental statement for policy and procedure. OCE or OSA will furnish the final environmental statement to CEQ, as appropriate. The 30-day period required for review of final environmental statements before administrative action can be taken commences as noted in paragraph (k)(1) of this section. Any changes in the final environmental statement made by the Chief of Engineers or the Secretary of the Army will be communicated to the District Engineer as soon as possible to allow for necessary revisions and timely distribution. The District Public Affairs Office will prepare and issue a news release stating that a final environmental statement has been filed with CEQ and that single copies are available for the District Engineer. District Engineers will furnish, in a timely manner, copies of the final environmental statement to agencies, groups and individuals on the project mailing list as well as provide information copies to the appropriate State, regional and metropolitan clearing-houses.

(vi) OCE will provide the Division Engineers with notification of project approval and Chief of Engineers authorization to proceed with project work.

(3) *Authorized Projects Not Started.* It is contemplated that all required consultation with Federal, State and local agencies and the public concerning the environmental aspects will be accomplished at field level by District Engineers without further referral to any of these agencies by the Office, Chief of Engineers. See paragraph (n) of this section on Public Participation for guidance on holding public meetings in connection with preparation of statements for authorized projects. Any unsolicited comments received directly by OCE will be furnished to the District Engineer with appropriate instructions.

(i) Prior to submission of the Phase I General Design Memorandum (GDM), the District Engineer will review the environmental statement that was filed with CEQ when the project was authorized, or prepare one if none has been prepared. If the Phase I review indicates that the environmental effects of the project as proposed have not changed significantly from the authorized project, and were adequately and fully covered in the statement, no changes to the

statement will be required. This will be noted in the Phase I GDM with a statement that a revised or supplemented statement will not be required. However, if the review indicates that there are changes in the project which would significantly affect the quality of the environment, or if the environmental effects of the project were not adequately covered in the statement, a new environmental statement (draft and final) must be prepared, with the final environmental statement to accompany the Phase I GDM. See paragraph (g) of this section for procedure for revising or supplementing the final environmental statements. The physical changes in the project and/or changed environmental effects will be briefly discussed in Phase I GDM including a statement that a revised environmental statement or supplement will be prepared. For projects for which environmental statements are required (paragraph (e) of this section, Agency Actions Requiring Statements) and for which the GDM has been previously submitted, environmental statements will be prepared as soon as possible.

(ii) The draft environmental statement will be prepared and circulated for review and comment before preparation of the final Phase I GDM. The District Engineer will circulate, together with the draft environmental impact statement, an appropriate number of copies of the draft plan formulation memorandum (Phase I GDM) to concerned Federal and state agencies for their review and comment. This review of the draft Phase I GDM along with the draft environmental impact statement will allow agencies to provide more substantive comments and will constitute their formal review. If the proposed project should be significantly modified as a result of the comments received, additional coordination of the Phase I GDM and draft environmental statement will be necessary before the District Engineer completes the Phase I GDM and final environmental statement. The draft environmental statement will be circulated at the same time by the District for review and comment to other agencies, groups and individuals on the project mailing list. When there is a late stage public meeting held in connection with the Phase I study, the draft environmental statement will be made available to the public at least 15 days before the meeting. The letter transmitting the draft environmental statement will indicate that an advance copy of the draft Phase I GDM is available for review in the office of the responsible District Engineer. Five copies of the draft environmental statement will be furnished directly to CEQ (see Appendix C for sample letter and processing instructions). Ten copies will be transmitted to higher authority (five to HQDA (DAEN-CWP-E, -C or -W as appropriate) WASH DC 20314, and five for the Division Engineer). Three copies of the draft Phase I GDM should accompany the draft environmental statement when sent forward to higher authority. Date of publication of the draft environ-

mental statement in the FEDERAL REGISTER by CEQ starts the official agency review period and the 90-day period before administrative action can be taken. At the same time, the District Engineer will issue a news release stating that single copies of the draft environmental statement may be obtained from the District Engineer. If the project is in litigation or potential litigation exists, the draft environmental statement should be reviewed by Division Counsel and the Office of General Counsel, OCE, HQDA (DAEN-GCE) WASH DC 20314.

(ii) After receipt of agency review comments and comments of the interested public, the District Engineer will prepare the final environmental statement and attach copies of all comments received. Numerous repetitive comments may be summarized in the comment and response section of the statement and a typical letter with a list of names of individuals submitting similar letters attached. Twenty copies of the final environmental statement will be transmitted to higher authority (15 for HQDA (DAEN-CWP-E, -C or -W) WASH DC 20314 and five for the Division Engineer) for further processing to CEQ.

(iv) The Division Engineer will transmit 15 copies of the final environmental statement along with his review comments when he transmits the Phase I, GDM (if appropriate) to appropriate staff elements in OCE.

(v) OCE will revise the final environmental statement where appropriate. Office, Secretary of the Army will review and furnish the final environmental statement to the CEQ. CEQ will notice it in the FEDERAL REGISTER. The 30-day period for review of the final EIS before administrative action can be taken commences as noted in paragraph 11a. The District Public Affairs Office will prepare and issue a news release stating that a final environmental statement has been filed with CEQ and that single copies are available from the District Engineer.

(vi) Any changes in the final environmental statement made by the Chief of Engineers or the Secretary of the Army will be communicated to the District Engineer as soon as possible to allow for necessary revisions and timely distribution to agencies, groups and individuals on the project mailing list.

(4) *Continuing Construction and Operation and Maintenance.* It is contemplated that all required consultation with Federal, State and local agencies, and the public concerning the environmental aspects will be accomplished at field level by District Engineers without further referral to any of these agencies by the Office, Chief of Engineers.

(i) Paragraphs (e)(5), (e)(6), and (f) of this section establish the requirements for preparation of environmental statements regarding Continuing Construction and Operation and Maintenance.

(ii) Procedure for the initial submission will be the same as described in (p)

(3) (ii) through (vi) of this section except there will be no BERH considera-

tion on any project in continuing construction or O&M status.

(iii) For completed projects in operation where a final environmental statement has previously been filed, review will be scheduled in accordance with paragraph (f) of this section. Where this review indicates no new information or considerations affecting the previous decision on the plan of operation and no changes are found to be required in the environmental statement, the SOF shall be properly annotated by the District Engineer and concurred in by the Division Engineer. However, if significant changes in the method of operation are planned or have occurred since the statement was filed, the extent of the revision and further coordination of the environmental statement shall be in accordance with paragraph (g) of this section.

(5) *Regulatory Permit Applications.* For permit actions on which environmental statements are required by paragraph (e) (7) of this section the preparation and coordination of an environmental statement will be accomplished at field level. In such cases the following actions shall be taken:

(i) The District Engineer will require the applicant to furnish information and an analysis of the environmental impacts of the proposed action. The District Engineer will advise the applicant that the applicant will not be allowed to undertake any work on the proposal for which the permit application is pending.

(ii) The draft environmental statement will be circulated by the District for formal review and comment to agencies, groups and individuals on the project mailing list. Five copies of the draft environmental statement will be furnished directly to CEQ (see Appendix C for sample letter and processing instructions). Ten copies will be transmitted to higher authority (five for HQDA (DAEN-CWO-N) WASH DC 20314 and five for the Division Engineer). Notice of the draft environmental statement in the FEDERAL REGISTER by CEQ starts the official agency review period and the 90-day period before the administrative action can be taken. The District Engineer may circulate the draft environmental statement with the announcement of the public meeting as discussed in paragraph (p) (1) (iv) of this section. At the same time the District Engineer will issue a news release stating that single copies of the draft environmental statement may be obtained from the District Engineer. If the project is in litigation or potential litigation exists, the draft environmental statement will be reviewed by Division Counsel and the Office of General Counsel, OCE. If a Public Meeting is to be held, the draft environmental statement will be filed with CEQ at least 15 days prior to the meeting. A summary of environmental considerations will be included in the announcement of public meeting.

(iii) After receipt of agency review comments and comments of the interested public, the District Engineer will prepare the final environmental statement and attach copies of all comments

received. The final environmental statement will become a part of the official file on the permit. Twenty copies of the final statement will be transmitted to higher authority (15 for HQDA (DAEN-CWO-N) WASH DC 20314 and five for the Division Engineer) for further processing to CEQ. If a public hearing is to be held, the proposed final environmental statement must be completed and made available to the public at least 15 days prior to the hearing.

(iv) Final action to issue the permit will not be taken until after the time limits for filing and distribution of the final environmental statement have been met as noted in paragraph (k) (1) of this section. If, however, at any time prior to the formal transmittal to CEQ, it is determined that the permit will be denied, the official so determining will inform higher authority and CEQ of the denial and that a final environmental statement will not be filed.

(v) Revisions by higher authority to the final statement will be furnished to the District Engineer as soon as possible, who in a timely manner, will distribute copies of the final environmental statement to agencies, groups and individuals on the project mailing list as well as to appropriate State, regional and metropolitan clearing-houses. The District Public Affairs Office will prepare and issue a news release announcing the filing of the final environmental statement with CEQ and advising the public that single copies are available from the District Engineer.

(6) *Disposal of Land for Port and Industrial Uses.* When the District Engineer determines that disposal of surplus project property for development of public port or industrial facilities is in the public interest, he will prepare an environmental statement to accompany his report and recommendation. It is contemplated that all required consultation with Federal, State, and local agencies, and the public concerning the environmental aspects will be accomplished at field level by District Engineers without further referral to any of these agencies by the Chief of Engineers.

(i) The District Engineer will prepare a draft environmental statement utilizing information obtained from appropriate Federal, State, and local agencies and applicant. A public meeting may be used to obtain information and views from the interested public. The statement will set forth, among other things, what the applicant intends to develop on the property and the possible uses to be made of it. It will also summarize all constraints which will be placed on the new owner, such as reversionary clause, uses, needs for permits for structures, or discharges into navigable waters.

(ii) The draft environmental statement will be circulated by the District for formal review and comment to agencies, groups and individuals on the project mailing list and in response to requests from the general public at least 15 days before the public meeting, if one is held in connection with proposed action. Five copies of the draft environ-

mental statement will be furnished directly to CEQ (see Appendix C for sample letter and processing instructions). Ten copies will be transmitted to higher authority (five for HQDA (DAEN-CWO-N) WASH DC 20314 and five for the Division Engineer). Notice of the draft environmental statement in the FEDERAL REGISTER by CEQ starts the official agency review period and the 90-day period before the administrative action can be taken. At the same time, the District Engineer will issue a news release stating that single copies of the draft environmental statement may be obtained from the District Engineer.

(iii) After receipt of agency review comments and comments of the interested public, the District will prepare the final environmental statement and attach copies of all comments received. Twenty copies of the final environmental statement together with the District Engineer's report and recommendations will be transmitted to higher authority for further action.

(iv) If higher authority decision is favorable to the request for disposal of project lands, the Office, Secretary of the Army will furnish the final environmental statement to the CEQ and will wait until the time limits noted in paragraph 11a. have been satisfied prior to the issuance of the Public Notice of Disposal. The District Public Affairs Office will prepare and issue a news release stating that a final environmental statement has been filed with the CEQ and that single copies are available from the District Engineer.

(v) If higher authority decision is unfavorable to the request, the CEQ will be informed of the denial and that a final environmental statement will not be filed.

(vi) Copies of the final environmental statement with all revisions clearly identified will be furnished the Division and District Engineers. District Engineers will furnish copies of the final environmental statement to agencies, groups and individuals on the project mailing list as well as provide information copies to the appropriate State, regional, and metropolitan clearinghouses.

[FR Doc. 74-7930 Filed 4-5-74; 8:45 am]

CHAPTER IV—SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION, DEPARTMENT OF TRANSPORTATION

PART 401—SEAWAY REGULATIONS

Criminal and Civil Penalties

The Saint Lawrence Seaway Development Corporation, pursuant to provisions of its enabling act (33 U.S.C. 981 et seq.) and pursuant to the authority vested in the Secretary of Transportation with respect to the St. Lawrence Seaway under the Ports and Waterways Safety Act of 1972 (Pub. L. 92-340, 86 Stat. 424), which authority was subsequently delegated to the Administrator of the Saint Lawrence Seaway Development Corporation in the FEDERAL REGISTER on October 17, 1972 (37 FR 21943), promulgates Seaway Reg-

ulations (33 CFR Part 401, Subpart A) to give users of the waterway essential information and directions for transiting. Each year, the regulations are republished to incorporate changes and amendments in light of the past season's experience. The current revision, which became effective on March 22, 1974 was a consolidation of former rules and regulations into one set of regulations. In this consolidation, it was necessary to eliminate certain of the regulations which were, in fact, more informative than regulatory. The subject regulations were those which set forth the penalties for violations of the Seaway Regulations. The penalty regulations were formerly numbered § 401.22, *Criminal penalty*, and § 401.23, *Civil penalty*, and the purpose of this publication is to restate those penalties as Subpart B of Part 401, § 401.101 and § 401.102.

Inasmuch as the penalties regulations are merely being restated with no change and since they were published as proposed rulemaking in February 1973 with an opportunity for public comment at that time, it is hereby determined that a comment period is neither necessary nor required and that the following Subpart B may be made effective in less than 30 days.

(68 Stat. 92-97 (33 U.S.C. 981-990, as amended), and secs. 106 and 107, Pub. L. 92-340, 86 Stat. 424, 49 CFR 1.50a (37 FR 21943)).

Effective date: April 1, 1974.

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION,

[SEAL] D. W. OBERLIN,
Administrator.

1. Subpart B is added to read as follows:

Subpart B—Penalties—Violations of Seaway Regulations

§ 401.101 Criminal penalty.

(a) A person who willfully violates a regulation is subject to a fine not less than \$5,000 or more than \$50,000 or imprisonment for not more than 5 years or both.

(b) For the purpose of paragraph (a) of this section, a "person" is deemed to be anyone who

(1) Handles any vessel contrary to the provisions of these regulations or of any rules or directions of the Corporation, or an officer thereof, given under the regulations;

(2) Is a party to any act described in paragraph (b) (1) of this section; or

(3) Is the owner, charterer or master of any vessel by means of which any act described in paragraph (b) (1) of this section is committed.

§ 401.102 Civil penalty.

(a) A person, as described in § 401.101 (b), who violates a regulation is liable to a civil penalty of not more than \$10,000.

(b) In assessing or collecting any civil penalty incurred under paragraph (a) of this section, the Corporation may, in its

discretion, remit, mitigate or compromise any penalty.

(c) Upon failure to collect a penalty levied under this section, the Corporation may request the United States Attorney General to commence any action for collection in any district court of the United States. A vessel by means of which a violation of a regulation is committed shall be liable in rem and may be proceeded against accordingly.

(Secs. 106 and 107 of Pub. L. 92-340 (86 Stat. 424))

[FR Doc.74-7928 Filed 4-5-74; 8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

**PART 2—DELEGATIONS OF AUTHORITY
Chief Benefits Director**

On page 5211 of the FEDERAL REGISTER of February 11, 1974, there was published a notice of proposed regulatory development to amend § 2.6 to clarify the scope of the delegation of authority to the Chief Benefits Director to indicate that it does not include contract appeals. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulation.

No written comments have been received and the proposed regulation is hereby adopted without change and is set forth below.

Effective date. This VA Regulation is effective April 2, 1974.

Approved: April 2, 1974.

By direction of the Administrator.

[SEAL] R. L. ROUEBUSH,
Deputy Administrator.

In § 2.6, paragraph (b) (1) is amended to read as follows:

§ 2.6 Administrator's delegations of authority to certain officials (38 U.S.C. 212(a)).

(b) *Department of Veterans Benefits—*
(1) *General.* The Chief Benefits Director is delegated authority to act on all matters assigned to the Department of Veterans Benefits except as provided in § 1.771 of this chapter and to authorize supervisory or adjudicative personnel within his jurisdiction to perform such functions as may be assigned.

[FR Doc.74-7962 Filed 4-5-74; 8:45 am]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER Q—SPECIFICATIONS

[CGD 73-116R]

PART 160—LIFESAVING EQUIPMENT

Lifeboats for Merchant Vessels

The purpose of this amendment to 46 CFR 160.035-5(a) (3) is to change the present requirement for cross-sectional

areas of the vent pipes on diesel fuel tanks in lifeboats. The present requirement for vent pipe size in lifeboats was predicated on the size and length of the fuel line used on small passenger vessels as required in 46 CFR 182.20-35(b) (1) and (2), for large tanks that are normally pressure filled. Experience with design of the fuel tank and vent pipes of such size has proven to the Coast Guard that the present requirement is neither realistic nor necessary. Small lifeboat diesel fuel tanks are filled by hand from cans, not by forced pressure and a 1/4 inch O.D. line for venting the tank is considered by the Coast Guard as sufficient.

A notice of proposed rule making was published in the October 3, 1973 issue of the FEDERAL REGISTER (38 FR 27415). Interested persons were given 30 days in which to submit written data, views, comments, suggestions, and arguments regarding the proposed regulations.

No written comments have been received. The proposed regulation is hereby adopted without change and is set forth below. Compliance with this amendment prior to the effective date is considered by the Coast Guard as compliance with existing regulations.

Effective date. This amendment is effective May 5, 1974.

Dated: MARCH 27, 1974.

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

Part 160 of Title 46 Code of Federal Regulations is revised to read as follows:

§ 160.035-5 Construction of Steel Motor-Propelled Lifeboats With and Without Radio Cabin.

(a) * * * (3) Fuel tanks must be constructed of steel, fibrous glass reinforced plastic or other approved equivalent. Fuel tanks must be adequately supported and securely fastened inside the lifeboat to prevent any movement. Fuel tanks must have no openings in the bottom, sides or ends. Openings for fill, vent and feed pipes must be on the top surface of the tanks. The vent size for tanks of 50 gallons or less must not be less than 1/4-inch O.D. tubing. Vents for larger tanks will be given special consideration. The access openings in the thwarts for the fill tank cap must have a flush cover or the top of the cap must be flush with the top of the thwart. Fuel feed pipes must be provided with a shut-off valve at the tank, where it is readily accessible and its location marked. Tanks must be tested by a static head above the tank top of ten feet of water without showing leakage or permanent deformation. A graduated measure stick or other means must be provided to determine the amount of the fuel in the tank.

(46 U.S.C. 369, 375, 390b, 404, 416, 481, 459, 526p; 49 USC 1655(b) (1); 49 CFR 1.4(b); 1.46(b)).

[FR Doc.74-7976 Filed 4-5-74; 8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 74-290; Docket No. 19846; RM-1945]

PART 15—RADIO FREQUENCY DEVICES

Report and Order

In the matter of Amendment of Part 15 of the Commission's rules and regulations to permit Biomedical Radio Telemetry in the Band 38-41 MHz.

1. On October 24, 1973, the Commission, in response to a petition (RM-1945) from Cardiac Electronics Inc., issued a Notice of Proposed Rule Making (NPRM) to amend Part 15 of the Rules and Regulations to provide for the operation of low power biomedical telemetry equipment in the frequency band 38-41 MHz. The NPRM was published in the FEDERAL REGISTER on October 29, 1973 (38 FR 29818). Timely comments were filed by the New Jersey Hospital Association and by SED Systems Ltd.

2. In its comments, the New Jersey Hospital Association supported the proposed rule making, stating that this additional band for biomedical telemetry will provide greater flexibility to those involved in the health care industry.

3. In comments filed by SED Systems Ltd., the Commission was asked to expand the use of the 38-41 MHz band to include telemetry of data from high voltage power transmission lines. SED Systems Ltd. cited the similarities between its request and that of Cardiac Electronics as a justification for including this type of operation in the band. The Commission, however, has noted several dissimilarities, particularly with regard to the operating environment and increased power. SED Systems Ltd. operations might best be met on frequencies which are already allocated to the Power Radio Service.

4. The Notice specifically invited comments relating to the proposed use of the band 38-41 MHz for biomedical telemetry. The comments filed by SED Systems Ltd. only superficially addressed the subject rule making and, for the most part, were outside the scope of this proceeding. The Commission believes that any new use of this band at this time would require a further rule making proceeding.

5. In view of the foregoing, the Commission finds that adoption of a rule amendment permitting biomedical telemetry in the band 38-41 MHz will be in the public interest. The conditions and limitations on the use of such systems are set forth in the Appendix.

6. Accordingly, Pursuant to authority contained in Section 4(i) and 303 of the Communications Act of 1934, as amended, *It is ordered*, That effective May 14, 1974, Part 15 of the Commission's rules is amended, as shown in the attached Appendix and this proceeding is terminated.

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

Adopted: March 28, 1974.

Released: April 2, 1974.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS,
Secretary.

Attachment: Appendix.

Part 15 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 15.201 is amended by adding a new paragraph (e) to read as follows:
§ 15.201 Frequencies of operation.

(e) Biomedical telemetry devices may be operated in the frequency bands and under the conditions set out in § 15.216.

2. Section 15.216 is amended by deleting the present text of paragraphs (a), (b) and (c) and inserting the following new text:

§ 15.216 Biomedical telemetry devices.

(a) Biomedical telemetry devices may be operated in the following frequency bands:

38-41 MHz
174-216 MHz

Operation in these bands is not subject to the duty cycle limitation in § 15.211(a)(3).

NOTE.—Section 15.3 requires that a biomedical telemetry device operating under the provisions of this section must accept harmful interference. Adequate safeguards shall be incorporated into any such biomedical telemetry system (as a cardiac monitoring system) to minimize the risk of harm to the patient as a result of interference received by such a system from any authorized radio service.

(b) Biomedical telemetry devices may operate with a bandwidth of 200 kHz subject to the conditions in paragraph c of this section.

(c) The emissions from a biomedical telemetry device shall not exceed the field strength limits given below.

Operating frequency (MHz)	Field strength—	
	On the operating frequency	On harmonics and other spurious emissions on frequencies outside the authorized bandwidth
38-41 MHz	10 μ V/m at 50'	10 μ V/m at 10'
174-216 MHz	160 μ V/m at 100'	15 μ V/m at 100'

[FR Doc. 74-7967 Filed 4-5-74; 8:45 am]

[Docket No. 19622, RM-1967; RM-1935; RM-1940; RM-1929]

PART 73—RADIO BROADCAST SERVICES

Order Extending Time for Filing Oppositions to Petitions for Reconsideration

In the matter of consideration of the operation of, and possible changes in, the prime time access rule, § 73.658(k) of the Commission's rules.

1. On March 20, 1974, Public Notice

(No. 19761) was given of petitions for reconsideration of the Commission's Report and Order in the above captioned proceeding (FCC 74-80), released February 6, 1974, filed by Sandy Frank Program Sales, Inc., MCA, Inc., Screen Gems Division of Columbia Pictures, Inc. (subsequently withdrawn), and United Artists Corporation (which also filed a petition for stay). The date of filing oppositions to the above petitions is presently April 1, 1974.

2. On March 28, 1974, Time-Life Films, Inc. (Time-Life) filed a request for an extension of time for two days to file oppositions to the above petitions for reconsideration. Time-Life states that due to the press of other business and the absence from the city of one of Time Life's attorneys, an adequately prepared pleading could not be filed with the Commission by the time of the present due date.

3. It appears that the requested extension is warranted. Accordingly, *It is ordered*, That the time for filing oppositions to the petitions for reconsideration in Docket No. 19622 is extended to and including April 3, 1974. In addition, the time for filing replies to these oppositions is extended to and including April 10, 1974.

4. This action is taken pursuant to delegated authority contained in § 0.281 of the Commission's Rules as amended, effective November 13, 1973.

Adopted: March 29, 1974.

Released: April 2, 1974.

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 74-7968 Filed 4-5-74; 8:45 am]

[FCC 74-292; Docket No. 19862]

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA PUBLIC FIXED STATIONS

Order (Proceeding Terminated)

In the matter of amendment of Part 81—to establish a scheduled date for the conversion of marine fixed and marine receiver-test stations from double sideband to single sideband radiotelephony.

1. The Commission released its notice of proposed rule making in the instant proceeding on November 19, 1973, which was published in the FEDERAL REGISTER on November 26, 1973 (38 FR 32518). The date for filing comments and reply comments has passed.

2. No comments or reply comments were filed in response to the Notice of Proposed Rule Making. In the absence of such comments, and for the reasons set forth in the Notice of Proposed Rule-making, the Commission is adopting without change the proposed amendments to Sections 81.132(a)(3) and 81.134(e), which are set forth in the attached Appendix.

3. Accordingly, *It is ordered*, That pursuant to the authority contained in Sections 303(f), (g) and (r) of the Communications Act of 1934, as amended, Part

81 of the Commission's rules, is amended, effective May 14, 1974, as set forth in the attached Appendix.

4. It is further ordered, That this proceeding is terminated.

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

Adopted: March 28, 1974.

Released: April 2, 1974.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] VINCENT J. MULLINS,
Secretary.

Attachment: Appendix.

Part 81 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

1. In § 81.132, subparagraph (a) (3) is amended to read as follows:

§ 81.132 Authorized classes of emission.

(a) * * *

(3) Marine fixed and marine receiver-test stations:

2000-2850 kHz, except for 2182 kHz: A3A and A3J.¹

2182 kHz: A3 and A3H.

¹ Emissions A3 and A3H may continue to be employed until July 1, 1975. These emissions will not be available for use after that date.

2. In § 81.134, paragraph (e) is amended to read as follows:

§ 81.134 Transmitter power.

(e) For marine fixed and marine receiver-test stations, transmitter power shall not exceed 150 watts for A3,¹ A3A, A3H,¹ and A3J emissions and 50 watts for F3 emission.

¹ Effective July 1, 1975, emission A3 will not be available and emission A3H is available for use on 2182 kHz only.

[FR Doc. 74-7969 Filed 4-5-74; 8:45 am]

Title 49—Transportation

CHAPTER I—DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A—HAZARDOUS MATERIALS REGULATIONS BOARD

[Docket No. HM-104; Amdt. Nos. 171-24, 172-24, 173-79, 174-21, 178-32]

MISCELLANEOUS AMENDMENTS

The purpose of these amendments to the Hazardous Materials Regulations of the Department of Transportation is (1) to specify a new definition for ammonium nitrate fertilizer; (2) to authorize new packagings for ammonium nitrate fertilizer and to provide additional packagings for ammonium nitrate (no organic coating), ammonium nitrate mixed fertilizer, and sodium nitrate; (3) to identify a specific composition of calcium nitrate that is not subject to regulation; (4) to delete dichloroisocyanuric acid, dry, from the regulations; (5) to

add mono-(trichloro) tetra-(monopotassium dichloro)-penta-s-triazinetriene to the regulations; (6) to change the proper shipping names of some dry chlorine compounds; (7) to authorize the shipment of certain dry chlorine compounds in DOT specification 56 portable tanks; (8) to provide specific methods of securing certain portable tanks in rail transportation; (9) to authorize the shipment of titanium sulfate solution, containing not more than 45 percent sulfuric acid, in DOT specification 6D cylindrical steel overpacks with inside DOT specifications 2S polyethylene containers; (10) to authorize the shipment of dichlorodifluoromethane-difluoroethane mixtures in DOT specification 4E240 aluminum cylinders; (11) to exempt from labeling and certain marking requirements compressed gas cylinders that are component parts of passenger restraint systems installed in motor vehicles; (12) to change the requirements for the shipment of hydraulic accumulators; (13) to authorize the use of inside DOT specification 2N metal cans made of 135-pound tin plate throughout and with the top head of each can attached to the body section by full double seams with a durable seaming compound; and (14) to provide the correct reference to an ASTM test method used in determining the density of plastics.

On August 10, 1972, the Hazardous Materials Regulations Board published a notice of proposed rule making, Docket No. HM-104; Notice No. 72-10 (37 FR 16108), which proposed these amendments. The reasons for all these amendments were discussed in that notice of proposed rule making. Interested persons were invited to give their views and several comments were received by the Board.

Nitrates. A commenter questioned the proposed authorization of the use of polyethylene and polypropylene bags for the shipment of ammonium nitrate fertilizer. It was stated that, in the event of fire, the plastic material will melt and become intimately mixed with the ammonium nitrate fertilizer thereby forming a blasting agent. This rule making does not introduce anything new with regard to the use of bags, made of plastic materials, for ammonia nitrate fertilizer. This amendment would simply allow the use of additional types of plastic bags. The present regulations authorize the use of DOT-44P plastic bags for this material. Extensive tests were performed by testing organizations that showed ammonium nitrate fertilizer in plastic bags was not more hazardous than when packed in paper bags. Also, in addition to the results of past tests, the actual safety record experienced throughout the years has indicated that ammonium nitrate fertilizer packaged in plastic bags is not a problem. Therefore, the Board has provided for ammonium nitrate fertilizer to be packaged in bags made of plastic materials.

Another commenter stated that calcium nitrate, which is chemically pure, meets the definition of an oxidizing ma-

terial and therefore, should continue to be subject to regulation. However, there is information available on another material identified as "Calcium nitrate fertilizer" and consisting of a double salt (calcium nitrate and ammonium nitrate) and containing not more than 15.5 percent total nitrogen and at least 12 percent of water. The data indicates that this material does not meet the oxidizing material definition; therefore, it should not be subject to regulation. The Board agrees with the original petitioner for the change and the distinction made by a commenter between "types" of calcium nitrate. Therefore, the Board has withdrawn that portion of the proposal which proposed to delete the entry for calcium nitrate. It remains subject to regulation. However, to preclude the applicability of the regulations to the double salt that poses no significant hazard, the Board has amended § 172.5 by specifically identifying the material that is a fertilizer grade of calcium nitrate and by incorporating its specific components together with the maximum amount of nitrogen and the minimum water content of the material.

Two commenters suggested that the proposed changes in § 174.532(k) be modified. One commenter pointed out that the proposed rule making deleted the restriction against loading ammonium nitrate (organic coating) in all-metal cars. The Board emphasizes that the restriction actually continues in effect since § 174.532(k) only relates to nitrate formulations listed in § 173.182 (b). Ammonium nitrate (organic coating) has been deleted from § 172.182(b) because this material is not shipped in bulk quantities and § 172.182(b) is the section which authorizes transportation in bulk. The other commenter stated that § 174.532(k) should be amended by removing the references to certain nitrate products, and authorize all nitrate materials listed in § 173.182 (b), to be loaded in clean, covered hopper cars. His reason for such a change is based on § 172.182 (b) (1) which presently permits all nitrate materials so listed to be shipped in tight closed freight cars. The Board agrees with this commenter and has removed the restriction in § 174.532(k) that only certain nitrates are authorized to be shipped in covered hopper cars.

A comment was received requesting that § 173.182 (b) (5) (ii) be amended to reduce the total basis weight of the authorized paper bags from 180 pounds to 150 pounds and that subparagraph § 173.82 (b) (6) (iii) be amended to authorize the use of a 5 or 5.5 mil single ply plastic bag as an alternate packaging. The proposed rule making did not address itself to these suggested changes and because of this, these proposed changes were not available for public comment. Therefore, they were not considered in this rule making action.

A comment was received objecting to the proposal in the list of hazardous materials to change "Ammonium nitrate fertilizer containing 90 percent or more ammonium nitrate with no organic coating" to "Ammonium nitrate (no organic

coating)." The Board points out that because ammonium nitrate formulations which are not fertilizers according to the new test criteria must be covered, two separate descriptions become necessary, one for fertilizer materials and one for non-fertilizer materials. Regarding the ammonium nitrate fertilizer formulations, the Board is prescribing a shorter simplified description "Ammonium nitrate fertilizer." Since shipping papers and markings on packagings will be affected and to provide for a reasonable transition period, the Board has decided to permit use of formerly prescribed descriptions until June 30, 1975.

Dry chlorine compounds in portable tanks. A commenter indicated that this proposal would create certain problems because present non-specification portable tanks, used for specific dry chlorine compounds cannot be converted, because of physical limitations, to meet the DOT-56 specification requirements. The Board believes that the regulations should not be amended to authorize the use of such non-specification portable tanks for these dry chlorine compounds. However, in certain situations, such as the one mentioned above, it will consider the continuation of special permits to permit a reasonable phase-out period for non-DOT specification packaging provided adequate precautions are taken relative to safety in transportation.

Automotive restraint systems. Two commenters had several objections to the proposal to exempt compressed gas cylinders that are component parts of passenger restraint systems installed in motor vehicles from all of the regulations except those requirements for cylinder construction, filling, and specification marking. Based on the objections, it appears that the proposal was not clearly understood by the commenters. It is important to recognize that the notice contained proposed exemptions from all of the regulations except those requirements for cylinder construction, filling, and specification marking for charged compressed gas cylinders installed in motor vehicles which would otherwise be in compliance with the regulations when shipped in strong outside packagings as ordinary freight. Several comments were addressed to the design and construction regulations for DOT-39 specification cylinders which were not proposed to be changed in this rule making. Rather, the object of this rule making action is to assure an adequate level of safety while removing unnecessary regulatory controls from motor vehicles equipped with certain passenger restraint systems when these vehicles are shipped in interstate or foreign commerce.

Another commenter suggested that the wording of this proposal, which requires the cylinder used in a restraint system to be in compliance with a cylinder specification in Part 178, be amended to cover cylinders authorized by special permits.

The Board agrees in part with this suggestion and has added the phrase "Unless otherwise authorized by the Department * * *" at the beginning of subparagraph § 173.306(d)(3)(i).

A commenter suggested that the amendment include restraint systems that also contain gas generators. The Board agrees that such a provision should be made if tests are successfully conducted in accordance with procedures used to establish compliance with § 173.34(d). Therefore, a note has been added to the exemption for restraint systems to include gas generators.

Hydraulic accumulators. The Department of Defense requested that the partial exemption be revised to include pneumatic accumulators which are parts of missiles or components thereof. The Board did not make the requested change since pneumatic accumulators were not covered in the proposal.

In consideration of the foregoing, 49 CFR Parts 171, 172, 173, 174, and 178 are amended as follows:

PART 171—GENERAL INFORMATION AND REGULATIONS

I. In § 171.7, paragraph (c)(19) is added to read as follows:

§ 171.7 Matter incorporated by reference.

(c) * * *

(19) TFI: The Fertilizer Institute, 1015 18th Street N.W., Washington, D.C. 20036.

* * *

PART 172—LIST OF HAZARDOUS MATERIALS CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL MATERIALS SUBJECT TO PARTS 170-189 OF THIS SUBCHAPTER

II. In § 172.5, paragraph (a), the list of hazardous materials, is amended to read as follows:

§ 172.5 List of hazardous materials.

(a) * * *

Article	Classed as—	Exemptions and packing (see section)	Label required if not exempt	Maximum quantity in 1 outside container by rail express
Cancel				
Ammonium nitrate.....	Oxy. M.....	173.153, 173.182.....	Oxy.....	100 lb.
Ammonium nitrate fertilizer, containing 90 percent or more ammonium nitrate with no organic coating.....	Oxy. M.....	173.153, 173.182.....	Oxy.....	100 lb.
Dichloroisocyanuric acid, dry, containing more than 39 percent available chlorine.....	Oxy. M.....	173.153, 173.217.....	Oxy.....	100 lb.
Potassium dichloroisocyanurate, dry, containing more than 39 percent available chlorine.....	Oxy. M.....	173.153, 173.217.....	Oxy.....	100 lb.
Sodium dichloroisocyanurate, dry, containing more than 39 percent available chlorine.....	Oxy. M.....	173.153, 173.217.....	Oxy.....	100 lb.
Trichloroisocyanuric acid, dry, containing more than 39 percent available chlorine.....	Oxy. M.....	173.153, 173.217.....	Oxy.....	100 lb.
Add				
Ammonium nitrate (no organic coating).....	Oxy. M.....	173.153, 173.182.....	Oxy.....	100 lb.
Ammonium nitrate fertilizer, containing no more than 0.2 percent carbon.....	Oxy. M.....	173.153, 173.182.....	Oxy.....	100 lb.
* Calcium nitrate.....	Oxy. M.....	173.153, 173.182.....	Oxy.....	100 lb.
Calcium nitrate fertilizer, consisting of a double salt (calcium nitrate and ammonium nitrate) and containing not more than 15.5 percent total nitrogen and not less than 12 percent water.....		Not subject to Parts 170-189 of this subchapter.		
Mono-(trichloro) tetra-(monopotassium dichloro)-penta-s-triazinetri- one (dry, containing more than 39 percent available chlorine).....	Oxy. M.....	173.153, 173.217.....	Oxy.....	100 lb.
Potassium dichloro-s-triazinetri- one (dry, containing more than 39 percent available chlorine).....	Oxy. M.....	173.153, 173.217.....	Oxy.....	100 lb.
Sodium dichloro-s-triazinetri- one (dry, containing more than 39 percent available chlorine).....	Oxy. M.....	173.153, 173.217.....	Oxy.....	100 lb.
Trichloro-s-triazinetri- one (dry, containing more than 39 percent available chlorine).....	Oxy. M.....	173.153, 173.217.....	Oxy.....	100 lb.
Change				
* Ammonium nitrate-phosphate.....	Oxy. M.....	173.153, 173.182.....	Oxy.....	100 lb.
Hydraulic accumulators (pressurized with nonflammable, nonliquefied compressed gas).....	Nonfl. C.G.....	173.306(f).....		

PART 173—SHIPPERS

(A) In Part 173 Table of Contents, § 173.217 is amended to read as follows:

Sec.
173.217 Calcium hypochlorite mixtures, dry, lithium hypochlorite compounds, dry, mono-(trichloro) tetra-(monopotassium dichloro)-penta-s-triazinetriene, dry, potassium dichloro-s-triazinetriene, dry, sodium dichloro-s-triazinetriene, dry, trichloro-s-triazinetriene, dry.

(B) In § 173.182, the introductory text of paragraphs (a) and (b) and paragraphs (b) (3), (4), (5), and (6) are amended; paragraph (b) (7) is added to read as follows:

§ 173.182 Nitrates.

(a) Aluminum nitrate, ammonium nitrate (no organic coating), ammonium nitrate (organic coating), ammonium nitrate-carbonate mixture, ammonium nitrate-phosphate, ammonium nitrate fertilizer¹ (containing no more than 0.2 percent carbon), ammonium nitrate mixed fertilizer, barium nitrate, calcium nitrate, guanidine nitrate, lead nitrate, magnesium nitrate, nitrates, n.o.s., nitrate of soda and potash, nitro carbo nitrate (see Note 1), potassium nitrate, silver nitrate, sodium nitrate, and strontium nitrate, when offered for transportation by rail freight, rail express, highway, or carriers by water must be packed in containers as follows:

[Note 1 remains the same.]

(b) Aluminum nitrate, ammonium nitrate (no organic coating), ammonium nitrate-carbonate mixture, ammonium nitrate-phosphate, ammonium nitrate fertilizer¹ (containing no more than 0.2 percent carbon), ammonium nitrate mixed fertilizer, barium nitrate, calcium nitrate, guanidine nitrate, nitrate of soda and potash, potassium nitrate, sodium nitrate, and strontium nitrate, when offered for transportation by rail freight, rail express, highway, or carriers by water, in addition to packagings prescribed in paragraph (a) of this section, may be packed as follows:

(3) In bulk on cargo vessels subject to the regulations in Subchapter N—Dangerous Cargoes, 46 CFR Part 146, prescribed by the Commandant, U.S. Coast Guard.

(4) Burlap bag made water-resistant and tight against sifting, and of not less than 7½ ounce burlap. Authorized net weight not over 200 pounds. Ammonium nitrate-carbonate mixtures, calcium nitrate, potassium nitrate, sodium nitrate, nitrate of soda and potash, or strontium nitrate when so packed are exempt from

labeling requirements and § 177.823 of this subchapter. For water shipments see Subchapter N—Dangerous Cargoes, 46 CFR Part 146, for the regulations prescribed by Commandant, U.S. Coast Guard. (See §§ 174.532 and 177.838 of this subchapter for loading requirements.)

(5) Multiple-wall paper bags. Each bag filled to weight with product and closed for shipment must be capable of withstanding three 4-foot drops on face or back onto solid concrete without rupture and must be constructed as follows:

(i) Multiple-wall paper bag made of at least four plies. Authorized net weight not over 110 pounds. Each bag must include a moisture barrier ply and be made tight against sifting. Ammonium nitrate-carbonate mixtures, calcium nitrate, potassium nitrate, sodium nitrate, nitrate of soda and potash, or strontium nitrate when so packed are exempt from labeling requirements and § 177.823 of this subchapter. For water shipments see Subchapter N—Dangerous Cargoes, 46 CFR Part 146, for the regulations prescribed by Commandant, U.S. Coast Guard. (See §§ 174.532 and 177.838 of this subchapter for loading requirements); or

(ii) Multiple-wall paper bag made of at least three plies of extensible kraft paper having a minimum total basis weight of 180 pounds. Authorized net weight not over 80 pounds. Each bag must have the innermost ply coated with polyethylene to provide a moisture barrier. Authorized only for ammonium nitrate (no organic coating), ammonium nitrate fertilizer, and ammonium nitrate mixed fertilizer. (See §§ 174.532 and 177.838 of this subchapter for loading requirements.)

(6) Plastic bags constructed as follows:

(i) Specification 44P (§ 178.241 of this subchapter). All plastic bag. Authorized net weight not over 81 pounds. Authorized only for ammonium nitrate fertilizer and ammonium nitrate mixed fertilizer. (See §§ 174.532 and 177.838 of this subchapter for loading requirements); or

(ii) Polypropylene bag made of 9 denier polypropylene fibers spun continuously to form a sheet weighing at least 3½ ounces per square yard. Authorized net weight not over 100 pounds. Each bag must have an inner liner of polyethylene not less than 4 mils thick. Each bag filled to weight with product and closed for shipment must be capable of withstanding three 4-foot drops on face or back onto solid concrete without rupture. Authorized only for ammonium nitrate (no organic coating) and ammonium nitrate fertilizer. (See §§ 174.532 and 177.838 of this subchapter for loading requirements); or

(iii) Polyethylene bag made of two plies of high-density polyethylene film laminated together so that the orientation of each ply of film is at right angles to the other. Authorized net weight not exceeding 100 pounds. For a net weight not exceeding 50 pounds, the thickness

of each bag must be at least 2.5 mils. For a net weight not exceeding 100 pounds, the thickness of each bag must be at least 4 mils. Each bag must be capable of withstanding the test requirements of § 178.241-4 and each bag must be in compliance with the requirements of § 178.241-3 of this subchapter for bag closures. Authorized only for ammonium nitrate (no organic coating), ammonium nitrate fertilizer, and sodium nitrate. Sodium nitrate when so packed is exempt from labeling requirements. (See §§ 174.532 and 177.838 of this subchapter for loading requirements.)

(7) Specification 53² or 56 (§§ 178.251, 178.252 of this subchapter). Portable tank. Authorized only for sodium nitrate.

(C) In § 173.217, the heading and the introductory text of paragraph (a) is amended; paragraph (a) (6) is added to read as follows:

§ 173.217 Calcium hypochlorite mixtures, dry, lithium hypochlorite compounds, dry, mono-(trichloro) tetra-(monopotassium dichloro)-penta-s-triazinetriene, dry, potassium dichloro-s-triazinetriene, dry, sodium dichloro-s-triazinetriene, dry, trichloro-s-triazinetriene, dry.

(a) Calcium hypochlorite mixtures, dry, lithium hypochlorite compounds, dry, mono-(trichloro) tetra-(monopotassium dichloro)-penta-s-triazinetriene, dry, potassium dichloro-s-triazinetriene, dry, sodium dichloro-s-triazinetriene, dry, trichloro-s-triazinetriene, dry, each containing more than 39 percent available chlorine must be packed in specification packagings as follows:

(6) Specification 56 (§§ 178.251, 178.252 of this subchapter). Metal portable tank. Authorized only for mono-(trichloro) tetra-(monopotassium dichloro)-penta-s-triazinetriene, dry, and sodium dichloro-s-triazinetriene, dry. For rail transportation, see § 174.534 (b) of this subchapter.

(D) In § 173.297, paragraph (a) (4) is added to read as follows:

§ 173.297 Titanium sulfate solution containing not more than 45% sulfuric acid.

(a) * * *

(4) Specification 6D (§ 178.102 of this subchapter). Cylindrical steel overpack with inside specification 2S (§ 178.35 of this subchapter) polyethylene container not over 30-gallons capacity. Overpack of over 15 gallons must be constructed of at least 18-gauge steel throughout.

(E) § 173.304 paragraph (a) (2), the table is amended as follows:

§ 173.304 Charging of cylinders with liquefied compressed gas.

(a) * * *

(2) * * *

² Use of existing tanks authorized. Construction not authorized after May 31, 1972.

¹ Applies only to materials tested in accordance with and meeting the definition in The Fertilizer Institute's publication "Definition and Test Procedures for Ammonium Nitrate Fertilizer" dated May 7, 1971.

flat cars, except under conditions approved by the Federal Railroad Administrator. For cargo tanks see § 174.533 (c).

PART 178—SHIPPING CONTAINER SPECIFICATIONS

V. (A) § 178.32-2 is amended to read as follows:

§ 178.32 Specification 2N; inside containers, metal cans.
§ 178.32-2 Material.

Each can must be made of good quality tin plate with parts and dimensions in compliance with the requirements of the following table:

Maximum diameter of can (inches)	Minimum thickness of metal (inches)	
	In body	In heads
4 5/16	0.01134 (107 lb tin plate).	0.01305 (128 lb tin plate). ¹
6 1 1/16	0.01134 (107 lb tin plate).	0.01485 (148 lb tin plate). ²
6 1 1/16	0.01405 (135 lb tin plate).	0.01405 (135 lb tin plate). ³

¹ The minimum thickness of metal in each head may be 107 lb tin plate provided side seams are soldered and heads are attached to body sections by full double seams internally soldered.

² The minimum thickness of metal in each head may be 135 lb tin plate provided side seams are soldered and heads are attached to body sections by full double seams internally soldered.

³ Top heads must be attached to body sections by full double seams with durable seaming compound, and bottom heads must be attached to body sections by soldering.

subparagraphs (2) (i), (ii), and (iii) of this paragraph, and
(ii) Each accumulator must be designed and fabricated with a burst pressure of not less than five times its charged pressure at 70° F. when shipped.

PART 174—CARRIERS BY RAIL FREIGHT

IV. (A) In § 174.532 paragraph (k) is amended to read as follows:

§ 174.532 Loading other hazardous materials.

(k) Nitrates listed in § 173.182(b) of this subchapter must be loaded in clean closed cars, which must be free of loose boards, cracks, holes, or exposed decayed spots. Interior of cars must be swept clean and be free of any projections capable of damaging bags when the nitrate is so packaged. Doors of cars must have tight closures. Journals and boxes must be in good condition. (See § 174.541(a) (1) and (2) of this subchapter.)

(B) In § 174.534, paragraph (b) is added to read as follows:

§ 174.534 Portable containers or tanks.

(b) Specifications 52, 53, 56, and 57 portable tanks must not be transported on flat cars or on flat bed trailers on

(B) In Appendix B to Part 178, Table I is amended as follows:

APPENDIX B—SPECIFICATIONS FOR PLASTICS

TABLE 1

Property	Type I	Type II	Type III	ASTM method
----------	--------	---------	----------	-------------

Change

Density, g./cc. 0.910–<0.926 0.926–<0.941 0.941–<0.965 D1505-68.

This amendment is effective September 30, 1974 except for the regulations covering "Ammonium nitrate (no organic coating)" and "Ammonium nitrate fertilizer" as they relate to shipping papers and markings on packagings. These materials which were formerly described in accordance with section 172.5 as "Ammonium nitrate

Containers marked as shown in this column or of the same type with higher service pressure must be used except as provided in § 173.34 (e), (b), § 173.301 (i) (see notes following table)

Change

Percent

Dichlorodifluoromethane and difluoroethane Not liquid full at 130° F. (see note 8).

(F) In § 173.306, paragraph (e) (2) is deleted; the heading of paragraph (e) is amended; and paragraphs (d) (3) and (f) are added to read as follows:

§ 173.306 Exemptions from compliance with regulations for shipping compressed gas.

(d) * * * *
(3) A cylinder which is a component part of a passenger restraint system and is installed in a motor vehicle, charged with nonliquefied, nonflammable compressed gas and having no more than two actuating cartridges per valve, is exempt from the requirements of Parts 170-189 of this subchapter except:

(i) Unless otherwise authorized by the Department, each cylinder must be in compliance with one of the cylinder specifications in Part 178 and authorized for use in § 173.302 for the gas it contains;
(ii) Each cylinder must be in compliance with the filling requirements of § 173.301; and
(iii) Each actuating cartridge must be approved in accordance with § 173.86 and meet the definition set forth in § 173.100 (w).

NOTE.—A cylinder containing a gas generator may be included within the provisions of this exemption if the requirements of § 173.34 (d) are satisfied.

(e) Refrigerating machines. * * *

(2) [Deleted]

(f) Hydraulic accumulators. The following apply to hydraulic accumulators containing nonliquefied, nonflammable

(i) Each accumulator must be in compliance with the requirements stated in § 173.306, paragraph (e) (2) is deleted; the heading of paragraph (e) is amended; and paragraphs (d) (3) and (f) are added to read as follows:

§ 173.306 Exemptions from compliance with regulations for shipping compressed gas.

(d) * * * *
(3) A cylinder which is a component part of a passenger restraint system and is installed in a motor vehicle, charged with nonliquefied, nonflammable compressed gas and having no more than two actuating cartridges per valve, is exempt from the requirements of Parts 170-189 of this subchapter except:

(i) Unless otherwise authorized by the Department, each cylinder must be in compliance with one of the cylinder specifications in Part 178 and authorized for use in § 173.302 for the gas it contains;

(ii) Each cylinder must be in compliance with the filling requirements of § 173.301; and

(iii) Each actuating cartridge must be approved in accordance with § 173.86 and meet the definition set forth in § 173.100 (w).

fertilizer, containing 90 percent or more ammonium nitrate with no organic coating" may continue to be so described on shipping papers and so marked on packagings until June 30, 1975. However, compliance with these regulations, as amended herein, is authorized immediately.

AUTHORITY. Transportation of Explosives Act: (18 U.S.C. 831-835), section 6 of the Department of Transportation Act, (49 U.S.C. 1655); Title VI and section 902(h) of the Federal Aviation Act of 1958, (49 U.S.C. 1421-1430, 1472(h), and 1655(c)).

Issued in Washington, D.C. on April 1, 1974.

JAMES F. RUDOLPH,
Board Member.

KENNETH L. PIERSON,
Alternate Board Member.

GAE E. ROGERS,
Board Member.

D. H. CLIFTON,
Alternate Board Member.

[FR Doc. 74-7902 Filed 4-5-74; 8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1037—HANDLING OF BULK GRAIN AND GRAIN PRODUCTS IN INTERSTATE COMMERCE

Practices and Policies in the Settlement of Loss and Damage Claims on Grain and Grain Products

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 12th day of March 1974.

It appearing, That pursuant to a petition for entry of a declaratory order, an investigation was instituted by order dated March 4, 1970, and that a subsequent petition to broaden the investigation was granted by order dated October 6, 1970 and amended order dated October 26, 1970; and that, thereafter, in response to a motion to clarify the nature and basis of the proceeding, the prior orders instituting a proceeding with a view to entry of a declaratory order were vacated and by order dated April 30, 1971, a rulemaking proceeding was instituted under authority of the national transportation policy, part I of the Interstate Commerce Act, and the Administrative Procedure Act for the purpose of (1) inquiring into the nature of the railroads' rules, regulations, practices, and procedures in handling loss and damage claims on grain, to determine if they are in accord with rules tentatively endorsed by the Commission in *Claims for Loss and Damage of Grain*, 56 I.C.C. 347 (1920) (the *Claims case*),

and the provisions of the Interstate Commerce Act; (2) determining the extent of this Commission's jurisdiction over such rules, regulations, practices, and procedures; (3) deciding whether the Commission should revise the rules tentatively endorsed in the *Claims case* or adopt new just, reasonable and lawful rules and regulations governing these and other matters relating to the general handling and processing of loss and damage claims on grain by the railroads; and (4) taking such other and further action, including possible recommendation of legislation, as the facts and circumstances might justify and require;

It further appearing, That respondents and other parties participating in the declaratory order procedures, prior to entry of the order instituting a rulemaking proceeding, were made parties to the said rulemaking proceeding, and their pleadings were incorporated in the record; and other interested persons were also permitted to participate by filing statements of facts and arguments for the record;

It further appearing, That an investigation of the matters and things involved in this proceeding having been made and the Commission on the date hereof, having made and filed a report containing its findings of facts and conclusions to the effect that some railroads were and are maintaining rules and regulations and engaging in practices and procedures with respect to the settlement of claims for loss and damage on grain and grain products which are not uniform with the rules, regulations, practices and procedures of other railroads; that they are, therefore, in violation of the provisions of section 20(11) of the Interstate Commerce Act and are not in compliance with the tentatively endorsed rules in the *Claims case*; and consequently, rules must be prescribed, which rules are set forth in the appendix to the report;

It further appearing, That no legislative recommendations were found to be required;

And it further appearing, That the prescribed rules are just, reasonable, and otherwise lawful and that compliance therewith should be required of the respondents hereto; said report and the appendix thereto being made a part hereof; wherefore:

It is ordered, That Subchapter A, Chapter X, Subtitle B, of Title 49 of the Code of Federal Regulations be, and it is hereby, amended by inserting therein a new part, which part is hereby designated Part 1037, containing the prescribed rules.

It is further ordered, That the respondents herein be, and they are hereby, notified and required to cease and desist, on or before the effective date

of the prescribed rules, from maintaining and engaging in rules, regulations, practices, and procedures which are inconsistent with the prescribed rules, and thereafter to apply rules, regulations, practices, and procedures, and procedures in conformity therewith.

It is further ordered, That the rules prescribed herein be, and they are hereby prescribed to become effective May 23, 1974, and they will apply in the settlement of all claims for loss and damage to grain and grain products by rail on and after the said effective date.

It is further ordered, That this proceeding be, and it is hereby, discontinued.

And it is further ordered, That public notice of the disposition of the above-enumerated matters shall be given by depositing a copy of this order in the office of the Secretary of the Interstate Commerce Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the *FEDERAL REGISTER*.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

APPENDIX

Sec.
1037.1 Weights and weighing.
1037.2 Cars.
1037.3 Claims.

AUTHORITY: 49 U.S.C. 12 and 15.

§ 1037.1 Weights and weighing.

(a) How determined—Accuracy of the weights used in determining the quantity of grain and grain products received for transportation by carriers and delivered by them to consignees being of primary and fundamental importance, the use of estimated weights based upon the cubical contents of the load and the test weight per bushel of the grain and grain products, or otherwise, will not be accepted. All shipments shall be carefully weighed by competent weighers upon scales that are known to be accurate within the limits of tolerance stated in scale specifications.

(b) Inspection of scales—Before weighing grain and grain products to and from cars, the scale and all other facilities to be used must be thoroughly inspected to ascertain whether they are in proper working condition, necessary adjustments or repairs, if any required, must be made, and an accurate and complete record thereof shall be entered at the time of inspection.

(c) Shipping weights—Where the shipper weighs the grain and grain products for shipment, he shall furnish the initial carrier certificates of weight showing car initials and number; the kind of grain

and grain products; the total scale weight; the type and house number of the scale used; the number of drafts and weight of each draft; the date and time of weighing; whether the weight is official, board-of-trade, grain-exchange, State, or other supervised weight; and the number of grain doors used. This information should be furnished promptly, but forwarding of the car will not be delayed for this record.

(d) Destination weights—Consignee shall furnish the delivering carrier with certificates of weight showing the car initials and number; the kind of grain and grain products; the total scale weight; the type and house number of the scale used; the number of drafts and weight of each draft, and the date and time of weighing; and whether the weight is official, board-of-trade, grain-exchange, State, or other supervised weight.

(e) A difference in weights at origin and destination, both of which are based on supervised scales, establishing *prima facie* that the loss occurred in transit and that the railroad is liable.

(1) When a difference in weights is based in part on an unsupervised weight, which, nevertheless, was accepted by the railroad as the basis for assessing freight charges, such unsupervised weight in combination with a supervised weight establishes *prima facie* that the loss occurred in transit and the railroad is liable.

(2) When a difference in weights is based in part on an unsupervised weight, with the above exception, a *prima facie* case of railroad liability for loss in transit has not been established. Such difference in weights is a factor, however, to be considered in connection with other evidence that a clear-record car arrived at destination with seals intact and unbroken or that the shipper made a written complaint that any car placed for loading was defective, in response to which the railroad filed a written report after investigation of the complaint. See paragraph (c) of § 1037.3.

§ 1037.2 Cars.

(a) A car is not in suitable condition for the transportation of bulk grain and

grain products when it is defective and a car is defective, among other reasons, when it has open-top interior linings or deteriorated doorposts to which grain doors cannot be securely attached by the use of retention straps.

(b) The rules prescribed in this part apply on shipments of bulk grain and grain products transported solely in railroad-owned and railroad-leased cars.

§ 1037.3 Claims.

(a) In computing the amount of the loss for which the carrier will pay there will be deducted from the gross amount of the ascertained actual loss one-fourth of 1 percent of the established loading weight to cover invisible loss and waste; provided, however, that where grain and grain products heat in transit and investigation shows that the invisible loss resulting therefrom exceeded one-fourth of 1 percent or such other amount as may hereafter be fixed in the manner above stated, and that the carrier is not otherwise liable for said loss, then the ascertained actual amount of the invisible loss due to heating of the grain and grain products will be deducted.

(b) Where investigation discloses defect in equipment, seal or seal record, or a transfer in transit by the carrier of a carload of bulk grain or grain products upon which the unloading weight is less than the loading weight and the shipper furnishes duly attested certificates showing the correctness of the claimed weight, and investigation fails to show that the discrepancy is due to defective scales or other-shippers' facilities, or to inaccurate weighing or other error at point of origin or destination, or to fraud, then the resulting claim will be adjusted subject to the deductions authorized in the immediately preceding paragraph (a) of this § 1037.3; provided, however, that the clear-record of either the carriers' or shippers' facilities shall not be interpreted as affecting or changing the burden of proof now lawfully resting upon either party. Therefore, movement in a clear-record car is not conclusive evidence of the fact that the car is not defective. It must be considered along with other evidence to determine liability. See paragraph (e) of § 1037.1.

(c) In case of a disputed claim, the records of both the carrier and the claimant affecting the shipment involved shall be available to both parties. These records shall include a written complaint, if any, filed by the shipper with the railroad at the time the car was placed for loading that the car was defective, and the written report of an investigation of the complaint, filed by the railroad with the shipper, if made. The shipper may use a defective car without jeopardizing a subsequent claim for loss and damage if it files a complaint when the car is placed for loading and the railroad does not repair the car or provide another car for loading. However, if the shipper uses a defective car without filing a complaint it has assumed the risk of using such a car and the railroad is not liable for loss and damage in transit, resulting from the defect in the car.

[FR Doc.74-8004 Filed 4-5-74;8:45 am]

PART 1048—COMMERCIAL ZONE

Correction

APRIL 3, 1974.

In the above-captioned matter published September 21, 1971, certain language was inadvertently omitted. The next to the last paragraph of § 1048.7 (36 FR 18736, Sept. 21, 1971) should read in its entirety as follows:

§ 1048.7 Cincinnati, Ohio.

* * * * *
That part of Boone County, Ky., bounded by a line beginning at the Boone-Kenton County line west of Erlanger, Ky., and extending in a northwesterly direction along Donaldson Highway to its intersection with Zig-Zag Road, thence along Zig-Zag Road to its intersection with Kentucky Highway 18, thence along Kentucky Highway 18 to its intersection with Kentucky Highway 237, thence along Kentucky Highway 237 to its intersection with Kentucky Highway 20, and thence easterly along Kentucky Highway 20 to the Boone-Kenton County line.

[SEAL]

ROBERT L. OSWALD,
Secretary.

[FR Doc.74-8005 Filed 4-5-74;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 INTERIOR

Bureau of Indian Affairs

[25 CFR Part 183]

LEASING OF OSAGE RESERVATION LANDS FOR OIL AND GAS MINING

Leasing Procedures and Operations

APRIL 1, 1974.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 FR 13938).

Notice is hereby given that it is proposed to completely revise Part 183 of Subchapter Q, Chapter I, Title 25 of the Code of Federal Regulations. This revision is proposed pursuant to the authority contained in section 3 of the Act of June 28, 1906 (34 Stat. 539, 543). The purpose of the complete revision is to improve the management of the Osage oil and gas mineral estate.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed revision to the Commissioner of Indian Affairs, Bureau of Indian Affairs, Washington, D.C. 20245, on or before May 8, 1974.

It is proposed to revise Part 183, Subchapter Q, Chapter I, Title 25 of the Code of Federal Regulations to read as follows:

PART 183—LEASING OF OSAGE RESERVATION LANDS FOR OIL AND GAS MINING

Sec. 183.1 Definitions.

LEASING PROCEDURE, RENTAL AND ROYALTY

- 183.2 Sale of leases.
- 183.3 Surrender of lease.
- 183.4 Form of payment.
- 183.5 Leases subject to current regulations.
- 183.6 Bonds.
- 183.7 Provisions of forms made a part of the regulations.

- 183.8 Corporation and corporate information.
- 183.9 Rental and drilling obligations.
- 183.10 Term of lease.
- 183.11 Royalty payments.
- 183.12 Government reserves right to purchase oil.

- 183.13 Time of royalty payments and reports.
- 183.14 Contracts and division orders.
- 183.15 Unit leases, assignments and related instruments.

OPERATIONS

- 183.16 Commencement of operations.
- 183.17 How to acquire permission to begin operations on a restricted homestead allotment.

Sec.

- 183.18 Information to be given surface owners prior to commencement of drilling operations.
- 183.19 Use of surface of land.
- 183.20 Settlement of damages claimed.
- 183.21 Procedure for settlement of damage claimed.

- 183.22 Prohibition of pollution.
- 183.23 Easements for wells off leased premises.
- 183.24 Lessee's use of water.
- 183.25 Gas well drilled by oil lessees and vice versa.
- 183.26 Determining cost of well.
- 183.27 Gas for operating purposes and tribal use.

CESSATION OF OPERATORS

- 183.28 Shutdown, abandonment and plugging of wells.
- 183.29 Disposition of casings and other improvements.

REQUIREMENTS OF LESSEES

- 183.30 Lessees subject to Superintendent's orders; books and records open to inspection.
- 183.31 Lessee's process agents.
- 183.32 Well records and reports.
- 183.33 Line drilling.
- 183.34 Wells and tank batteries to be marked.
- 183.35 Formations to be protected.
- 183.36 Control devices.
- 183.37 Waste of oil and gas.
- 183.38 Measuring and storing oil.
- 183.39 Measurement of gas.
- 183.40 Use of gas for lifting oil.
- 183.41 Accidents to be reported.

PENALTIES

- 183.42 Penalty for violation of lease terms.
- 183.43 Penalties for violation of certain operating regulations.

APPEALS AND NOTICES

- 183.44 Hearings and appeals.
- 183.45 Notices.

EFFECT OF REGULATIONS

- 183.46 Effect of regulations on leases.

AUTHORITY: Sec. 3, 34 Stat. 543. Interpret or apply secs. 1, 2, 45 Stat. 1478, 1479, unless otherwise noted.

§ 183.1 Definitions.

As used in this Part 183, terms shall have the meanings set forth in this section.

(a) "Secretary" means the Secretary of the Interior or his authorized representative acting under delegated authority.

(b) "Osage Tribal Council" means the duly elected governing body of the Osage Nation or Tribe of Indians of Oklahoma vested with authority to lease or take other actions on oil and gas mining pertaining to the Osage Mineral Estate.

(c) "Superintendent" means the Superintendent of the Osage Agency, Pawhuska, Oklahoma, or his authorized representative acting under delegated authority.

(d) "Oil lessee" means any person, firm, or corporation to whom an oil mining lease is made under the regulations in this part.

(e) "Gas lessee" means any person, firm, or corporation to whom a gas mining lease is made under the regulations in this part.

(f) "Oil and gas lessee" means any person, firm, or corporation to whom an oil and gas mining lease is made under the regulations in this part.

(g) "Primary term" means the basic period of time for which a lease is issued during which the lease contract may be kept in force by payment of rentals.

(h) "Major purchaser" means any one of the minimum number of purchasers taking 80 percent of the oil in the Kansas-Oklahoma area.

(i) "Casinghead gas" means gas produced from an oil well as a consequence of oil production from the same formation.

(j) "Natural gas" means any fluid, either combustible or noncombustible, recovered at the surface in the gaseous phase and/or hydrocarbons recovered at the surface as liquids which are the result of condensation caused by reduction of pressure and temperature of hydrocarbons originally existing in a reservoir in the gaseous phase.

LEASING PROCEDURE, RENTAL AND ROYALTY

§ 183.2 Sale of leases.

(a) Written application, together with any nomination fee, for tracts to be offered for lease may be filed with the Superintendent.

(b) The Superintendent, with the consent of the Osage Tribal Council, shall publish notices for the sale of oil leases, gas leases, and oil and gas leases to the highest responsible bidder on specific tracts of the unleased Osage Mineral Estate. The Superintendent may require any bidder to submit satisfactory evidence of his good faith and ability to comply with all provisions of the notice of sale. Successful bidders must deposit with the Superintendent on day of sale a check or cash in an amount not less than 25 percent of the cash bonus offered as a guaranty of good faith. Any and all bids shall be subject to the acceptance of the Osage Tribal Council and approval of the Superintendent. Within 20 days after notification of being the successful bidder, said bidder must submit to the Superintendent the balance of the cash bonus, a \$10 filing fee, and the lease in completed form. The Superintendent may extend the time for

the completion and submission of the lease form, but no extension shall be granted for remitting the balance of moneys due. If the bidder fails to pay the full cash consideration within said period or fails to file the completed lease within said period or extension thereof, or if the lease is rejected through no fault of the Osage Tribal Council or the Superintendent, 25 percent of the cash bonus bid will be forfeited for the use and benefits of the Osage Tribe.

The Superintendent may reject a lease made on an accepted bid, upon evidence satisfactory to him of collusion, fraud, or other irregularity in connection with the notice of sale. The Superintendent may approve oil leases, gas leases, and oil and gas leases made by the Osage Tribal Council in conformity with the notice of sale, regulations in this part, bonds, and other instruments required.

(c) Each oil and/or gas lease and activities and installations associated therewith subject to these regulations shall be assessed and evaluated for its environmental impact prior to its approval by the Superintendent.

(d) Lessee shall accept a lease with the understanding that a mineral not covered by his lease may be leased separately.

(e) No lease, assignment thereof, or interest therein will be approved to any employee or employees of the Government and no such employee shall be permitted to acquire any interest in leases covering the Osage Mineral Estate by ownership of stock in corporations having leases or in any other manner.

§ 183.3 Surrender of lease.

Lessee may, with the approval of the Superintendent and payment of a one dollar filing fee, surrender all or any portion of any lease, have the lease cancelled as to the portion surrendered and be relieved from all subsequent obligations and liabilities. If the lease, or portion being surrendered, is owned in undivided interests by more than one party, then all parties shall join in the application for cancellation: *Provided*, That if this lease has been recorded, Lessee shall execute a release and record the same in the proper office. Such surrender shall not entitle Lessee to a refund of the unused portion of rental paid in lieu of development, nor shall it relieve Lessee and his sureties of any obligation and liability incurred prior to such surrender: *Provided further*, That when there is a partial surrender of any lease and the acreage to be retained is less than 160 acres or there is a surrender of a separate horizon, such surrender shall become effective only with the consent of the Osage Tribal Council and approval of the Superintendent.

§ 183.4 Form of payment.

Sums due under a lease contract and/or the regulations in this part shall be paid by cash or check made payable to the Bureau of Indian Affairs and deliv-

ered to the Osage Agency, Pawhuska, Oklahoma 74056. Such sums shall be a prior lien on all equipment and unsold oil on the leased premises.

§ 183.5 Leases subject to current regulations.

Leases issued pursuant to this part shall be subject to the current regulations of the Secretary, all of which are made a part of such leases: *Provided*, That no amendment or change of such regulations made after the approval of any lease shall operate to affect the term of the lease, rate of royalty, rental, or acreage unless agreed to by both parties and approved by the Superintendent.

§ 183.6 Bonds.

Lessees shall furnish with each lease a corporate surety bond acceptable to the Superintendent as follows:

(a) A bond on Form D shall be filed with each lease submitted for approval. Such bond shall be in the penal sum of not less than \$1,000 for each quarter section or fractional quarter section covered by said lease: *Provided, however*, That one bond in the penal sum of not less than \$15,000 may be filed on Form G covering all leases on the Osage Mineral Estate not in excess of 10,240 acres to which Lessee is or may become a party.

(b) In lieu of the bonds required under paragraph (a) of this section, a bond in the penal sum of \$75,000 may be filed on Form 5-5438 for full nationwide coverage of all leases, without geographic or acreage limitation, to which the Lessee is or may become a party.

(c) A bond on Form H shall be filed in the penal sum of not less than \$1,000 covering a lease acquired through assignment where the assignee does not have a collective bond, or the corporate surety does not execute its consent to remain bound under the original bond given to secure the faithful performance of the terms and conditions of the lease.

(d) The right is specifically reserved to increase the amount of bonds prescribed in paragraphs (a) and (c) of this section in any particular case when the Superintendent deems it proper. The nationwide bond may be increased at any time in the discretion of the Secretary.

§ 183.7 Provisions of forms made a part of the regulations.

Leases, assignments, and supporting instruments shall be in the form prescribed by the Secretary, and such forms are hereby made a part of the regulations.

§ 183.8 Corporation and corporate information.

(a) If the applicant for a lease is a corporation, it shall file evidence of authority of its officers to execute papers; and with its first application it shall also file a certified copy of its Articles of Incorporation and, if foreign to the State of Oklahoma, evidence showing compliance with the corporation laws thereof.

(b) Whenever deemed advisable the Superintendent may require a corporation to file any additional information necessary to carry out the purpose and

intent of the regulations in this part, and such information shall be furnished within a reasonable time.

§ 183.9 Rental and drilling obligations.

(a) Oil leases, gas leases, and oil and gas leases. Unless Lessee shall complete and place on production a well producing and selling oil and/or gas in paying quantities on the land embraced within the lease within 12 months from the date of approval of the lease, or as otherwise provided in the lease terms, or 12 months from the date the Superintendent consents to drilling on any restricted homestead selection, the lease shall terminate unless rental at the rate of not less than \$1 per acre for an oil or gas lease, or not less than \$1.50 per acre for an oil and gas lease, shall be paid before the end of the first year of the lease. The lease may also be held for the remainder of its primary term without drilling upon payment of the specified rental annually in advance, commencing with the second lease year. The lease shall terminate as of the due date of the rental unless such rental shall be received by the Superintendent, or shall have been mailed as indicated by postmark on or before said date. The completion of a well producing in paying quantities shall, for so long as such production continues, relieve Lessee from any further payment of rental, except that should such production cease during the primary term the lease may be continued only during the remaining primary term of the lease by payment of advance rental which shall commence on the next anniversary date of the lease. Rental shall be paid on the basis of a full year and no refund will be made of advance rental paid in compliance with the regulations in this part: *Provided*, That the Superintendent in his discretion may order further development of any leased acreage or separate horizon if, in his opinion, a prudent operator would conduct further development. If Lessee refuses to comply, the refusal will be considered a violation of the lease terms and said lease shall be subject to cancellation as to the acreage or horizon, the further development of which was ordered: *Provided further*, That the Superintendent may impose restrictions as to time of drilling and rate of production from any well or wells when, in his judgment, such action may be necessary or proper for the protection of the natural resources of the leased land and the interests of the Osage Tribe. The Superintendent may consider, among other things, Federal and Oklahoma laws regulating either drilling or production.

(b) The Superintendent may, with the consent of and under terms approved by the Osage Tribal Council, grant an extension of the primary term of a lease for a period not to exceed six months on which the actual drilling of a well shall have commenced within the term thereof or for the purpose of enabling Lessee to obtain a market for his oil and/or gas production.

§ 183.10 Term of lease.

Leases issued hereunder shall be for a 5-year primary term and so long there-

after as the minerals specified are produced in paying quantities unless a different primary term is established by the Osage Tribal Council, approved by the Superintendent, and so stated in the notice of sale of such lease or leases.

§ 183.11 Royalty payments.

(a) *Royalty on oil.* (1) Royalty rate. Lessee shall pay or cause to be paid to the Superintendent, as royalty, the sum of 16½ percent of the gross proceeds from sales after deducting the oil used by Lessee for development and operation purposes on the lease: *Provided*, That when the quantity of oil taken from all the producing wells on any quarter-section or fraction thereof, according to the public survey, during any calendar month is sufficient to average one hundred or more barrels per active producing well per day the royalty on such oil shall be 20 percent. The Osage Tribal Council may, upon presentation of justifiable economic evidence by Lessee, agree to a revised royalty rate, subject to approval by the Superintendent, applicable to additional oil produced from a lease or leases by secondary recovery methods, which rate shall not be less than 12½ percent of the gross proceeds from sale of oil produced by secondary recovery processes, other than gas injection, after deducting the oil used by Lessee for development and operating purposes on the lease or leases.

(2) Unless the Osage Tribal Council, with the approval of the Secretary, shall elect to take the royalty in kind, payment shall be made at the time of sale or removal of the oil, except where payments are made on division orders, and settlement shall be based on the actual selling price, or the highest posted or offered price by a major purchaser in the Kansas-Oklahoma area whichever is higher on the day of sale or removal. Where different prices are paid simultaneously for oil from a lease and the highest such price exceeds the higher of the aforementioned prices, then that price shall be the basis of royalty on all oil from said lease.

(3) *Royalty in kind.* Should Lessor, with the approval of the Secretary, elect to take the royalty in kind, Lessee shall furnish free storage for royalty oil for a period not to exceed 60 days from date of production after notice of such election.

(b) *Royalty on gas.* (1) *Oil lease.* All casinghead gas shall belong to the oil lessee subject to any rights under existing gas leases. All casinghead gas removed from the lease from which it is produced shall be metered unless otherwise approved by the Superintendent and subject to a royalty of 16½ percent of the market value of the gas and all products extracted therefrom, less a reasonable allowance for manufacture or processing. If oil lessee supplies casinghead gas produced from one lease for operation and/or development of other leases, either his or others, a royalty of 16½ percent shall be paid on the value of all casinghead gas so used. All casinghead gas not utilized by the oil lessee may, with the approval of the Superintendent, be utilized

by the gas lessee, subject to the prescribed royalty of 16½ percent.

(2) *Gas lease.* Lessee shall pay a royalty of 16½ percent of the value of all natural gas and products extracted therefrom produced and sold from his lease. Natural gas used in the reasonable and prudent operation and development of said lease shall be exempted from royalty payment.

(3) *Oil and gas lease.* Lessee shall pay royalty as provided in (1) and (2) above.

(4) *Value of gas.* For royalty purposes, the value of all gas is fixed at 24 cents per thousand cubic feet unless it is sold at a higher rate, in which event the value shall be the sale price.

(c) *Minimum royalty.* In no event shall the royalty paid from producing leases during any year be less than an amount equal to the annual rental specified for the lease. Any underpayment of minimum royalty shall be due and payable within 45 days following the end of the lease year. After the primary term, Lessee shall submit with his payment evidence that the lease is producing in paying quantities. The Superintendent is authorized to determine whether the lease is actually producing in paying quantities or has terminated for lack of such production. Payment for any underpayment not made within the time specified shall be subject to a late charge at the rate of not less than 1½ percent per month for each month or fraction thereof until paid.

§ 183.12 Government reserves right to purchase oil.

Any of the executive departments of the United States Government shall have the option to purchase all or any part of the oil produced from any lease at not less than the highest posted price as defined in § 183.11.

§ 183.13 Time of royalty payments and reports.

(a) Royalty payments due may be paid by either purchaser or Lessee. Unless otherwise provided by the Osage Tribal Council and approved by the Superintendent, all payments shall be due by the 25th day of each month and shall cover the preceding month. Failure to make such payments shall subject Lessee or purchaser, whoever is responsible for royalty payment, to a late charge at the rate of not less than 1½ percent for each month or fraction thereof until paid.

(b) Lessee shall furnish certified monthly reports by the 25th of each following month covering all operations, whether there has been production or not, indicating therein the total amount of oil, natural gas, casinghead gas, and other products subject to royalty payment.

(c) Failure to remit payments or reports shall subject Lessee to further penalties as provided in §§ 183.42 and 183.43 and shall subject the division order to cancellation.

§ 183.14 Contracts and division orders.

(a) Lessee may enter into division orders or contracts with the purchasers of

oil, gas, or derivatives therefrom which will provide for the purchaser to make payment of royalty in accordance with his lease: *Provided*, That such division orders or contracts shall not relieve Lessee from responsibility for the payment of the royalty should the purchaser fail to pay. No production shall be removed from the leased premises until a division order and/or contract and its terms are approved by the Superintendent: *Provided further*, That the Superintendent may grant temporary permission to run oil or gas from a lease pending the approval of a division order or contract. Lessee shall file a certified monthly report and pay royalty on the value of all oil and gas used off the premises for development and operating purposes. Lessee shall be responsible for the correct measurement and reporting of all oil taken from the leased premises.

(b) Lessee shall require the purchaser of oil and/or gas from his lease or leases to furnish the Superintendent with a monthly statement of the gross barrels and/or gross Mcf sold not later than the 15th day of each month which shall cover the preceding month.

§ 183.15 Unit leases, assignments and related instruments.

(a) *Unitization of leases.* The Osage Tribal Council and Lessee or Lessees, may, with the approval of the Superintendent, unitize or merge, two or more oil or oil and gas leases into a unit or cooperative operating plan to promote the greatest ultimate recovery of oil and gas from a common source of supply or portion thereof embracing the lands covered by such lease or leases. The cooperative or unit agreement shall be subject to the regulations in this part and applicable laws governing the leasing of the Osage Mineral Estate. Any agreement between the parties in interest to terminate a unit or cooperative agreement as to all or any portion of the lands included shall be submitted to the Superintendent for his approval. Upon approval the leases included thereunder shall be restored to their original terms: *Provided*, That for the purpose of preventing waste and to promote the greatest ultimate recovery of oil and gas from a common source of supply or portion thereof, all oil leases, oil and gas leases, and gas leases issued heretofore and hereafter under the provisions of the regulations in this part shall be subject to any unit development plan affecting the leased lands that may be required by the Superintendent with the consent of the Osage Tribal Council, and which plan shall adequately protect the rights of all parties in interest including the Osage Mineral Estate.

(b) *Assignments.* Approved leases or any interest therein may be assigned or transferred only with the approval of the Superintendent. The assignee must be qualified to hold such lease under existing rules and regulations and shall furnish a satisfactory bond conditioned for the faithful performance of the covenants and conditions thereof. Lessee

must assign either his entire interest in a lease or legal subdivision thereof, or an undivided interest in the whole lease: *Provided*, That when an assignment covers only a portion of a lease or covers interests in separate horizons such assignment shall be subject to both the consent of the Osage Tribal Council and approval of the Superintendent. If a lease is divided by the assignment of an entire interest in any part, each part shall be considered a separate lease and the assignee shall be bound to comply with all the terms and conditions of the original lease. A fully executed copy of the assignment shall be filed with the Superintendent within 30 days after the date of execution by all parties. If requested within the 30-day period, the Superintendent may grant an extension of 15 days. A filing fee of \$10 shall accompany each assignment.

(c) *Overriding royalty.* Agreements creating overriding royalties or payments out of production shall not be considered as an interest in a lease as such term is used in paragraph (b) of this section. Agreements creating overriding royalties or payments out of production are hereby authorized and the approval of the Department of the Interior or any agency thereof shall not be required with respect thereto, but such agreements shall be subject to the condition that nothing in any such agreement shall be construed as modifying any of the obligations of Lessee under his lease and the regulations in this part. All such obligations are to remain in full force and effect, the same as if free of any such royalties or payments. The existence of agreements creating overriding royalties or payments out of production, whether or not actually paid, shall not be considered in justifying the shutdown or abandonment of any well. Agreements creating overriding royalties or payments out of production need not be filed with the Superintendent unless incorporated in assignments or instruments required to be filed pursuant to paragraph (b) of this section. An agreement creating overriding royalties or payment out of production shall be suspended when the working interest income per active producing well is equal to or less than the operational cost of the well, as determined by the Superintendent.

(d) *Drilling contracts.* The Superintendent is authorized to approve drilling contracts with a stipulation that such approval does not in any way bind the Department to approve subsequent assignments that may be provided for in said contracts. Approval merely authorizes entry on the lease for the purpose of development work.

OPERATIONS

§ 183.16 Commencement of operations.

(a) No operations shall be permitted upon any tract of land until a lease covering such tract shall have been approved by the Superintendent: *Provided*, That the Superintendent may grant authority to any party under such rules, consistent with the regulations in this part that he

deems proper, to conduct geophysical and geological exploration work.

(b) Lessee shall submit applications on forms to be furnished by the Superintendent and secure his approval before:

(1) Well drilling, treating, or work-over operations are started on the leased premises.

(2) Removing casing from any well.

(c) Lessee shall notify the Superintendent a reasonable time in advance of starting work, of intention to drill, re-drill, deepen, plug, or abandon a well.

§ 183.17 How to acquire permission to begin operations on a restricted homestead allotment.

(a) Lessee may conduct operations within or upon a restricted homestead selection only with the written consent of the Superintendent.

(b) If the allottee is unwilling to permit operations on his homestead, the Superintendent will cause an examination of the premises to be made with the allottee and Lessee or his representative. Upon finding that the interests of the Osage Tribe require that the tract be developed, the Superintendent will endeavor to have the parties agree upon the terms under which operations on the homestead may be conducted.

(c) In the event the allottee and Lessee cannot reach an agreement, the matter shall be presented by all parties before the Osage Tribal Council, and the Council shall make its recommendations. Such recommendations shall be considered as final and binding upon the allottee and Lessee. A guardian may represent the allottee. Where no one is authorized or where no person is deemed by the Superintendent to be a proper party to speak for a person of unsound mind or feeble understanding, the Principal Chief of the Osage Tribe shall represent him.

(d) If the allottee or his representative does not appear before the Osage Tribal Council when notified by the Superintendent, or if the Council fails to act within 10 days after the matter is referred to it, the Superintendent may authorize Lessee to proceed with operations in conformity with the provisions of his lease and the regulations in this part.

§ 183.18 Information to be given surface owners prior to commencement of drilling operations.

Except for the surveying and staking of a well, no operations of any kind shall commence until Lessee or his representative shall meet with the surface owner or his representative, if a resident of and present in Osage County, Oklahoma. At such meeting Lessee shall comply with the following requirements:

(a) Indicate the location of the well or wells to be drilled.

(b) Arrange for route of ingress and egress. Upon failure to agree on route of ingress and egress, said route shall be set by the Superintendent.

(c) Impart to said surface owners the name and address of the party or representative upon whom the surface owner shall serve any claim for damages which

he may sustain from mineral development or operations, and as to the procedure for settlement thereof as provided in § 183.21.

(d) Where the drilling is to be on restricted land, Lessee in the manner provided above shall meet with the Superintendent.

(e) Where the surface owner or his representative is not a resident of or is not physically present in Osage County, then the Superintendent shall be so advised whereupon the Superintendent may authorize Lessee to proceed with operations: *Provided*, That in the event the Superintendent should so arrange with the surface owner or his tenant, Lessee or his representative within 5 days after receipt of notice from the Superintendent shall meet with the surface owner or his tenant on the leased premises and arrange for the procedure to follow as indicated in this section.

§ 183.19 Use of surface of land.

(a) Lessee or his authorized representative shall have the right to use so much of the surface of the land within the Osage Mineral Estate as may be reasonable for operations and marketing. This includes but is not limited to the right to lay and maintain pipelines, electric lines, pull rods, other appliances necessary for operations and marketing; the right-of-way for ingress and egress to any point of operation; and the right to use water for release operations as set out in § 183.24. Lessee shall conduct his operations in a workmanlike manner, commit no waste and allow none to be committed upon the land, nor permit any nuisance to be maintained on the premises under his control.

(b) Before commencing a drilling operation, Lessee shall pay or tender to the surface owner commencement money in the amount of \$25 per seismic shot hole and commencement money in the amount of \$300 for each well, after which Lessee shall be entitled to immediate possession of the drilling site. A drilling site shall be held to the minimum area essential for operations and shall not exceed one and one-half acres in area unless authorized by the Superintendent. Commencement money shall be a credit toward the settlement of the total damages. Acceptance of commencement money by the surface owner does not in any way affect his right to compensation for damages as described in § 183.20, occasioned by the drilling and completion of the well for which it was paid. Since actual damage to the surface from operations cannot necessarily be ascertained prior to the completion of a well as a serviceable well or dry hole, a damage settlement covering the drilling operation need not be made until after completion of drilling operations.

(c) Where the surface is restricted land, commencement money shall be paid to the Superintendent for the landowner. All other surface owners shall be paid or tendered such commencement money direct. Where such surface owners are not residents of Osage County nor have a representative located therein,

such payment shall be made or tendered to the last known address of the surface owner at least 5 days before commencing drilling operations on any well: *Provided*, That should Lessee be unable to reach the owner of the surface of the land for the purpose of tendering the commencement money or if the owner of the surface of the land shall refuse to accept the same, Lessee shall deposit such amount with the Superintendent by check payable to the Bureau of Indian Affairs. The Superintendent shall thereupon advise the owner of the surface of the land by mail at his last known address that the commencement money is being held for payment to him upon his written request.

(d) Lessee shall also pay fees for tank sites not exceeding 50 feet square at the rate of \$40 per tank or other vessel: *Provided*, That no payment shall be due for a tank temporarily set on a well location site for drilling, completing, or testing. The sum to be paid for a tank occupying more than 50 feet square shall be agreed upon between the surface owner and Lessee or, on failure to agree, the same shall be fixed by arbitration as provided by § 183.21.

§ 183.20 Settlement of damages claimed.

(a) Lessee or geophysical permittee shall pay for all damages to growing crops, any improvements on the lands, and all other surface damages as may be occasioned by operations. Commencement money shall be a credit toward the settlement of the total damages occasioned by the drilling and completion of the well for which it was paid. Such damages shall be paid to the owner of the surface and by him apportioned among the parties interested in the surface, whether as owner, surface lessee, or otherwise, as the parties may mutually agree or as their interests may appear. If Lessee and surface owner are unable to agree concerning damages, the same shall be determined by arbitration. Nothing herein contained shall be construed to deny any party the right to file an action in a court of competent jurisdiction if he is dissatisfied with the amount of the award.

(b) Surface owners shall notify their lessees or tenants of the regulations in this part and of the necessary procedure to follow in all cases of alleged damages. If so authorized in writing, surface lessees or tenants may represent the surface owners.

(c) In the settlement of damages on restricted land all sums due and payable shall be paid to the Superintendent for credit to the account of the Indian entitled thereto.

(d) Any person, other than a surface lessee or an allottee or the heirs of a deceased allottee, claiming an interest in any leased tract or in damages thereto, must furnish to the Superintendent a statement in writing showing said claimed interest. Failure to furnish such statement shall constitute a waiver of notice and estop said person from claiming any part of such damages after the same shall have been disbursed.

§ 183.21 Procedure for settlement of damages claimed.

Where the surface owner or his lessee suffers damage due to the operation of any oil or gas lessee, the procedure for recovery shall be as follows:

(a) The party or parties aggrieved shall, as soon as possible after the discovery of any damages, serve written notice to Lessee or his representative as provided by § 183.18. Written notice shall contain the nature and location of the alleged damages, the date of occurrence, the names of the party or parties causing said damages, and the amount of damages. It is not intended by this requirement to limit the time within which action may be brought in the courts to less than the 90-day period allowed by section 2 of the Act of March 2, 1929 (45 Stat. 1478, 1479).

(b) If the alleged damages are not adjusted at the time of such notice, Lessee or his representative shall try to adjust the claim with the party or parties aggrieved within 20 days from receipt of the notice. If the claimant is the owner of restricted property and a settlement results, a copy of the settlement agreement shall be filed with the Superintendent. If the settlement agreement is approved by the Superintendent, payment shall be made to the Superintendent for the benefit of said claimant.

(c) If the parties fail to adjust the claim within the 20 days specified, then within 10 days thereafter each of the interested parties shall appoint an arbitrator who immediately upon their appointment shall agree upon a third arbitrator. If the two arbitrators shall fail to agree upon a third arbitrator within 10 days, they shall immediately notify the parties in interest. If said parties cannot agree upon a third arbitrator within 5 days after receipt of such notice, the Superintendent shall appoint the third arbitrator.

(d) As soon as the third arbitrator is appointed, the arbitrators shall meet; hear the evidence and arguments of the parties; and examine the lands, crops, improvements, or other property alleged to have been injured. Within 10 days they shall render their decision as to the amount of the damage due. The arbitrators shall be disinterested persons. The fees and expenses of the third arbitrator shall be borne equally by the claimant and Lessee. Each Lessee and claimant shall pay the fee and expenses for the arbitrator appointed by him.

(e) When an act of an oil or gas lessee or any of his employees results in injury to both the surface owner and his lessee, the parties aggrieved shall join in the appointment of an arbitrator. Where the injury complained of is chargeable to one or more oil or gas lessees, such lessees shall join in the appointment of an arbitrator.

(f) Any two of the arbitrators may make a decision as to the amount of damage due. The decision shall be in writing and forthwith shall be served upon the parties in interest. Each party shall have 90 days from the date the decision is served in which to file an

action in a court of competent jurisdiction. If no such action is filed within said time and the award is against Lessee, he shall pay the same together with interest at the rate of 6 percent per annum from date of award, within 10 days after the expiration of said period for filing an action. If he fails to do so, in the discretion of the Superintendent, the Lessee shall be subject to a penalty of \$10 per day for each day thereafter that he remains in default.

(g) Lessee shall file with the Superintendent a report on each settlement agreement, setting out the nature and location of the damage, date, and amount of the settlement, and any other pertinent information.

§ 183.22 Prohibition of pollution.

(a) All operators, contractors, drillers, service companies, pipe pulling and salvaging contractors, or other persons, shall at all times conduct their operations and drill, equip, operate, produce, plug and abandon all wells drilled for oil or gas, service wells or exploratory wells (including seismic, core and stratigraphic holes) in a manner that will prevent pollution and the migration of oil, gas, salt water or other substance from one stratum into another, including any fresh water bearing formation.

(b) Pits for drilling mud or deleterious substance used in the drilling, completion, recompletion, or workover of any well shall be constructed and maintained so as to prevent pollution of surface and subsurface fresh water. These pits shall be enclosed with a fence of at least four strands of barbed wire, or an approved substitute, stretched taut to adequately braced corner posts, unless the surface owner, user, or the Superintendent gives consent to the contrary. As soon as possible after completion of operations, pits shall be emptied and leveled unless otherwise requested by surface owner or user.

(c) Drilling pits shall be adequate to contain mud and other material extracted from wells and shall have adequate storage to maintain a supply of mud for use in emergencies.

(d) No earthen pit, except those used in the drilling, completion, recompletion or workover of a well, shall be constructed, enlarged, reconstructed or used without approval of the Superintendent. Unlined earthen pits shall not be used for the continued storage of salt water or other deleterious substances.

(e) B.S., salt water and other deleterious substances shall be contained in proper receptacles and not permitted to escape. Where existing lease facilities are inadequate for proper disposal of such substances, Lessee shall notify the Superintendent, who shall give instructions as to their disposal.

§ 183.23 Easements for wells off leased premises.

The Superintendent, with the consent of the Osage Tribal Council, may grant easements for wells off the leased premises to be used for waste or salt water disposal, water injection, water supply, or other necessary services. Rental pay-

able to the Osage Tribe for such easements shall be an amount agreed to by Grantee and the Osage Tribal Council, subject to the approval of the Superintendent. Grantee shall be responsible for all damages resulting from the use of such wells and settlement therefor shall be made as provided in § 183.21.

§ 183.24 Lessee's use of water.

Lessee or his contractor may, with the approval of the Superintendent, use water from streams and natural water courses to the extent that same does not diminish the supply below the requirements of the surface owner from whose land the water is taken. Similarly, Lessee or his contractor may use water from reservoirs formed by the impoundment of water from such streams and natural water courses, provided such use does not exceed the quantity to which they originally would have been entitled had the reservoirs not been constructed. Lessee or his contractor may install necessary lines and other equipment within the Osage Mineral Estate to obtain such water. Any damage resulting from such installation shall be settled as provided in § 183.21.

§ 183.25 Gas well drilled by oil lessees and vice versa.

When an oil lessee in drilling a well encounters a formation or zone having indications of possible gas production, or the gas lessee in drilling a well encounters a formation or zone having indication of possible oil production, he shall immediately notify the other lessee and the Superintendent. Lessee drilling the well shall obtain all information which a prudent operator would normally obtain to evaluate the productive capability of such formation or zone.

(a) *Gas well to be turned over to gas lessee.* If the oil lessee drills a gas well, he shall, without removing from the well any of the casing or other equipment, immediately shut the well in and notify the gas lessee and the Superintendent. If the gas lessee does not, within 15 days after receiving notice, elect to take over such well and reimburse the oil lessee the cost of drilling the same, including all damages paid and the cost in-place of casing, tubing, and other equipment, the oil lessee shall immediately confine the gas to the original stratum. The disposition of such well and the production therefrom shall then be subject to the approval of the Superintendent.

(b) *Oil well to be turned over to oil lessee.* If the gas lessee drills an oil well, he shall immediately, without removing from the well any of the casing or other equipment, notify the oil lessee and the Superintendent. If the oil lessee does not, within 15 days after receipt of notice, elect to take over the well, he shall immediately notify the gas lessee, and the disposition of such well and the production therefrom shall be subject to the approval of the Superintendent. Should the oil lessee elect to take over the well, he shall pay the gas lessee the cost of drilling the same, including all damages

paid and cost in-place of casing and other equipment.

(c) *Lands not leased.* If the gas lessee shall drill an oil well upon lands not leased for oil purposes or the oil lessee shall drill a gas well on lands not leased for gas purposes, the Superintendent may, until such time as said lands are leased, permit the lessee who drilled the well to operate and market the production therefrom. Where said lands are leased, the lessee who drilled and completed the well shall be reimbursed by the oil or gas lessee, as the case may be, the cost of drilling said well, including all damages paid and the cost in-place of casing and other equipment. If the lessee does not elect to take over said well, as provided above, the disposition of such well and the production therefrom shall then be subject to the approval of the Superintendent.

§ 183.26 Determining cost of well.

The term "cost of drilling" as applied where one lessee takes over a well drilled by another, shall include all reasonable, usual, necessary, and proper expenditures. A list of expenses mentioned in this section shall be presented to proposed purchasing lessee within 10 days after the completion of the well. In the event of a disagreement between the parties as to the charges assessed against the well that is to be taken over, such charges shall be determined by the Superintendent.

§ 183.27 Gas for operating purposes and tribal use.

(a) *Gas to be furnished oil lessee.* Lessee of a producing gas lease shall furnish the oil lessee sufficient gas for operating purposes at a rate to be agreed upon, or on failure to agree the rate shall be determined by the Superintendent: *Provided*, That the oil lessee shall, at his own expense and risk, furnish and install the necessary connections to the gas lessee's well or pipeline. All such connections shall be reported in writing to the Superintendent.

(b) *Use of gas by Osage Tribe.* (1) Gas from any well or wells shall be furnished any Tribal-owned building or enterprise at a rate not to exceed the price less royalty being received or offered by a gas purchaser: *Provided*, That such requirement shall be subject to the determination by the Superintendent that gas in sufficient quantities is available above that needed for lease operation and that no waste would result. In the absence of a gas purchaser the rate to be paid by the Osage Tribe shall be determined by the Superintendent based on prices being paid by purchasers in the Osage Mineral Estate. The Osage Tribe is to furnish all necessary material and labor for such connection with Lessee's gas system. The use of such gas shall be at the risk of the Osage Tribe at all times.

(2) Any member of the Osage Tribe residing in Osage County and outside a corporate city is entitled to the use at his own expense of not to exceed 400,000 cubic feet of gas per calendar year for his

principal residence at a rate not to exceed the amount paid by a gas purchaser plus 10 percent: *Provided*, That such requirement shall be subject to the determination by the Superintendent that gas in sufficient quantities is available above that needed for lease operation and that no waste would result. In the absence of a gas purchaser the amount to be paid by the Tribal member shall be determined by the Superintendent. Gas to Tribal members is not royalty free. The Tribal member is to furnish all necessary material and labor for such connection to Lessee's gas system, and shall maintain his own lines. The use of such gas shall be at the risk of the Tribal member at all times.

(3) Gas furnished by Lessee under paragraphs (b) (1) and (2) of this section may be terminated only with the approval of the Superintendent. Written application for termination must be made to the Superintendent showing justification.

CESSATION OF OPERATIONS

§ 183.28 Shutdown, abandonment, and plugging of wells.

No productive well shall be abandoned until its lack for further profitable production of oil and/or gas has been demonstrated to the satisfaction of the Superintendent. Lessee shall not shut down, abandon, or otherwise discontinue the operation or use of any well without the written approval of the Superintendent. All applications for such approval shall be submitted to the Superintendent on forms furnished by him.

(a) Application for authority to shut down or discontinue use or operation of a well shall set forth justification therefor and probable duration, the means by which the well bore is to be protected, and the contemplated eventual disposition of the well. The method of conditioning such well shall be subject to the approval of the Superintendent.

(b) Prior to permanent abandonment of any well, the oil lessee or the gas lessee, as the case may be, shall offer the well to the other for his recompletion or use under such terms as may be mutually agreed upon but not in conflict with the regulations. Failure of the Lessee receiving the offer to reply within 10 days after receipt thereof shall be deemed as rejection of the offer. If, after indicating acceptance, the two parties cannot agree on the terms of the offer within 30 days, the disposition of such well shall be determined by the Superintendent.

§ 183.29 Disposition of casings and other improvements.

(a) Upon termination of lease. Permanent improvements, unless otherwise provided by written agreement with the surface owner and filed with the Superintendent, shall remain a part of said land and become the property of the surface owner upon termination of the lease, other than by cancellation, excepting personal property which may include tools, tanks, pipelines, pumping and drilling equipment, derricks, engines,

machinery, and the casings of all wells: *Provided*, That when any lease terminates all such personal property shall be removed within 90 days or such reasonable extension of time as may be granted by the Superintendent. Otherwise, the ownership of all casings shall revert to Lessor and all other personal property and permanent improvements to the surface owner. Nothing herein shall be construed to relieve Lessee of responsibility for removing any such personal property or permanent improvements from the premises if so required by the Superintendent and restoring the premises as near as practicable to its original state.

(b) Upon cancellation of lease. When there has been a cancellation for cause, Lessor shall be entitled and authorized to take immediate possession of the lease premises and all permanent improvements and all other equipment necessary for the operation of the lease.

(c) Wells to be abandoned shall be promptly plugged as prescribed by the Superintendent. Applications to plug shall include a statement affirming compliance with § 183.28(b) above and shall set forth reasons for plugging, a detailed statement of the proposed work including kind, location, and length of plugs (by depth), plans for mudding and cementing, testing, parting and removing casing, and any other pertinent information: *Provided*, That the Superintendent may give oral permission and instructions pending receipt of a written application to plug a newly drilled hole. Lessee shall remit a fee of \$15 with each written application for authority to plug a well. This fee will be refunded if permission is not granted.

(d) Lessee shall plug and fill all dry or abandoned wells in a manner to confine the fluid in each formation bearing fresh water, oil, gas, salt water, and other minerals, and to protect it against invasion of fluids from other sources. Mud-laden fluid, cement, and other plugs shall be used to fill the hole from bottom to top: *Provided*, That if a satisfactory agreement is reached between Lessee and the surface owner, subject to the approval of the Superintendent, Lessee may condition the well for use as a fresh water well and shall so indicate on the plugging record. The manner in which plugging material shall be introduced and the type of material so used shall be subject to the approval of the Superintendent. Within 10 days after plugging, Lessee shall file with the Superintendent a complete report of the plugging of each well. When any well is plugged and abandoned, Lessee shall, within 90 days, clean up the premises around such well to the satisfaction of the Superintendent.

REQUIREMENTS OF LESSEES

§ 183.30 Lessee subject to Superintendent's orders; books and records open to inspection.

Lessee shall comply with all orders or instructions issued by the Superintendent. The Superintendent or his representative may enter upon the leased premises for the purpose of inspection.

Lessee shall keep a full and correct account of all operations, receipts, and disbursements and make reports thereof, as required. Lessee's books and records shall be available to the Superintendent for inspection.

§ 183.31 Lessee's process agents.

(a) Before actual drilling or development operations are commenced on leased lands, Lessee or Assignee, if not a resident of the State of Oklahoma, shall appoint a local or resident representative within the State of Oklahoma on whom the Superintendent may serve notice or otherwise communicate in securing compliance with the regulations in this part, and shall notify the Superintendent of the name and post office address of the representative appointed.

(b) Where several parties own a lease jointly, one representative or agent shall be designated whose duties shall be to act for all parties concerned. Designation of such representative should be made by the party in charge of operations.

(c) In the event of the incapacity or absence from the State of Oklahoma of such designated local or resident representative, Lessee shall appoint a substitute to serve in his stead. In the absence of such representative or appointed substitute, any employee of Lessee upon the leased premises or person in charge of drilling or related operations thereon shall be considered the representative of Lessee for the purpose of service of orders or notices as herein provided.

§ 183.32 Well records and reports.

(a) Lessee shall keep accurate and complete records of the drilling, redrilling, deepening, repairing, treating, plugging, or abandonment of all wells. These records shall show all the formations penetrated, the content and character of oil, gas, or water in each formation, and the kind, weight, size, landed depth and cement record of casing used in drilling each well; the record of drill-stem and other bottom hole pressure or fluid sample surveys, temperature surveys, directional surveys, and the like; the materials and procedure used in the treating or plugging of wells or in preparing them for temporary abandonment; and any other information obtained in the course of well operation.

(b) Lessee shall take such samples and make such tests and surveys as may be required by the Superintendent to determine conditions in the well or producing reservoir and to obtain information concerning formations drilled, and shall furnish reports thereof as required by the Superintendent.

(c) Within 10 days after completion of operations on any well, Lessee shall transmit to the Superintendent the applicable information on forms furnished by the Superintendent; a copy of electrical, mechanical or radioactive log, or other types of survey of the well bore; and core analysis obtained from the well. Lessee shall also submit other reports and records of operations as may be required and in the manner and form prescribed by the Superintendent.

(d) Lessee shall measure production of oil, gas, and water from individual wells at reasonably frequent intervals to the satisfaction of the Superintendent.

(e) Upon request and in the manner and form prescribed by the Superintendent, Lessee shall furnish a plat showing the location, designation, and status of all wells on the leased lands, together with such other pertinent information as the Superintendent may require.

§ 183.33 Line drilling.

Lessee shall not drill within 300 feet of boundary line of leased lands, nor locate any well or tank within 200 feet of any public highway, any established watering place, or any building used as a dwelling, granary, or barn, except with the written permission of the Superintendent.

§ 183.34 Wells and tank batteries to be marked.

Lessee shall clearly and permanently mark all wells and tank batteries in a conspicuous place with number, legal description and operator, as applicable, and shall take all necessary precautions to preserve these markings.

§ 183.35 Formations to be protected.

Lessee shall, to the satisfaction of the Superintendent, take all proper precautions and measures to prevent damage or pollution of oil, gas, fresh water, or other mineral bearing formations.

§ 183.36 Control devices.

In drilling operations in "wildcat" territory, or in fields where high pressures, lost circulation, or other conditions which could result in blowouts are believed to exist, Lessee shall have on such leased premises an approved gate valve or other controlling device installed and in proper working condition for use until the well is completed.

§ 183.37 Waste of oil and gas.

Lessee shall conduct all operations in a manner that will prevent waste of oil and gas and shall not wastefully utilize oil or gas. The Superintendent shall have the authority to impose such requirements as he deems necessary to prevent waste of oil and gas and to promote the greatest ultimate recovery of oil and gas. Waste as applied herein includes, but is not limited to, the inefficient, excessive or improper use or dissipation of reservoir energy which would reasonably reduce or diminish the quantity of oil or gas that might ultimately be produced, or the unnecessary or excessive surface loss or destruction, without beneficial use, of oil and/or gas.

§ 183.38 Measuring and storing oil.

All production run from the lease shall be measured according to methods and devices approved by the Superintendent. Facilities suitable for containing and measuring accurately all crude oil produced from the wells shall be provided by Lessee and shall be located on the leasehold unless otherwise approved by the Superintendent. Lessee shall furnish to the Superintendent a copy of 100-per-

cent capacity tank table for each tank. Meters and installations for measuring oil must be approved, and tests of their accuracy shall be made when directed by the Superintendent.

§ 183.39 Measurement of gas.

All gas, required to be measured, shall be measured by meter (preferably of the orifice meter type) unless otherwise agreed to by the Superintendent. All gas meters must be approved by the Superintendent and installed at the expense of Lessee or purchaser at such places as may be agreed to by the Superintendent. For computing the volume of all gas produced, sold or subject to royalty, the standard of pressure shall be 14.65 pounds to the square inch, and the standard of temperature shall be 60° F. All measurements of gas shall be adjusted by computation to these standards, regardless of the pressure and temperature at which the gas was actually measured, unless otherwise authorized in writing by the Superintendent.

§ 183.40 Use of gas for lifting oil.

Lessee shall not use natural gas from a distinct or separate stratum for the purpose of flowing or lifting the oil, except where said Lessee has an approved right to both the oil and the gas, and then only with the approval of the Superintendent of such use and of the manner of its use.

§ 183.41 Accidents to be reported.

Lessee shall make a complete report to the Superintendent of all accidents, fires, or acts of theft and vandalism occurring on the leased premises.

PENALTIES

§ 183.42 Penalty for violation of lease terms.

Violation of any of the terms or conditions of any lease or of the regulations in this part shall subject the lease to cancellation by the Superintendent, or Lessee to a fine of not more than \$500 per day for each day of such violation or noncompliance with the orders of the Superintendent, or to both such fine and cancellation: *Provided*, That prior to the determination that a fine or cancellation of a lease will be imposed as provided for in this section, Lessee shall receive a 30-day notice with respect to the terms of the lease or of the regulations violated and, if he so requests, may receive a hearing before the Superintendent. Payment of penalties not received within 10 days after notice of final decision is given shall be subject to late charges at the rate of not less than 1½ percent per month for each month or fraction thereof until paid.

§ 183.43 Penalties for violation of certain operating regulations.

In lieu of the penalties provided under § 183.42, penalties may be imposed by the Superintendent for violation of certain sections of the regulations of this part as follows:

(a) For failure to obtain permission to start operations required by

§ 183.16(b), \$10 per day until permission is obtained.

(b) For failure to file records required by § 183.32, \$10 per day until compliance is met.

(c) For failure to mark wells and tank batteries as required by § 183.34, \$50 for each well and tank battery.

(d) For failure to construct and maintain pits as required by § 183.22, \$10 for each day after operations are commenced on any well until compliance is met.

(e) For failure to comply with § 183.36 regarding valve or other approved controlling device, \$100.

(f) For failure to notify Superintendent before drilling, redrilling, deepening, plugging, or abandoning any well, as required by §§ 183.16(c) and 183.25, \$200.

(g) For failure to properly care for and dispose of B.S. and salt water as provided in § 183.22, \$100 per day and in the event of failure to comply within 5 days after notification by the Superintendent, \$500 per day until compliance is met.

(h) For failure to file plugging reports as required by § 183.29 and for failure to file reports as required by § 183.13, \$10 per day for each violation until compliance is met.

(i) For failure to perform or start an operation within 5 days after ordered by the Superintendent in writing under authority provided in this part, if said operation is thereafter performed by or through the Superintendent, the actual cost of performance thereof, plus 25 percent.

APPEALS AND NOTICES

§ 183.44 Hearings and appeals.

Any person, firm, or corporation aggrieved by any decision or order issued by or under authority of the Superintendent, pursuant to the regulations in this part, may file with the Superintendent at any time an application for modification or revocation of such decision or order. The Superintendent shall give notice of the time and place and conduct a hearing upon the application within 10 days after its receipt by him. If the applicant is not satisfied with the decision of the Superintendent, an appeal may be taken as provided in 25 CFR Part 2.

§ 183.45 Notices.

Whenever notice is provided for in the regulations in this part, the Superintendent may in his discretion increase the time allowed.

EFFECT OF REGULATIONS

§ 183.46 Effect of regulations on leases.

No regulation which becomes effective after the approval of any lease shall operate to affect the term of the lease, rate of royalty, rental, or acreage, unless agreed to by both parties to the lease.

LAFOLETTE BUTLER,
Acting Deputy Commissioner
of Indian Affairs.

[FR Doc.74-7929 Filed 4-5-74; 8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 908]

HANDLING OF VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Size Limitations

This proposal would extend current size limitations for the period May 4, 1974, through January 15, 1975, applicable to the handling of Valencia oranges grown in Arizona and designated part of California. Shipments of California-Arizona Valencia oranges are currently regulated through May 3, 1974, pursuant to Valencia Orange Regulation 458. The proposed extension of the period of Valencia Orange Regulation 458 is designed to continue in effect the current size requirement for such fruit consistent with the objective of the act of promoting orderly marketing, maintaining grower returns, and protecting the interest of consumers.

Notice is hereby given that the Department is considering a proposed amendment of the size regulation for Valencia oranges grown in Arizona and designated part of California, pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908) regulating the handling of Valencia oranges grown in Arizona and designated part of California. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposed amendment was recommended by the Valencia Orange Administrative Committee, established under said amended marketing agreement and order as the agency to administer the terms and provisions thereof.

The proposal is as follows:

Amend paragraph (a) of the Valencia Orange Regulation 458 (39 FR 11979) to read as follows:

§ 908.758 Valencia Orange Regulation 458.

Order. (a) During the period May 4, 1974, through January 15, 1975, * * *

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed regulation shall file same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than April 17, 1974. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: April 3, 1974.

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

[FR Doc.74-7998 Filed 4-5-74; 8:45 am]

Animal and Plant Health Inspection Service
[9 CFR Parts 318, 381]
NET WEIGHT LABELING
Extension of Time for Comments

On December 3, 1973, there was published in the FEDERAL REGISTER (38 FR 33308-33313) a notice proposing to amend the meat inspection regulations and the poultry products inspection regulations (9 CFR Parts 318 and 381) to provide uniform labeling requirements and prescribe uniform procedures for determining compliance with label statements of net contents of containers of meat products or poultry products at the originating federally inspected establishments as well as at destination. Interested persons were given until April 5, 1974, to comment.

The Department has determined to extend the period of time within which written data, views, or arguments may be submitted, or oral views may be presented. Because of public briefings, the Department has become aware of the need for allowing more time for interested persons to comment. Also, we have received numerous requests from industry for additional time in which to conduct a statistical evaluation of the proposal and provide pertinent data.

Since the Department is interested in receiving meaningful comments, these circumstances are considered as sufficient justification for an extension of the time originally allotted for filing comments. Accordingly, any person who wishes to submit written data, views, or arguments concerning the proposed amendment may do so by filing them, in duplicate, with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by May 31, 1974. Also, the period for oral presentation of views is extended to May 31, 1974. Persons desiring opportunity for oral presentation of views should address such requests to the Systems Development and Sanitation Staff, Scientific and Technical Services, Meat and Poultry Inspection Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, so that arrangements may be made for presentation of such views by May 31, 1974.

In all other respects, the procedure specified in the proposal as published on December 3, 1973, shall continue to apply to this rulemaking proceeding.

Done at Washington, D.C. on April 3, 1974.

G. H. WISE,
Acting Administrator, Animal
and Plant Health Inspection
Service.

[FR Dec. 74-8061 Filed 4-5-74; 8:45 am]

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 405]

[Reg. 5]

FEDERAL HEALTH INSURANCE FOR THE
AGED AND DISABLED

Limitation on Liability of Beneficiary Where
Medicare Claims Are Disallowed

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553) that the amendments to the regulations set forth in tentative form below are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments implement section 213 of Pub. L. 92-603 (approved October 30, 1972), under which payment will be made for expenses incurred for certain noncovered services if (1) such services are found to be not "reasonable and necessary" or to involve "custodial care" (i.e., excluded from coverage under section 1862(a)(1) or (9) of the Social Security Act), and (2) the individual to whom the services were furnished and the person furnishing such services did not know and could not reasonably be expected to know that the expenses incurred for such services were not reimbursable under the program. The amendments further provide that if the provider of services, or physician or other person in an assignment case, has such knowledge and he obtains payment from the Medicare beneficiary for the noncovered services, the latter will be indemnified by the program and the amount of indemnification will be recovered from the provider of services or the physician. In addition, the person furnishing the services would be given the right to contest the finding as to coverage and knowledge through the administrative appeals process and the courts where applicable.

Where the beneficiary's liability is waived, the Medicare program would accept liability for the services so long as the organization or person who furnished the services did not know, and could not reasonably have been expected to know, that the services were not covered.

In determining whether a provider of services will be held liable for services furnished a beneficiary, the expenses for which are not reimbursable as being "not reasonable and necessary" or "for custodial care," it is necessary to review whether (1) it had actual knowledge of the noncoverage of services and (2) it could reasonably have been expected to have such knowledge. When a provider has been found to have made all reasonable efforts to obtain knowledge of Medi-

care coverage criteria and to apply that knowledge generally in a correct and timely manner to claims for Medicare beneficiaries, the proposed regulations permit a presumption that the provider did not have knowledge of noncoverage of services in a particular case, in the absence of evidence to the contrary. Such a presumption will arise in favor of a provider only if it takes those actions, set forth as criteria in the proposed regulations, which have been determined to constitute all reasonable efforts to obtain knowledge of coverage criteria and to demonstrate the application of that knowledge in a correct and timely manner.

The criteria established by the proposed regulations are drawn to assure that a provider meeting them will have knowledge of the noncoverage of services without too much delay in all cases. In the absence of the types of actions set forth in the criteria, it cannot be said that a provider has taken all reasonable efforts to obtain knowledge of noncoverage. Such a provider would not be entitled to a presumption in favor of the waiver of its liability, but could be found to be not liable in any individual case. Conversely, where a provider has been accorded a presumption in favor of waiver of its liability, it may still be held liable in certain specific cases, e.g., in the case where the provider had been previously notified that a particular treatment was not "reasonable and necessary."

In order to determine that a hospital has made all reasonable efforts to obtain knowledge of Medicare coverage criteria and has generally applied that knowledge correctly and timely to Medicare beneficiaries, the proposed regulations would require the following:

1. The hospital is in compliance with the standards for utilization review set forth in Conditions of Participation for Medicare, as in effect when such determination is being made and as may from time to time be revised;

2. The hospital submits bills for payment and medical documentation to the intermediary in a timely manner;

3. The hospital assures that it is providing prompt determinations on non-coverage to the patient and the patient's attending physician;

4. The intermediary has found that bills for payment submitted by the hospital reflect knowledge of Medicare coverage criteria; and

5. The intermediary has found that the hospital has effectively applied the certification and recertification requirements of section 1814(a) of the Act.

A skilled nursing facility would be found to be making all reasonable efforts to obtain knowledge of Medicare cover-

age criteria and to be generally applying that knowledge correctly and timely in cases of Medicare beneficiaries where the following criteria are met:

1. The skilled nursing facility is in compliance with the standards for utilization review set forth in the Conditions of Participation for Medicare, as in effect when such finding is being made and as may from time to time be revised;

2. The skilled nursing facility submits bills for payment and medical documentation to the intermediary in a timely manner;

3. The skilled nursing facility has a procedure to assure that the patient and the attending physician are promptly notified in noncovered cases;

4. The intermediary has found that bills for payment submitted by the skilled nursing facility reflect knowledge of Medicare coverage criteria; and

5. The intermediary has found that the skilled nursing facility has effectively applied the certification and recertification requirements of section 1814(a) of the Act.

The proposed regulations would require a home health agency to meet the following criteria in order to receive a presumption in favor of the waiver of liability:

1. The home health agency has a procedure for the review of the medical necessity for all Medicare plans of treatment;

2. The home health agency submits bills for payment and medical documentation to the intermediary in a timely fashion;

3. The home health agency assures that the patient and the attending physician are promptly notified in noncovered cases;

4. The intermediary has found that bills for payment submitted by the home health agency reflect knowledge of Medicare coverage criteria; and

5. The intermediary has found that the home health agency has effectively applied the certification and recertification requirements of section 1814(a) of the Act.

Prior to final adoption of the proposed amendments, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, on or before May 8, 1974.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

The proposed amendments are to be issued under the authority contained in sections 1102, 1816(b), 1842(b), 1861(k), 1862(a), 1871, and 1879, 49 Stat. 647, as amended, 79 Stat. 298, 79 Stat. 310,

318, 325, as amended, 79 Stat. 331, 86 Stat. 1384; 42 U.S.C. 1302, 1395h, 1395u, 1395x, 1395y, 1395hh, and 1395pp.

(Catalog of Federal Domestic Assistance Program Nos. 13.800, Health Insurance for the Aged—Hospital Insurance; and 13.801, Health Insurance for the Aged—Supplementary Medical Insurance.)

Dated: March 4, 1974.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: April 1, 1974.

CASPAR W. WEINBERGER,
Secretary of Health, Education,
and Welfare.

Part 405 of Chapter III of Title 20 is further amended as set forth below.

§ 405.129 [Revoked]

1. Section 405.129 is revoked.

2. Sections 405.195 and 405.196 are added to read as follows:

§ 405.195 Procedures for determining whether providers of services are liable for certain noncovered services.

(a) *General.* Sections 405.330–405.332 describe the applicable standards for determining whether a provider of services will be held liable for items or services furnished a beneficiary which are excluded from coverage by reason of § 405.310(g) or § 405.310(k). In general, there will be a presumption in favor of the provider that he did not have knowledge, actual or imputed, that such items or services are excluded from coverage. However, the presumption will be rebutted if, among other things, the provider does not meet the criteria in paragraph (b) of this section, in the case of a hospital, in paragraph (c) of this section, in the case of a skilled nursing facility, or in paragraph (d) of this section, in the case of a home health agency. In determining whether a hospital, skilled nursing facility, or home health agency meets the applicable criteria, the intermediary will, where appropriate, make findings on the basis of the provider's claims experience, onsite reviews, and review of available data and information.

(b) *Criteria for a hospital.* In the case of a hospital, the criteria referred to in paragraph (a) of this section are as follows:

(1) The Secretary has found that the hospital complies with each of the standards for utilization review as set out in § 405.1035 as in effect when such finding is being made and as may from time to time be revised; and

(2) The hospital complies with the procedures established by the Administration to assure that bills for payment are submitted to the intermediary in a timely manner and that requests by the intermediary for documentation relating to such bills are promptly satisfied; and

(3) The hospital has established procedures which give the Administration reasonable assurance that it promptly notifies the patient and the patient's attending physician where it is determined

(whether by the hospital or intermediary) that such patient is being furnished items or services which are excluded from coverage under title XVIII of the Act; and

(4) On the basis of the bills for payment submitted to the intermediary by the hospital, the Administration finds that the hospital effectively distinguishes between cases where items or services furnished by the hospital are covered under title XVIII and cases where they are excluded from coverage; and

(5) The hospital has demonstrated that it is effectively applying the conditions for certification and recertification as required in § 405.160(a)(2), § 405.160(b)(2), or § 405.160(c)(2) (whichever is appropriate).

(c) *Criteria for a skilled nursing facility.* In the case of a skilled nursing facility, the criteria referred to in paragraph (a) of this section are as follows:

(1) The Secretary has found that the skilled nursing facility complies with each of the standards for utilization review as set out in § 405.1137 as in effect when such finding is being made and as may from time to time be revised; and

(2) The skilled nursing facility complies with procedures established by the Administration to assure that bills for payment and medical documentation are submitted to the intermediary in a timely manner; and

(3) The skilled nursing facility has established procedures which give the Administration reasonable assurance that it promptly notifies the patient and his attending physician where it is determined (whether by the facility or intermediary) that such patient is being or will be furnished items or services which are excluded from coverage under title XVIII of the Act; and

(4) On the basis of bills submitted to the intermediary by the skilled nursing facility, the Administration finds that the facility effectively distinguishes between cases where the items or services furnished by the facility are covered under title XVIII and cases where they are excluded from coverage; and

(5) The skilled nursing facility has demonstrated that it is effectively applying the conditions of certification and recertification as required by § 405.165 (b).

(d) *Criteria for a home health agency.* In the case of a home health agency, the criteria referred to in paragraph (a) of this section are as follows:

(1) The home health agency complies with the procedures described in § 405.196; and

(2) The home health agency complies with procedures established by the Administration to assure that bills for payment and medical documentation are submitted to the intermediary in a timely manner; and

(3) The home health agency has established procedures which give the Administration reasonable assurance that it promptly notifies the patient and his attending physician where it is determined (whether by the agency or the

intermediary) that such patient is being furnished items or services which are excluded from coverage under title XVIII of the Act; and

(4) On the basis of bills submitted to the intermediary by the home health agency, the Administration finds that the agency effectively distinguishes between cases where the items or services furnished by the agency are covered under title XVIII and cases where they are excluded from coverage; and

(5) The home health agency has demonstrated that it is effectively applying the conditions for certification and recertification as required by § 405.170(b).

§ 405.196 Procedures for home health agencies in handling cases.

In order to meet the requirement set forth in § 405.195(d)(1), a home health agency must give the Secretary reasonable assurances that it is complying with the following procedures:

(a) On or before the first home health visit (see § 405.131) to an individual entitled to benefits under title XVIII, the home health agency will obtain a certification (see § 405.1633) from such individual's attending physician and his plan of treatment. The home health agency promptly reviews such certification and plan to determine whether the services the physician has prescribed constitute home health services as described in § 405.1633.

(b) Where the agency determines that the patient's care constitutes home health services as described in § 405.1633, it schedules the case for review when in its judgment it believes that the care will no longer constitute home health services as so described, but in no event should such review take place later than the 30th day after the initial home health visit. At the request of the intermediary in specific cases, the home health agency submits medical evidence within 2 days after the initial home health visit for review by the intermediary.

(c) Where the home health agency determines that an individual no longer requires home health services as described in § 405.1633, it promptly notifies such individual and his attending physician, in writing, but in no case later than 2 days after making such determination.

(d) If the home health agency has reasonable doubt as to whether the individual requires home health services as described in § 405.1633, it promptly submits medical information to the intermediary, but in no case later than 2 days after the initial home health visit, or if later, the date such agency has such reasonable doubt and requests the intermediary's opinion as to whether the individual needs home health visits as described in § 405.1633 and, if so, an appropriate review date.

3. Section 405.301 is revised to read as follows:

§ 405.301 Scope of subpart.

Sections 405.310 to 405.320 describe certain exclusions from coverage appli-

cable to hospital insurance benefits (Part A of title XVIII) and supplementary medical insurance benefits (Part B of title XVIII). The exclusions in this subpart are applicable in addition to any other conditions and limitations in this part 405 and in title XVIII of the Act. Sections 405.330 to 405.332 relate to payments for expenses for certain items or services otherwise excluded from coverage. Sections 405.350 to 405.359 relate to the adjustment or recovery of an incorrect payment, or a payment made under section 1814(e) of Part A of title XVIII of the Act. Sections 405.370 to 405.373 relate to the suspension of payment to a provider of services or other supplier of services where there is evidence that such provider or supplier has been or may have been overpaid.

4. The introductory text of § 405.310 is amended to read as follows:

§ 405.310 Types of expenses not covered.

Notwithstanding any other provisions of this part 405, no payment (except as provided in §§ 405.330-405.332) may be made for any expenses incurred for the following items or services:

5. New §§ 405.330-405.332 are added to read as follows:

§ 405.330 Payment for certain nonreimbursable expenses.

Notwithstanding the provisions of § 405.310, payment may be made for items or services furnished after October 30, 1972 (and for such period of time as the Administration finds will carry out the objectives of title XVIII of the Social Security Act) which involve custodial care (§ 405.310(g)) or items or services which are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member (§ 405.310(k)), if:

(a) Such items or services were furnished by a provider of services (see § 405.605), or by another person pursuant to an assignment as provided for in § 405.251(b), and

(b) Neither the individual to whom such items or services were furnished nor such provider of services or other person, as the case may be, knew or could reasonably have been expected to know that the expenses incurred for such furnished items or services were excluded from coverage by reason of § 405.310(g) or § 405.310(k).

§ 405.331 Liability for certain noncovered items or services.

(a) Even though payment may not be made pursuant to § 405.330 only because the provisions of paragraph (b) thereof are not met, the individual to whom the items or services were furnished will be indemnified by the program (in the case of items or services furnished after October 30, 1972), to the extent specified in paragraph (b) of this section, if:

(1) The individual paid the provider of services or other person, as the case

may be, referred to in § 405.330(a), all or some of the charges for such services; and

(2) Such individual did not know and could not have reasonably been expected to know that the expenses incurred for such items or services were excluded from coverage by reason of § 405.310(g) or § 405.310(k); and

(3) Such provider of services or other person, as the case may be, knew or could reasonably have been expected to know that the expenses incurred for such items or services were excluded from coverage; and

(4) Such individual files a proper request for such indemnification prior to the end of the sixth month following the month in which the payment specified in paragraph (a)(1) of this paragraph was made, except that for good cause shown such 6-month period may be extended.

(b) The amount an individual may be indemnified pursuant to paragraph (a) of this section shall be the amount he paid as specified in paragraph (a)(1) of this section, less the amount for deductibles and coinsurance, had such items or services been covered under the program. Any payment thus made as indemnification is deemed to be an overpayment to the provider of services or other person, as the case may be, who received the payment referred to in paragraph (a)(1) of this section and shall be recoverable in accordance with the provisions of this part or other applicable provision of law.

§ 405.332 Criteria for determining that there was knowledge that certain services were nonreimbursable.

(a) *The individual to whom items or services are furnished.* An individual to whom were furnished items or services which are excluded from coverage by reason of § 405.310(g) or § 405.310(k) shall, in the absence of evidence to the contrary, be presumed not to have knowledge, actual or imputed, that such items or services are excluded from coverage. Evidence to the contrary shall include (but shall not be limited to) the following situations:

(1) The intermediary or carrier informed the individual (or someone on his behalf) in writing that the items or services furnished were not covered;

(2) The group or committee responsible for conducting the utilization review function of the institution furnishing such items or services (see § 405.1035 or § 405.1137) made a finding that such items or services were not covered and such finding was conveyed in writing to the individual (or someone on his behalf);

(3) The provider of services or other person furnishing such items or services to the individual informed the individual (or someone on his behalf) in writing that such items or services are excluded from coverage and the intermediary or carrier (whichever is appropriate) has determined on the basis of the provider's or other person's past billing practices that such provider or person can effectively distinguish between cases where the items or services furnished are cov-

ered under title XVIII and where such items or services are excluded from coverage.

(4) In a prior case involving such individual he was notified under the circumstances referred to in paragraphs (a) (1), (2), and (3) of this section that similar or reasonably comparable items or services were excluded from coverage.

(b) *The provider of services or other person who furnished items or services to an individual.* A provider of services or other person who furnished items or services to an individual which are excluded from coverage by reason of § 405.310(g) or § 405.310(k) shall, in the absence of evidence to the contrary, be presumed not to have knowledge, actual or imputed, that such expenses are so excluded. Evidence to the contrary shall include (but shall not be limited to) the following situations:

(1) The intermediary or carrier informed the provider or other person that the expenses for the items or services furnished the individual were not reimbursable or that items or services similar or reasonably comparable thereto were not covered;

(2) The group or committee responsible for conducting the function or utilization review of the institution furnishing such items or services (see § 405.1035 or § 405.1137) informed the provider that such items or services were not covered;

(3) The provider of services failed to comply with the criteria set forth in paragraph (b), (c), or (d) of § 405.195 (whichever is appropriate), unless the provider demonstrates through objective evidence that, had it complied with such criteria, it would not have known that the items or services furnished are excluded from coverage;

(4) Even though the provider complied with the criteria set forth in paragraph (b), (c), or (d) of § 405.195 (whichever is appropriate), it is clear and obvious that, despite such compliance, the provider should have known at the time such items or services were furnished that they were excluded from coverage.

6. Section 405.702 is revised to read as follows:

§ 405.702 Notice of initial determination.

After a request for payment under Part A of title XVIII of the Act is filed with the intermediary by or on behalf of the individual who received inpatient hospital services, extended care services, or home health services (see §§ 405.1660-405.1674), and the intermediary has ascertained whether the items and services furnished are covered under Part A of title XVIII, and where appropriate, ascertained and made payment of amounts due or has ascertained that no payments were due (see § 405.401(c)), the individual will be notified in writing of the initial determination in his case. In addition, if the items or services furnished such individual are not covered under Part A of title XVIII by reason of § 405.310(g) or § 405.310(k), and payment may not be made for such items or services under § 405.330 only because the require-

ments of § 405.330(b) are not met, the provider of services (see § 405.605) which furnished such items or services will be notified in writing of the initial determination in such individual's case. These notices shall be mailed to the individual and the provider of services at their last known addresses and shall state in detail the basis for the determination. Such written notices shall also inform the individual and the provider of services of their right to reconsideration of the determination if they are dissatisfied with the determination.

7. Section 405.704 is revised to read as follows:

§ 405.704 Actions which are initial determinations.

(a) *Initial determinations with respect to an individual.* For purposes of this Subpart G, an initial determination with respect to an individual includes any determination made on the basis of a request for payment by or on behalf of such individual under Part A of title XVIII of the Act, including a determination with respect to:

(1) The coverage of items and services furnished;

(2) The amount of an applicable deductible;

(3) The application of the coinsurance feature;

(4) The number of days of inpatient hospital benefits utilized during a spell of illness or for purposes of the inpatient psychiatric hospital 190-day lifetime maximum;

(5) The number of days of the 60-day lifetime reserve utilized for inpatient hospital coverage;

(6) The number of days of posthospital extended care benefits utilized;

(7) The number of home health visits utilized;

(8) The physician certification requirement;

(9) The request for payment requirement;

(10) The beginning and ending of a spell of illness;

(11) The medical necessity of services;

(12) When items or services are excluded from coverage pursuant to § 405.310(g) or § 405.310(k), whether such individual or the provider of services who furnished such items or services, or both, knew or could reasonably have been expected to know that such items or services were excluded from coverage (see § 405.332); and

(13) Any other issues having a present or potential effect on the amount of benefits to be paid under Part A of title XVIII of the Act, including a determination as to whether there has been an overpayment or underpayment of benefits paid under Part A, and if so, the amount thereof.

(b) *Initial determination with respect to a provider of services.* For purposes of this Subpart G, an initial determination with respect to a provider of services shall be a determination made on the basis of a request for payment filed by such provider under Part A of title XVIII

of the Act on behalf of an individual who was furnished items or services by such providers, but only if such determination involves the following:

(1) A finding by the intermediary that such items or services are not covered by reason of § 405.310(g) or § 405.310(k), and

(2) A finding by the intermediary that either such individual or such provider of services, or both, knew or could reasonably have been expected to know that such items or services were excluded from coverage under the program.

8. Section 405.708 is revised to read as follows:

§ 405.708 Effect of initial determination.

(a) The initial determination under § 405.704(a) shall be final and binding upon the individual on whose behalf payment under Part A has been requested or, if such individual is deceased, upon the representative of such individual's estate, unless it is reconsidered in accordance with §§ 405.710-405.717 or revised in accordance with § 405.750. Such individual (or the representative of such individual's estate if the individual is deceased) shall be the party to such initial determination.

(b) The initial determination under § 405.704(b) shall be final and binding upon the provider of services unless it is reconsidered in accordance with §§ 405.710-405.717 or revised in accordance with § 405.750. Such provider of services shall be the party to such initial determination.

9. Section 405.710 is revised to read as follows:

§ 405.710 Right to reconsideration.

(a) An individual who is a party to an initial determination, as specified in § 405.704(a), (or if such individual is deceased, the representative of such individual's estate) and who is dissatisfied with the initial determination may request a reconsideration of such determination in accordance with § 405.711 regardless of the amount in controversy.

(b) A provider of services who is a party to an initial determination (as specified in § 405.704(b)) and who is dissatisfied with such initial determination may request a reconsideration of such determination in accordance with § 405.711, regardless of the amount in controversy, but only if the individual on whose behalf the request for payment was made has indicated in writing that he does not intend to request reconsideration of the intermediary's initial determination on such request for payment, or if the intermediary has made a finding (see § 405.704(b)) that such individual did not know or could not reasonably have been expected to know that the expenses incurred for the items or services for which such request for payment was made were not reimbursable by reason of § 405.310(g) or § 405.310(k).

10. Section 405.714 is revised to read as follows:

§ 405.714 Withdrawal of request for reconsideration.

A request for reconsideration may be withdrawn by the party to the initial determination who filed the request or by his representative provided that the withdrawal is made in writing and filed at an office of the Administration or, in the case of a qualified railroad retirement beneficiary, with the Railroad Retirement Board prior to the date of the mailing of the notice of reconsidered determination. A withdrawal filed with the intermediary which received the request for payment submitted on behalf of the individual is considered to have been filed with the Administration as of the date it is filed with the intermediary.

11. Section 405.715 is revised to read as follows:

§ 405.715 Reconsidered determination.

(a) In reconsidering an initial determination, the Administration shall review such initial determination, the evidence and findings upon which such determination was based, and any additional evidence submitted to the Administration or otherwise obtained by the intermediary or the Administration; and shall make a determination affirming or revising, in whole or in part, such initial determination.

(b) If the request for reconsideration is filed by an individual with respect to an initial determination specified in § 405.704(a)(12), the provider of services who furnished the items or services shall, prior to the making of the reconsidered determination, be made a party thereto. If pursuant to § 405.710(b) a request for reconsideration is filed by a provider of services with respect to an individual determination under § 405.704(b), the individual who was furnished the items or services shall, prior to the making of the reconsidered determination, be made a party thereto.

12. Section 405.716 is revised to read as follows:

§ 405.716 Notice of reconsidered determination.

Written notice of the reconsidered determination will be mailed by the Administration to the parties and their representatives at their last known addresses. Such notice shall state in detail the basis for the reconsidered determination and shall advise the parties of their right to a hearing if the amount in controversy is \$100 or more.

13. Section 405.717 is revised to read as follows:

§ 405.717 Effect of a reconsidered determination.

The reconsidered determination shall be final and binding upon the parties thereto unless a request for a hearing is filed with the Administration within 6 months after the date of mailing notice of the reconsidered determination to such parties, or unless the reconsidered determination is revised pursuant to the provisions of § 405.750.

14. Section 405.720 is revised to read as follows:

§ 405.720 Hearing; right to hearing.

A person has a right to a hearing regarding any initial determination made under § 405.704 if:

(a) Such initial determination has been reconsidered by the Administration;

(b) Such person was a party to the reconsidered determination;

(c) Such person or his representative has filed a written request for a hearing in accordance with the procedure described in § 405.722; and

(d) The amount in controversy is \$100 or more.

15. Section 405.722 is revised to read as follows:

§ 405.722 Time and place of filing request for a hearing.

The request for a hearing shall be made in writing and filed at an office of the Administration or with an administrative law judge or, in the case of a qualified railroad retirement beneficiary, at an office of the Railroad Retirement Board. Such request must be filed within 6 months after the date of mailing notice of the reconsidered determination to the parties thereto, except where the time is extended as provided in § 404.954 (a) of this chapter.

16. Section 405.730 is revised to read as follows:

§ 405.730 Court review.

To the extent authorized by section 1869 and section 1879(d) of the Act, a party to a decision of the Appeals Council (see § 404.950 of this chapter), or the decision of an administrative law judge where the request for review by the Appeals Council was denied, may obtain a court review where the amount in controversy after Appeals Council review is \$1,000 or more, by filing a civil action in a district court of the United States in accordance with the provisions of section 205(g) of the Act (see § 422.210 of this chapter for filing procedure).

17. Section 405.745 is revised to read as follows:

§ 405.745 Amount in controversy ascertained after reconsideration.

For the purpose of determining whether a party to a reconsidered determination is entitled to a hearing, the amount in controversy after the reconsideration action rather than the amount in controversy initially at issue shall be controlling.

18. Paragraph (b) of § 405.803 is revised to read as follows:

§ 405.803 Initial determination.

(b) An initial determination for purposes of this subpart includes among others, a determination as to whether items and services furnished are covered; whether the deductible has been met; whether the receipted bill or other evidence of payment is acceptable; whether the charges for items or services furnished are reasonable; and if the items or services furnished an en-

rollee by a supplier of services pursuant to an assignment (§ 405.251(b)) are not covered by reason of § 405.310(k), whether such enrollee or supplier knew or could reasonably have been expected to know that such items or services were excluded from coverage.

[FR Doc. 74-7980 Filed 4-5-74; 8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 82]

[CGD 73-241 P]

BOUNDARY LINES OF INLAND WATERS

Strait of Juan de Fuca, Haro Strait, and Strait of Georgia

The Coast Guard is considering amending the line of demarcation for inland waters that extends from Angeles Point, Washington, through the Strait of Juan de Fuca, Haro Strait, and the Strait of Georgia to Point Roberts, Washington.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments concerning the proposal to the Commandant (G-CMC), U.S. Coast Guard, Washington, D.C. 20590. Each person submitting comments should include his name and address and organization, if any, identify the notice number (CGD 73-241 P), and give reasons for any recommended change in the proposal. Copies of all written comments received will be available for examination in Room 8234, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C.

All comments received on or before April 26, 1974, will be fully considered before final action is taken on this proposal.

This document proposes to eliminate the following portions of the line of demarcation described in § 82.120:

a. The line connecting Hein Bank Lighted Bell Buoy and Lime Kiln Light in the Strait of Juan de Fuca and Haro Strait.

b. The line connecting Skipjack Island Light, Patos Island Light, and Point Roberts Light in the Strait of Georgia and Haro Strait.

Also, the proposal would extend the two remaining portions of the line of demarcation as follows:

a. The line connecting Angeles Point and Hein Bank Lighted Bell Buoy in the Strait of Juan de Fuca would be extended to Salmon Bank Lighted Gong Buoy 3, and thence to Cattle Point Light on the southeastern tip of San Juan Island.

b. The line connecting Lime Kiln Light, Kellett Bluff Light, Turn Point Light, and Skipjack Island Light would be extended to Clements Reef Buoy 2, thence to Alden Bank Lighted Gong Buoy A, and thence due north to the International Boundary in Boundary Bay.

This proposal in effect would move the line of demarcation far enough eastward in Haro Strait and the Strait of Georgia to allow vessels transiting U.S. waters adjacent to the Canadian vessel traffic system in these straits to use the International Rules of the Road and VHF radio frequency 156.30 MHz, both of which are now used in the Canadian vessel traffic system. At present, vessels transiting U.S. waters in these straits must use the Inland Rules of the Road and communicate with other vessels only on frequency 156.65 MHz, which is prescribed for vessel use under the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1201-1208). Amending the line of demarcation to allow vessels to use the same radio frequency and rules of the road applicable to vessels in Canadian waters of Haro Strait and the Strait of Georgia should greatly enhance the safety of vessel navigation in these areas.

In consideration of the foregoing, it is proposed that Chapter I of Title 33 of the Code of Federal Regulations be amended by revising § 82.120 to read as follows:

§ 82.120 Strait of Juan de Fuca, Haro Strait, and Strait of Georgia.

(a) A line drawn from the northernmost point of Angeles Point to Hein Bank Lighted Bell Buoy; thence to Salmon Bank Lighted Gong Buoy 3; thence to Cattle Point Light on San Juan Island.

(b) A line drawn from Lime Kiln Light to Kellett Bluff Light on Henry Island; thence to Turn Point Light on Stuart Island; thence to Skipjack Island Light; thence to Clements Reef Buoy 2; thence to Alden Bank Lighted Gong Buoy A; thence due north to a point on the United States-Canada boundary at latitude 49°00'08" N., longitude 122°52'32" W.

(Sec. 2, 28 Stat. 672, as amended (33 U.S.C. 151); Sec. 6(b) (1), Pub. L. 89-670, 80 Stat. 937 (49 U.S.C. 1655(b) (1)); 49 CFR 1.46(b))

Dated: April 2, 1974.

W. M. BENKERT,
Rear Admiral, U.S. Coast
Guard Chief, Office of Marine
Environment and Systems.

[FR Doc. 74-7975 Filed 4-5-74; 8:45 am]

Federal Aviation Administration

[14 CFR Part 39]

[Airworthiness Docket No. 73-NW-17-AD]

**BOEING MODEL 727 SERIES AIRPLANES
Proposed Inspection and/or Replacement
Requirement**

Correction

In FR Doc. 74-6903 on page 11195 of the issue of Tuesday, March 26, 1974, the first sentence in the fourth paragraph should read:

BOEING: Applies to all Model 727 Series Airplanes certificated in all categories.

[14 CFR Part 71]

[Airspace Docket No. 74-GL-7]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation regulations so as to designate a transition area at Watertown, Wisconsin.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before May 8, 1974 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A new instrument approach procedure has been developed for the Watertown, Wisconsin Municipal Airport. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Watertown, Wisconsin.

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

In § 71.181 (39 FR 440), the following transition area is added:

WATERTOWN, WISCONSIN

That airspace extending upward from 700 feet above the surface within a 8 mile radius of Watertown Municipal Airport (latitude 43°10'15" N., longitude 88°43'20" W.).

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

Issued in Des Plaines, Illinois, on March 22, 1974.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc. 74-7919 Filed 4-5-74; 8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-GL-5]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation regulations so as to designate a transition area at Camp McCoy, Wisconsin.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before May 8, 1974 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration.

The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A new public use instrument approach procedure has been developed for the McCoy Army Air Field, Wisconsin. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at McCoy, Wisconsin. The new procedure will become effective concurrently with the designation of the transition area.

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

In § 71.181 (39 FR 440), the following transition area is added:

CAMP MCCOY, WISCONSIN

That airspace extending upward from 700 feet above the surface within an 11 mile radius of the McCoy Army Air Field (latitude 43°57'15" N., longitude 90°44'15" W.), excluding that portion that overlies the La Crosse, Wisconsin transition area.

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

Issued in Des Plaines, Illinois on March 22, 1974.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc. 74-7920 Filed 4-5-74; 8:45 am]

[14 CFR Part 75]

[Airspace Docket No. 74-EA-21]

AREA HIGH ROUTE
Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 75 of the Federal Aviation Regulations that would realign J-864R east of Front Royal, Va., to the relocated Herndon, Va., VORTAC to be named Armel, Va., VORTAC.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before May 8, 1974 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, SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The Herndon, Va., VORTAC, located at Lat. 39°01'10" N., Long. 77°27'42" W., will be relocated to Lat. 38°56'04" N., Long. 77°28'01" W., and renamed Armel, Va. J-864R is presently aligned in part from Front Royal to Herndon. The FAA plans to realign this segment from Front Royal to Armel. The VOR/DME description of the Armel, Va., Waypoint would be "CSN 052.7M/25.7NM."

If the proposed action is taken, Part 75 of the Federal Aviation Regulations would be amended as follows:

In J-864R "Herndon, Va., 39°01'10" N. 77°27'42" W." would be deleted and "Armel, Va. 38°56'04" N. 77°28'01" W." would be substituted therefor.

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 April 2, 1974.

GORDON E. KEWER,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc. 74-7921 Filed 4-5-74; 8:45 am]

[14 CFR Part 75]

[Airspace Docket No. 74-GL-8]

JET ROUTES

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 75 of the Federal Aviation Regulations that would realign Jet Routes Nos. 60 and 146 between Lincoln, Nebr., and Iowa City, Iowa. This segment of the route is codesignated.

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, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon, Des Plaines, Ill. 60018. All communications received on or before May 8, 1974 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, SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed amendment would realign J-60 and J-146 from Lincoln, Nebr., direct to Iowa City, Iowa. Realignment of this route would eliminate the bend in this segment south of the Omaha, Nebr., radar site thereby reducing the route distance.

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 April 2, 1974.

GORDON E. KEWER,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc. 74-7922 Filed 4-5-74; 8:45 am]

[14 CFR Part 75]

[Airspace Docket No. 74-SO-18]

RNAV ROUTE

Proposed Alteration

Correction

In FR Doc. 74-7237 appearing in the issue of Friday, March 29, 1974, on page 11562 the first entry in the second column of the table, labeled "Latitude-longitude," should read:

31°32'11" N., 82°30'30" W.

ENVIRONMENTAL PROTECTION
AGENCY

[40 CFR Part 52]

APPROVAL AND PROMULGATION OF
IMPLEMENTATION PLANS

Revisions to Illinois, Indiana, Michigan,
Minnesota and Wisconsin; Corrections

On February 19, 1974 (39 FR 6126) the Administrator receipted for public comments several revisions to State plans for implementation of the national ambient air quality standards for the States of Illinois, Indiana, Michigan, Minnesota and Wisconsin. This publication consists of an errata sheet for incorrect listings in the February 19, 1974 publication.

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

Dated: March 29, 1974.

JOHN QUARLES,
Acting Administrator.

The document amending Part 52 of Chapter I of Title 40 of the Code of Federal Regulations, published in the FEDERAL REGISTER on February 19, 1974, at 39 FR 6126, is corrected as follows:

Subpart O—Illinois

Data regarding the following compliance schedules is corrected as follows:

PROPOSED RULES

Illinois

Source	Location	Regulations involved	Date schedule adopted	Final compliance date
COOK COUNTY				
CPC International Inc.	Bedford Park	203(g)	Mar. 5, 1973	May 30, 1975
Material Service Corp. (Campbell Street)	Chicago	204(c)	July 17, 1973	Do.
A. B. Dick Co.	Niles	203(b), 203(f)	July 11, 1973	Do.
Commonwealth Edison (Dixon Station, Unit 4)	Chicago	203(g), 204(c)	Apr. 2, 1973	June 7, 1974
DU PAGE COUNTY				
H. S. Crocker Co. Inc.	Elmhurst	205(f)	Mar. 5, 1973	Dec. 31, 1973
MARION COUNTY				
Jean T. Macmackin	Salem	502	May 31, 1973	Dec. 31, 1974
MORGAN COUNTY				
Anderson Clayton and Co.	Jacksonville	204(c)	Apr. 17, 1973	None specified.
ROCK ISLAND COUNTY				
Iowa-Illinois Gas and Electric Company	Moline	203(g)	Sept. 26, 1972	June 1974
TAZEWELL COUNTY				
CPC International Inc.	Pekin	203(g), 204(c)	Mar. 1, 1973	May 30, 1975

Subpart X—Michigan

Data regarding the following compliance schedules is corrected as follows: (Note where two final compliance dates

are listed, the first refers to achievement of primary standards limitations and the second to achievement of secondary standard limitations.)

Michigan

Source	Location	Regulations involved	Date scheduled adopted	Final compliance date
ALLEGAN COUNTY				
Plainwell Paper Co.	Plainwell	336.44, 46	Mar. 14, 1973	June 30, 1975
Menasha Corp.	Otose	336.49	do.	Dec. 31, 1977
EATON COUNTY				
Lansing Board of Water and Light (Erickson Sta.)	Lansing	336.49	do.	July 1, 1975
GENESEE COUNTY				
GMC Flint Assembly Plant (Chevrolet Div.)	Flint	336.49	Mar. 21, 1973	July 1, 1975
GMC Fisher Body Div.:				July 1, 1978
(a) Cold Water Rd.	do.	336.49	Mar. 23, 1973	July 1, 1975
(b) No. 1 GMC	do.	336.49	do.	July 1, 1975
HURON COUNTY				
Detroit Edison	Harbor Beach	336.49	Nov. 15, 1973	Jan. 1, 1980
INGHAM COUNTY				
Morton Wheel Corp. (Centrifuse Div.)	Lansing	336.44, 49		
(a) Electric Arc Fur. 1 and 2	do.	336.44, 49	Oct. 22, 1973	Aug. 1, 1975
(b) Electric Arc Fur. 3	do.	336.44, 49	do.	Dec. 11, 1975
Lansing Board of Water and Light (Eckert Sta.) All Units	do.	336.49	Mar. 14, 1973	July 1, 1975
(a) Units 1-3	do.	336.44, 49	do.	July 1, 1977
(b) Units 4, 5	do.	336.44, 49	do.	Do.
(c) Unit 6	do.	336.44, 49	do.	Oct. 1, 1975
Lansing Board of Water and Light (Park Sta.) Units 11-14	do.	336.49	do.	Dec. 1, 1974
Lansing Board of Water and Light (Ottawa Sta.) Units 1-5	do.	336.49	do.	July 1, 1975
MONROE COUNTY				
Consolidated Packaging Corp.—Boiler 8	Monroe	336.44, 46	Mar. 23, 1973	Jan. 5, 1974
Detroit Edison	do.	336.49	Sept. 13, 1973	Jan. 1, 1980
Dundee Cement Co.	Dundee	336.44	May 25, 1973	Apr. 15, 1974
OTTAWA COUNTY				
Holland Board of Public Works	Holland	336.44, 46	Mar. 30, 1973	June 1, 1975
SAGINAW COUNTY				
GMC Saginaw Steering Gear Saginaw Plant 2 (Power Boiler 1, 2) Plant 3 (Boilers 1-5)		336.49	Mar. 30, 1973	July 1, 1975
ST. CLAIR COUNTY				
Detroit Edison	Port Huron	336.49	Mar. 14, 1973	July 1, 1975
				July 1, 1978

Subpart Y—Minnesota

Data regarding the following compliance schedules is corrected as follows:

Minnesota

Source	Location	Regulations involved	Date schedule adopted	Final compliance date
DAKOTA COUNTY				
Peavey Co.	Hastings	APC-5, 6	Apr. 12, 1973	Mar. 1, 1975
KOOCHICING COUNTY				
Boise Cascade Corp.	International Falls	APC-6	Apr. 18, 1972	Nov. 15, 1974
Do.	do.	APC-5	Apr. 18, 1972 as amended July 23, 1973.	Sept. 30, 1976
WASHINGTON COUNTY				
Northern States Power Co.	A. S. King	APC-4	Nov. 16, 1972	July 1, 1975

Subpart YY—Wisconsin

The following compliance schedule is deleted:

Wisconsin

Source	Location	Regulations involved	Date schedule adopted	Final compliance date
EAU CLAIRE COUNTY				
Northern States Power Co.	Eau Claire	NR 154.11(5)(c)	Sept. 27, 1971	Oct. 1, 1973

[FR Doc.74-7886 Filed 4-5-74; 8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 74]

[Docket No. 19918; RM-2235]

FM RADIO BROADCAST TRANSLATOR STATIONS

Order Extending Time for Filing Reply Comments

In the matter of amendment of Part 74, Subpart L, of the Commission's rules pertaining to FM radio broadcast translator stations.

1. On January 4, 1974, the Commission adopted a notice of proposed rule making in the above-entitled proceeding. Publication was given in the FEDERAL REGISTER on January 15, 1974, 39 FR 1867. The date for filing comments has expired.

2. On March 15, 1974, KSL, Inc. (KSL)

requested an extension of time in which to file reply comments to and including April 1, 1974. Although such an extension on the last day for filing is not generally viewed with favor, we are nonetheless now granting an extension in light of the fact that through inadvertence the request was misplaced and not acted on, and in view of the allegations of KSL set forth in its request and mentioned below. Because of the inadvertence, the extension is being granted to April 15, 1974, instead of the April 1, 1974 requested date.

3. KSL states that because of the large number of comments, it has not been possible for a complete review to be completed. It also points out that it was not served with copies of the comments by Uintah Broadcasting Company which made specific allegations with respect to the translators which rebroadcast the

signal of KSS-FM in the State of Utah. KSL states that in order to adequately answer these allegations it will be necessary for engineering personnel of KSL to review the comments and gather together the material necessary to prepare an answer.

4. We believe the requested extension is warranted. Accordingly, it is ordered, That the date for filing reply comments is extended to and including April 15, 1974.

5. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

Adopted: March 29, 1974.

Released: April 2, 1974.

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.74-7973 Filed 4-5-74; 8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-10712; File No. S7-512]

FOREIGN ACCESS TO SECURITIES MARKETS

Extension of Deadline for Response to Release No. 34-10634

The Securities and Exchange Commission has extended from April 5, 1974 until May 20, 1974 the deadline by which all interested persons may respond to Securities Exchange Act Release No. 10634. That release requests public comment on issues concerning foreign access to the United States securities markets.

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 the relevant issues and its desire to afford sufficient time for all interested persons to comment thereon.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

APRIL 2, 1974.

[FR Doc.74-7991 Filed 4-5-74; 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 Alcohol, Tobacco and Firearms GRANTING OF RELIEF

Notice is hereby given that pursuant to 18 U.S.C., section 925(c), the following named persons have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to my satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

Adamson, Vaun D., Opt Route, O'Neill, Nebraska, convicted on July 28, 1971, in the United States District Court for the District of Nebraska.

Alexander, James Vincent, 1525 California Street, Rawlins, Wyoming, convicted on May 3, 1956, in the First Judicial District Court, County of Laramie, State of Wyoming.

Anderson, David S., 3205 North 9th Street, Sioux Falls, South Dakota, convicted on May 6, 1968, in the Fourth Judicial Circuit Court of Brule County, Chamberlain, South Dakota, and on September 5, 1969, in the Third Judicial Circuit Court of Clark County, Clark, South Dakota.

Angotti, Thomas F., 600 E. Alder, Walla Walla, Washington, convicted on or about July 5, 1972, in the Superior Court of the State of Washington, County of Walla Walla, Washington.

Birchett, Edward Bill, 308 Bell Road, Nashville, Tennessee, convicted on October 4, 1951, in the Criminal Court, Lebanon, Wilson County, Tennessee.

Blizzarri, William G., 108 South Curley Street, Baltimore, Maryland, convicted on February 11, 1972, in the United States District Court for the District of Maryland.

Brooks, W. Leonard, 708 Cambridge Road, Cynwyd, Pennsylvania, convicted on October 26, 1965, in the Court of Quarter Sessions, Montgomery County, Pennsylvania.

Brower, Harley Moir, Box 92, Hartford, South Dakota, convicted on March 18, 1963, in the Second Judicial Circuit Court, Minnehaha County, South Dakota, and on March 15, 1966, in the United States District Court for the District of South Dakota.

Cates, Larry M., 2007 E. Mead Avenue, Yakima, Washington, convicted on September 17, 1969, in the Superior Court for the State of Washington, in and for the County of Yakima.

Chaney, Glen, Trent Hill, Box 329, Bassett, Virginia, convicted on September 6, 1945, in the United States District Court for the Western District of Virginia, and on May 4, 1953, in the General Court of Justice, 17th

Judicial District, Caswell County, Yanceyville, North Carolina.

Cochran, Buell W., Route #4, El Dorado Springs, Missouri, convicted on March 10, 1969, in the Circuit Court of St. Clair County, Missouri.

Copper, Elden L., Box 121, Fullerton, Nebraska, convicted on January 29, 1962, in the Seward County District Court, Seward, Nebraska.

Cory, Victor B., 571 Caldwell Boulevard, Trailer Space #29, Nampa, Idaho, convicted on January 2, 1968, in the District Court in and for the County of Adams, State of Colorado.

Crawford, Donald W., Box 65 A, Earlsyville, Virginia, convicted on September 21, 1970, in the Circuit Court of Greene County, Virginia.

Davidson, James S., 1523 Beniteau, Apt. 206, Detroit, Michigan, convicted on October 28, 1958, in the Recorder's Court of the City of Detroit, Michigan.

Dickinson, John J., 207 W. 18th, Olympia, Washington, convicted on September 25, 1972, in the Thurston County Superior Court, Olympia, Washington.

Edmunds, Thomas J., 7465 Poe Street, Detroit, Michigan, convicted on or about July 25, 1963, and on or about January 31, 1968, in the United States District Court, Detroit, Michigan.

Erb, William H., 336 East Gibson Street, Canandaigua, New York, convicted on March 26, 1954, in the Court of Quarter Sessions, Franklin County, Pennsylvania, and on April 2, 1957, in the Supreme Court, Onondaga County, New York.

Fox, David E., 319 North 11th Street, Nebraska City, Nebraska, convicted on February 27, 1957, in the Douglas County District Court, Omaha, Nebraska.

Greenfield, Philip W., One Shore Drive, North Grafton, Massachusetts, convicted on June 3, 1950, in the Central District Court, Worcester, Massachusetts.

Haisha, Azzawi, 751 Valley Village, El Cajon, California, convicted on or about November 23, 1965, in the United States District Court for the Eastern District of Michigan, Southern Division.

Hill, Robert Eugene, Route 2, Box 581, Stockbridge, Georgia, convicted on January 23, 1969, and February 14, 1969, in the Clayton Superior Court, State of Georgia.

Johnson, Willard A., 5501 Hadley Street, Merriam, Kansas, convicted on May 8, 1972, in the United States District Court for the District of Kansas.

Kindler, Kenneth, 5271 N. Teutonia Avenue, Milwaukee, Wisconsin, convicted on May 30, 1972, in the United States District Court, Eastern Judicial District of Wisconsin.

Lacey, Jack, 1609 Euclid Avenue, Lincoln, Nebraska, convicted on January 4, 1965, in the Nuckolls County Circuit Court, State of Nebraska.

Loss, Robert D., 2737 North Broadway, Springfield, Missouri, convicted on April 2, 1951, in the District Court of Morris County, Kansas.

McCaslin, William J., a/k/a Davis, William J., 3110 East San Miguel, Colorado Springs, Colorado, convicted on June 15, 1954, and

October 10, 1955, in the Criminal Court of Record, Duval County, Florida; February 12, 1958, in the Criminal Court of Record, Dade County, Florida; February 18, 1963, in the United States District Court, District of Arizona; and on July 6, 1965, in the District Court of Denver County, Denver, Colorado.

McCormick, Jr., William B., 520 20th Street, Dunbar, West Virginia, convicted on July 24, 1959, in the Intermediate Court, Kanawha County, West Virginia.

Nephew, Robert J., 8067 Sheridan Road, #23, Kenosha, Wisconsin, convicted on or about June 29, 1965, and on September 28, 1971, in the Kenosha County Court, Branch 3, Kenosha, Wisconsin.

Paisner, Michael M., Route 2, Box 116D, Clintonville, Wisconsin, convicted on July 12, 1971, in the Shawano County Circuit Court, Wisconsin.

Ragin, Burtie, 3515 E. Clay Street, Richmond, Virginia, convicted on November 14, 1945, in the Hastings Court in the City of Richmond, Virginia.

Rector, Charles M., Route #7, Bowling Green, Kentucky, convicted on March 19, 1973, in the United States District Court for the Western District of Kentucky.

Romzek, Jerome John, 22859 Becker, Warren, Michigan, convicted on October 18, 1971, in the Circuit Court, St. Clair County, Port Huron, Michigan.

Ruhrer, Carlyle, 1309 1/2 Michigan Avenue, South Milwaukee, Wisconsin, convicted on September 1, 1966, in the Milwaukee County Circuit Court, Branch II, Milwaukee, Wisconsin.

Schwartz, Andrew, 810 Saratoga Avenue, Apt. N207, San Jose, California, convicted on January 28, 1970, in the Superior Court of the State of California in and for the County of Santa Clara.

Sevy, Max E., 6719 S.E. 74th Avenue, Portland, Oregon, convicted on April 7, 1970, in the Circuit Court of the State of Oregon, Multnomah County.

Souders, Eugene M., 171 East Frambes Avenue, Columbus, Ohio, convicted on September 10, 1959, in the Juvenile Court of Huron County, Ohio, and on December 15, 1959, in the Court of Common Pleas of Huron County, Ohio.

Todd, William D., 2600 East 39th Court, Des Moines, Iowa, convicted on April 12, 1962, in the Polk County District Court, Des Moines, Iowa.

Signed at Washington, D.C. this 25th day of March, 1974.

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

[FR Doc.74-7965 Filed 4-5-74; 8:45 am]

Office of the Secretary DEBT MANAGEMENT ADVISORY COMMITTEES

Notice of Meetings

Notice is hereby given, pursuant to section 10 of Pub. L. 92-463, that meetings

will be held in Washington on April 30 and May 1, 1974, of the following debt management advisory committees:

American Bankers Association, Government Borrowing Committee
Securities Industry Association, Government Securities and Federal Agencies Committee

The agenda for the meetings will include briefings for the advisory committees by Treasury staff on current debt management problems on April 30, separate deliberations by the two committees on April 30, and separate reports to the Secretary of the Treasury and Treasury staff on the morning of May 1.

A determination as required by section 10(d) of the Act has been made that these meetings are concerned with matters listed in section 552(b) of Title 5 of the United States Code, and that the meetings will not be open to the public.

[SEAL]

PAUL A. VOLCKER,
Under Secretary
for Monetary Affairs.

[FR Doc.74-7977 Filed 4-5-74;8:45 am]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

CRIMINAL JUSTICE INFORMATION SYSTEMS

Hearing

Notice is hereby given that the Department of Justice will hold a hearing on the proposed Criminal Justice Information Systems Regulations published in the FEDERAL REGISTER, 39 FR 5636, February 14, 1974.

The hearing will be held on April 19, 1974, at 10 a.m. in the 13th Floor Conference Room at 633 Indiana Avenue, NW., Washington, D.C. Interested persons who wish to testify should notify Thomas J. Madden, General Counsel, Law Enforcement Assistance Administration, 633 Indiana Avenue, NW., Washington, D.C., no later than April 10, 1974.

This hearing is in addition to those announced in the FEDERAL REGISTER on March 19, 1974.

WILLIAM B. SAXBE,
Attorney General.

APRIL 3, 1974.

DONALD E. SANTARELLI,
Administrator, Law Enforcement
Assistance Administration.

APRIL 3, 1974.

[FR Doc.74-8002 Filed 4-5-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[INT DES 74-41]

PROPOSED MASTER PLAN AND DEVELOPMENT CONCEPT PLAN FOR FORT SUMTER AND FORT MOULTRIE NATIONAL MONUMENT, SOUTH CAROLINA

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared

a draft environmental statement on the proposed Master Plan and Development Concept Plan for Fort Sumter and Fort Moultrie National Monument, South Carolina, and invites written comment on or before May 23, 1974. Written comment should be addressed to the Regional Director, Southeast Region; the Superintendent, Fort Sumter National Monument; or the Superintendent, Kings Mountain National Military Park, at the addresses listed below.

The draft environmental statement considers land acquisition, rehabilitation of existing facilities and construction of new facilities necessary to provide appropriate public use, increased interpretive opportunities and facilitate maintenance and preservation of the historic fabric of the Fort Sumter and Fort Moultrie National Monument.

Copies are available from or for inspection at the following locations:

Office of the Director, Southeast Region, National Park Service, 3401 Whipple Avenue, Atlanta, Ga. 30344.

Office of the Superintendent, Fort Sumter National Monument, Drawer R, Sullivan's Island, S.C. 29482.

Office of the Superintendent, Kings Mountain National Military Park, P.O. Box 31, Kings Mountain, N.C. 28086.

Dated: April 2, 1974.

ROYSTON C. HUGHES,
Assistant Secretary of
the Interior.

[FR Doc.74-8138 Filed 4-5-74;10:41 am]

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

[P. & S. Docket No. 4931]

BUSTER & CO. ET AL.

Complaint, Order of Suspension and Hearing Regarding Respondents' Schedule of Rates and Charges

In regard to: Buster & Company; Clifford Higgs d/b/a Higgs Cattle Company; Illinois Livestock Marketing Company; Fred E. Maddux d/b/a Maddux & Company; S. Phillip Schaffer d/b/a S & S Order Buyers; Edwin D. Coots, Ralph K. Swords, Larry Larimore, and Thomas E. McArthur d/b/a Siton, Coots & Swords.

Notice is hereby given that on March 20, 1974, the respondents filed a proposed amendment to their current schedule of rates and charges under Title III of the Packers and Stockyards Act, 1921, as amended, 42 Stat. 159, as amended (7 U.S.C. 181 et seq.), to become effective March 30, 1974. The proposed amended tariff reads as follows:

SECTION B—BUYING CHARGES

B-1 Sheep:

All consignments (cents per hundredweight) ----- 25
Exception: When sheep are purchased for local packers and the animals are weighed directly to the packers who receives the bills and pays for the animals. The charge shall be for all sheep (cents per head) ----- 44

B-2 Calves:

All consignments (cents per hundredweight) ----- 38
With a minimum of (cents per head) ----- 75
With a maximum for any consignment of (dollars) ----- 50.00
Exception: When calves are purchased for local packers and the animals are weighed directly to the packer who receives the bills and pays directly for the animals, the charge shall be, for animals weighing 300 lb or less (cents per head) ----- 95
For animals weighing over 300 lb (dollars per head) ----- 1.25

B-3 Cattle:

All consignments (cents per hundredweight) ----- 25
Exception: When cattle are purchased for packers that carry a bond approved by Peoria Livestock Exchange and the animals are weighed directly to the packer who received the bills and pays for cattle by wire, the charge shall be (cents per hundredweight) ----- 15

B-4 Hogs: All consignments (cents per hundredweight) ----- 20

B-5 Minimum charge for any consignments (dollars) ----- 2.50

B-6 If the buyer or cattle and/or hogs delivered under a future contract requires that the cattle and/or hogs be driven from the holding pens to the outbound loading chute pens for outbound shipment, one half the charges will apply.

Notice is given hereby also that on March 28, 1974, the Packers and Stockyards Administration, United States Department of Agriculture, filed a "Complaint, Order of Suspension, and Notice of Hearing" with respect to the respondents' rates and charges. The contents of such document are as follows:

This proceeding is instituted pursuant to the provisions of Title III of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), hereinafter referred to as the Act.

I. The respondents are now, and at all times mentioned herein were, registered with the Secretary of Agriculture as a market agency to buy livestock on commission at the Peoria Union Stockyards, Peoria, Illinois, which is now, and at all times mentioned herein was, a posted stockyard subject to the provisions of the Act.

II. In accordance with the requirements of the Act, the respondents have heretofore filed and presently have in effect a schedule of rates and charges for their services at the aforementioned stockyard.

III. On March 20, 1974, the respondents filed a supplement No. 8 to their current schedule of rates and charges to become effective on March 30, 1974. The amendment contains changes in the current rates and charges.

IV. Upon an analysis of the information available to the Packers and Stockyards Administration, United States Department of Agriculture, there is reason

to believe that certain of such increases are unjust, unreasonable, or discriminatory.

V. It is concluded, therefore, that a proceeding under Title III of the Act should be instituted for the purpose of determining the reasonableness and lawfulness of the rates and charges set forth in the respondents' schedule of rates and charges as modified by the supplement filed on March 20, 1974, and that pending a hearing and decision in this proceeding, the operation of the modifications of the current schedule of rates and charges should be suspended and the use of such modified rates and charges deferred.

VI. It is further concluded that a hearing should be had for the purpose of determining the lawfulness of all rates and charges of the respondents and of any rule, regulation, or practice affecting said rates and charges.

It is therefore ordered, That the operation and use by the respondents of the modifications of the current schedule of rates and charges filed on March 20, 1974, to become effective on March 30, 1974, are hereby suspended and deferred until the expiration of thirty days beyond the time when such modified rates would otherwise go into effect.

It is further ordered, That notice to the respondents shall be, and is hereby given that a hearing concerning the matters set forth herein will be held before an Administrative Law Judge of the Department at a time and place to be specified at a later date, of which the respondents will receive adequate notice. At such hearing the respondents and all other interested persons will have a right to appear and present such evidence with respect to the matters and things set forth herein as may be relevant and material.

It is further ordered, That any and all interested persons who may wish to appear and present evidence relative to the issues in this proceeding shall give notice thereof by filing a statement to that effect with the Hearing Clerk, United States Department of Agriculture, Washington, D.C., on or before April 29, 1974.

It is further ordered, That a copy hereof be served upon the respondents.

Done at Washington, D.C., April 2, 1974.

MARVIN L. McLAIN,
Administrator, Packers and
Stockyards Administration.

[FR Doc. 74-7997 Filed 4-5-74; 8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Equal
Opportunity

[Docket No. N-74-220]

HOUSING PROBLEMS OF SPANISH- SPEAKING AMERICANS

Notice of Public Meeting

Pursuant to § 106.3 of the Department
of Housing and Urban Development regu-

lations establishing procedures for the scheduling of fair housing public meetings (24 CFR 106.3; 37 FR 22420 (11-17-72)), notice is hereby given of a public fact finding meeting to be conducted by the Assistant Secretary for Equal Opportunity. The meeting will be open to the public and shall convene Thursday, May 9, 1974, at 9:00 a.m., in the South Dade Government Center, 10710 S. W., 211 Street, Miami, Florida. The meeting will reconvene Friday, May 10, 1974, at 9:00 a.m., in the General Services Administration Executive Conference Room, Federal Building, 51 S. W., First Avenue, Miami, Florida. The subject of the Thursday session will be housing problems of the migrant Spanish-speaking Americans. The subject of the Friday session will be the housing problems of the urban Spanish-speaking Americans.

Persons desiring to submit information or to give testimony concerning the subject of the meeting, should address such information to Dr. Gloria E. A. Toote, Assistant Secretary for Equal Opportunity, Department of Housing and Urban Development, Attention: Mr. Kenneth F. Holbert, 451 Seventh Street S.W., Washington, D.C. 20410. Such information or request to give testimony should be post marked no later than midnight April 30, 1974.

This meeting reschedules the previously announced meeting dated April 10-11, 1974 [FR Doc. 74-5509, Filed 3-7-74, 8:45 a.m.], Vol. 39, No. 47.

GLORIA E. A. TOOTE,
Assistant Secretary
for Equal Opportunity.

[FR Doc. 74-8202 Filed 4-5-74; 12:05 pm]

Office of the Secretary
[Docket No. N-74-224]

PROCEDURES FOR IMPLEMENTING THE LEAD-BASED PAINT ACT, AS AMENDED, BY PUBLIC LAW 93-151

Request for Comments and Information and Notice of Public Hearing

Pursuant to regulations issued by the Secretary of Health, Education, and Welfare (42 CFR Part 90) implementing section 401 of the Lead-Based Paint Poisoning Prevention Act of 1971, Pub. L. 91-695, 42 U.S.C. 4801, HUD issued regulations on August 22, 1972 (24 CFR Part 35) which prohibited the use of lead-based paint on applicable surfaces of any residential structure constructed or rehabilitated under any federally assisted program within HUD's jurisdiction.

On October 21, 1972, HUD revised 24 CFR Part 35 to add a new Subpart B, which reflected the Departmental concern with the problem of lead-based paint in existing properties and established, by administrative action pursuant to the Secretary's general authority to make rules and regulations under 42 U.S.C. 3535(d), an administrative policy of inspection for and treatment of existing lead-based paint health hazards in HUD-associated properties. These re-

vised regulations added a definition of the term "health hazards" to mean "cracking, scaling, peeling and loose lead-based paint on applicable surfaces" and retained the definition of the term "applicable surfaces" as "all interior surfaces and those exterior surfaces, such as stairs, decks, porches, railings, windows and doors, which are readily accessible to children under 7 years of age." The regulations established procedures for inspection of HUD-associated residential properties for existing health hazards and the treatment for the elimination of any such existing health hazards.

Pursuant to section 301 of the Lead-Based Paint Poisoning Prevention Act, HUD has been conducting a Lead-Based Paint Research Demonstration effort to develop and demonstrate more effective and economical methods for hazard detection and elimination. Included in this effort have been the following:

(a) Development of national estimates regarding the number of children with elevated blood lead levels and the number of housing units containing lead-based paint;

(b) Evaluation of the methodology and estimated costs of more than forty lead hazard eliminating processes;

(c) Evaluation of the existing lead paint detection technology and initiation of efforts to develop more sensitive equipment;

(d) Initiation of field testing of hazard elimination techniques; and

(e) Development, in conjunction with HEW, of model demonstration programs.

This Research and Demonstration program is currently being expanded pursuant to the recently enacted Pub. L. 93-151, which amended the Lead-Based Paint Poisoning Prevention Act, providing in part:

Sec. 301(a). The Secretary of Housing and Urban Development, in consultation with the Secretary of Health, Education and Welfare, shall develop and carry out a demonstration and research program to determine the nature and extent of the problem of lead-based paint poisoning in the United States, particularly in urban areas, including the methods by which the lead-based paint hazard can most effectively be removed from interior surfaces, porches, and exterior surfaces of residential housing to which children may be exposed.

The expansion of this program includes further work on the research and demonstration projects already initiated as well as new research such as research regarding application of adverse substances, development and evaluation of new hazard elimination methods, including direct funding of new product development.

Further, Pub. L. 93-151 adds a new section, giving specific authority to the Secretary to establish procedures for eliminating as far as practicable the hazards of lead-based paint poisoning, which provides as follows:

Sec. 302. The Secretary of Housing and Urban Development (hereafter in this section referred to as the "Secretary") shall establish procedures to eliminate as far as

practicable the hazards of lead-based paint poisoning with respect to any existing housing which may present such hazard and which is covered by an application for mortgage insurance or housing assistance payments under a program administered by the Secretary. Such procedures shall apply to all such housing constructed prior to 1950 and shall as a minimum provide for (1) appropriate measures to eliminate as far as practicable immediate hazards due to the presence of paint which may contain lead and to which children may be exposed, and (2) assured notification to purchasers and tenants of such housing of the hazards of lead-based paint, of the symptoms and treatment of lead-based paint poisoning, and of the importance and availability of maintenance and removal techniques for eliminating such hazards. Such procedures may apply to housing constructed during or after 1950 if the Secretary determines, in his discretion that such housing presents hazards of lead-based paint. The Secretary may establish such other procedures as may be appropriate to carry out the purposes of this action. Further, the Secretary shall establish and implement procedures to eliminate the hazards of lead-based paint poisoning in all federally owned properties when their use is intended for residential habitation.

In light of this express authorization to the Secretary, HUD has been and is engaged in evaluating its current administrative policies and regulations with respect to the elimination of the hazards of lead-based paint poisoning in relation to the overall problem of lead poisoning in children to determine what changes, if any, should be made in such policies and regulations to best effectuate the Congressional purpose and intent as expressed in the recent legislation. As an interim measure, a Notice has been sent to all HUD Field Offices and all approved mortgages requiring, in addition to following the current HUD regulations and procedures for eliminating lead-based paint health hazards, that each purchaser of a property, constructed prior to 1950 on which a conditional commitment for HUD-FHA mortgage insurance is issued after February 8, 1974, must be notified that the property was constructed before 1950, and that there is a possibility that the property may contain lead-based paint. In addition, HUD requires that a copy of a leaflet entitled *Watch Out for Lead Paint Poisoning*, issued by the United States Department of Health, Education, and Welfare (DHEW Publication HSM 73-5101) be given to each purchaser. Similar interim measures, which would administratively extend a notification requirement to purchasers and tenants of HUD acquired and other HUD-associated properties are being prepared for issuance to HUD Field Offices.

Notice is hereby given that HUD will hold a public hearing for the purpose of obtaining from all available public and private sources the most recent information relating to the causes, treatment and elimination of lead poisoning. Such information is to assist HUD in its consideration of the most practicable and effective solutions to the problem of the elimination of the hazards of lead-based paint poisoning in existing housing, the evaluation of the current HUD policies, regulations and procedures, the imple-

mentation of the recent legislation, the impact of hazard elimination requirements on HUD housing programs, other Federal housing programs and on the private housing market. Written and oral comments are solicited in connection with, but not limited to, the following topics:

- (a) Evidence on all potential sources of lead poisoning in children;
- (b) Indicators of the severity of lead poisoning as a childhood disease;
- (c) Evidence to define a level of lead in painted surfaces which may be hazardous to children;
- (d) Methods of inspecting for lead hazards and methods for detecting the lead level in paint on surfaces;
- (e) Methods for eliminating hazards to workmen and residents in removing lead-based paint;
- (f) Methods and procedures for dealing with the elimination of conditions which may be hazardous to children;
- (g) The impact of lead-based paint hazard elimination requirements and procedures on the availability of otherwise standard housing, particularly in the inner city;
- (h) Alternate solutions for lead-based paint hazard prevention, such as day care, educational and testing programs;
- (i) The use of available resources (financial, technical, governmental and volunteer) to best combat lead poisoning;
- (j) Suggestions for furthering new research and demonstration projects or approaches of the Department.

The public hearing on these matters will be held by the Department beginning on May 20, 1974, at 9 a.m. to end no later than May 24, 1974. The hearing will be held at a place to be announced in a subsequent issue of the *FEDERAL REGISTER*.

Requests to testify, written comments and any other communications regarding this hearing should be submitted no later than May 8, 1974, to the Assistant Secretary for Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, Attention: Lead-Based Paint Committee, Room 4120.

A person wishing to make oral comments at the public hearing shall submit a written request together with a brief outline of the topics he wishes to discuss. In lieu of reading a prepared statement at the hearing, such statement shall be submitted as a written comment, and the oral comments be limited to a discussion of matters relating to the written comment and to questions and answers in connection therewith. However, the oral comments shall not be merely a restatement of matters the person has submitted in writing. Persons making oral comments should be prepared to answer questions not only on the topics listed in the outline, but also in relation to his written comments. Ordinarily, a period of ten minutes will be the time allotted to each person for making oral comments. However, the Department reserves the right to limit or expand the time and number of oral presentations,

if necessary. The Department intends to record the proceedings at the hearings and may subsequently make summaries or verbatim transcripts of the proceedings available to the public.

Any other written comments and information from parties not wishing to appear at the hearing should be submitted to the same address, preferably prior to the date of the public hearing and in any event no later than May 24, 1974. All comments and information submitted will be available to the public under the provisions of the Freedom of Information Act (section 552 of Title 5, United States Code). Single copies of the current HUD regulations, 24 CFR 35, which will remain in effect until such time as any revisions may be published, may be obtained from the Public Information Center, Room 1202, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Dated: April 2, 1974.

JAMES T. LYNN,
Secretary of Housing
and Urban Development.

[FR Doc. 74-7979 Filed 4-5-74; 8:45 am]

ATOMIC ENERGY COMMISSION

[Docket Nos. STN 50-456, STN 50-457]

COMMONWEALTH EDISON CO.

Availability of AEC Draft Environmental Statement

Pursuant to the National Environmental Policy Act of 1969 and the United States Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that a Draft Environmental Statement prepared by the Commission's Directorate of Licensing related to the proposed Braidwood Station, Units 1 and 2 to be constructed by the Commonwealth Edison Company in north central Illinois, near the town of Braidwood, in Will County, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. and in the Wilmington Township Public Library, 201 South Kankakee Street, Wilmington, Illinois. The Draft Environmental Statement is also being made available at the Illinois State Clearinghouse, Rm. 103 State House, Springfield, Illinois, the Northeastern Illinois Planning Commission, 400 W. Madison Street, Chicago, Illinois, and at the Kankakee County Regional Planning Commission, 291 South Harrison, City of Kankakee, Illinois. Copies of the Commission's Draft Environmental Statement may be obtained by request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

The Environmental Report, as supplemented, submitted by the Commonwealth Edison Company is also available for public inspection at the above-designated locations. Notice of availability of the Applicant's Environmental Report

was published in the FEDERAL REGISTER on October 26, 1973 (38 FR 29633).

Pursuant to 10 CFR Part 50, Appendix D, interested persons may submit comments on the Applicant's Environmental Report, as supplemented, and the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Applicant's Environmental Report and the Draft Environmental Statement (local agencies may obtain these documents upon request). Comments are due by May 28, 1974. Comments by Federal, State, and local officials or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. and the Wilmington Township Public Library, 201 Kankakee Street, Wilmington, Illinois. Upon consideration of comments submitted with respect to the Draft Environmental Statement, the regulatory staff will prepare a Final Environmental Statement, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Draft Environmental Statement from interested members of the public should be 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 1st day of April, 1974.

For the Atomic Energy Commission.

B. J. YOUNGBLOOD,
Chief, Environmental Projects
Branch 3, Directorate of Li-
censing.

[FR Doc.74-7931 Filed 4-5-74;8:45 am]

[Docket No. 50-346A, etc.]

TOLEDO EDISON CO., AND CLEVELAND ELECTRIC ILLUMINATING CO.

Assignment of Members of Atomic Safety and Licensing Appeal Board

In the matter of Toledo Edison Company and Cleveland Electric Illuminating Company (Davis-Besse Nuclear Power Station), Docket No. 50-346A and Cleveland Electric Illuminating Company, et al. (Perry Nuclear Power Plant, Units 1 and 2), Docket Nos. 50-440A and 50-441A.

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787 (a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for these anti-trust proceedings:

Alan S. Rosenthal, Chairman
Michael C. Farrar, Member
William C. Farler, Member

Dated: April 1, 1974.

MARGARET E. DU FLO,
Secretary to the
Appeal Board.

[FR Doc.74-7932 Filed 4-5-74;8:45 am]

[Docket Nos. 50-404, 50-405] VIRGINIA ELECTRIC AND POWER CO.

Notice of Evidentiary Hearing

In the matter of Virginia Electric and Power Company (North Anna Power Station, Units 3 and 4).

Notice is hereby given that the evidentiary session in the above matter noticed in "A Notice of Hearing and Reopening of Record" dated February 25, 1974, will be held at 1:30 p.m., local time, on Tuesday, April 9, 1974, in the Circuit Courtroom, Louisa County Courthouse, Louisa, Virginia 23093.

It is so ordered.

Issued at Louisa, Virginia, this 4th day of April, 1974.

ATOMIC SAFETY AND LICENS-
ING BOARD,
JOHN B. FARMAKIDES,
Chairman.

[FR Doc.74-8193 Filed 4-5-74;11:11 am]

CIVIL AERONAUTICS BOARD

[Docket No. 25513; Agreement C.A.B. 24231,
etc.; Order 74-4-2]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fares Within Pacific and Between Pacific and Europe/Middle East/Africa Direct and Via Western Hemisphere

Adopted at the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of April 1974.

Agreements have been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign carriers, and other carriers, embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). Agreements C.A.B. 24233 and C.A.B. 24264 were adopted at various meetings held at Singapore in January/February 1974, and are both intended for March 15, 1974 effectiveness and expiration March 31, 1975. Agreement C.A.B. 24233 establishes passenger fares within Traffic Conference 3 (Asia/Australasia Pacific) and Agreement C.A.B. 24264 establishes fares between Traffic Conferences 2 (Europe/Middle East/Africa) and 3 direct or via the Western Hemisphere.¹ The agreements directly affect air transportation as defined by the Act only to the extent that they involve U.S. territories and possessions within the Pacific.

Generally speaking, fares in both these market areas would remain at status quo levels, plus a fuel cost increase adjustment.² Specifically, certain South West

¹ Generally fares which have been open since April 1, 1972 in the latter market area are to be closed by readoption of major portions of the old fare structure at current fare levels.

² Orders 73-12-77 and 74-3-63 dated December 19, 1973 and March 13, 1974 respectively, inter alia, approved general 6 and 7 percent increases in passenger fares within these two conference areas to reflect fuel cost increases.

Pacific points, including American Samoa, are deleted from those points between which common-interest group fares may be established, and American Samoa and Papeete are common rated with Japanese points for Affinity-Group and Group Inclusive-Tour (GIT) fares. The latter increases American Samoa-Japan fares for these categories by approximately 10 percent. The agreement also cancels the group requirement now imposed on the inclusive-tour fares and henceforth permits only individual travel on these fares between American Samoa and Far Eastern points; reduces the minimum stay period from 10 to 7 days and the minimum tour price from 105 percent of the applicable economy fare to \$13.02 (5 U.K. pounds) for Japan-American Samoa Individual Inclusive-Tour (IIT) travel; allows the combination of certain GIT fares to/from American Samoa with fares applicable between that point and other South West Pacific points; and reduces by an average of 2.5 percent the discount offered on Affinity-Group and 7/28-day GIT travel between American Samoa and Japan. A new GIT fare is established for groups of 10 persons from Auckland over routings including Fiji, American Samoa, and Rarotonga at a level of \$323.11 (124 U.K. pounds), and the price of a block of 25 one-way tickets offered as bulk discount travel between Guam and Manila would be increased by 13.4 percent. Additional routings via Okinawa-Manila and Okinawa-Hong Kong via Manila and Taipei are to be made available for 30-day U.S. military excursion travel.

Finally, the agreement modifies existing resolutions governing Affinity-Group fares, both direct and via the Western Hemisphere, to specify in detail provisions concerning usage of these fares by an individual or corporate person, and proposes a reduction in the minimum tour price of GIT fares to Guam from Europe. GIT fares between Guam/American Samoa and Europe would also be amended to allow combination with certain fares offered within Europe.

We will approve the agreement dealing with fares within the Pacific insofar as it is consistent with past policy in this area and, likewise, will approve the agreement closing fares between conference areas 2 and 3 (direct and via the Western Hemisphere) since that agreement in essence merely ratifies the existing fare structure.³ However, we are disapproving the individual fares for ships' crews insofar as they would apply in air transportation consistent with past Board policy, and the special excursion and standby

³ We will also approve herein a mail vote agreement clarifying application of the six percent fuel cost increase over the N/C Pacific in connection with an IATA resolution dealing with special rates for personal effects.

fares for U.S. military insofar as they are directly applicable in air transportation and/or relate to the carriage of civil employees of the U.S. Government. These latter fares—which are not to be confused with the fares for military personnel traveling between their homes and duty stations abroad, which we have heretofore approved—merely offer special vacation opportunities to a selected segment of the flying public which are not available to others. Finally, we will limit approval of resolution 086a, which alters the level of bulk travel discount fares between Manila and Guam, through June 30, 1974. After that date resolution 086a is disapproved since it provides for special fares based on volume

purchases which appear prima facie unjustly discriminatory.⁴

The Board, acting pursuant to section 102, 204(a), and 412 of the Act, makes the following findings:

1. It is not found that the following resolutions, which are incorporated in the agreements indicated, are adverse to the public interest or in violation of the Act: *Provided*, That approval is subject, where applicable, to conditions previously imposed by the Board:

⁴ This resolution grants a discount on the purchase of 25 one-way tickets which do not have to be used on the same date or flight, and thus are distinguishable from group-fare tickets.

Agreement CAB	IATA No.	Title	Application
24231	314	Special Rates for Personal Effects (Amending)	3/1; 1/2/3.
24233			
R-1	001b	TC3 Special Effectiveness Resolution (Tie-In)	3.
R-2	002	Standard Revalidation Resolution	3.
R-3	003b	TC3 Special Rescission Resolution	3.
R-5	01400	Construction Rule for TC3 (Revalidating and Amending)	3.
R-6	022e	TC3 Special Rules for Sales of Passenger Air Transportation (Revalidating and Amending)	3.
R-8	053	TC3 First-Class Fares	3.
R-9	063	TC3 Economy-Class Fares	3.
R-10	070a	TC3 Excursion Fares (Revalidating and Amending)	3.
R-14	075a	Common-Interest Group Fares (Revalidating and Amending)	3.
R-15	076c	TC3 Affinity-Group Travel (Revalidating and Amending)	3.
R-21	080e	TC3 Individual Inclusive-Tour Fares (Revalidating and Amending)	3.
R-26	084kk	TC3 Group Inclusive-Tour Fares Asia/South West Pacific (Revalidating and Amending)	3.
R-27	084L	TC3 28- and 35-Day Group Inclusive-Tour Fares (Revalidating and Amending)	3.
R-28	084z	TC3 Group Inclusive-Tour Fares South-West Pacific (Revalidating and Amending)	3.
R-29	086a	Bulk Travel Discount Manila-Guam (Approval is limited through June 30, 1974)	3.
R-30	092	Student Fares (Amending)	3.
24264			
R-1	001b	JT23 Special Effectiveness Resolution (Tie-In)	2/3.
R-2	001b	JT123 Special Effectiveness Resolution (Tie-In)	1/2/3.
R-6	002a	Special Readoption Resolution	2/3.
R-7	002a	Special Readoption Resolution	1/2/3.
R-8	014s	Special Fares to/from UK (Readoption and Amending)	2/3; 1/2/3.
R-10	055	Joint Conference 23 First-Class Fares	2/3.
R-11	058	First-Class Polar Fares	1/2/3.
R-12	059	First-Class Fares TC2-TC3 (Asia) via TC1 (Except Polar)	1/2/3.
R-13	065	Joint Conference 23 Economy-Class Fares	2/3.
R-14	068	Economy-Class Polar Fares	1/2/3.
R-15	069	Economy-Class Fares TC2-TC3 (Asia) via TC1 (Except Polar)	1/2/3.
R-16	076d	JT23 Affinity-Group Fares (Readoption and Amending)	2/3.
R-17	076g	TC2-TC3 via TC1 Affinity-Group Fares (Readoption and Amending)	1/2/3.
R-21	081i	JT23 and JT123 30-, 35-, 45- and 60-Day Group Inclusive-Tour Fares—TC2 to TC3 (Readoption and Amending)	2/3; 1/2/3.
R-22	081n	JT23 and JT123 30-, 35- and 60-Day Group Inclusive-Tour Fares—Far East to TC2 (Readoption and Amending)	2/3; 1/2/3.
R-24	084r	Group Inclusive Tours from Scandinavia (NEW)	2/3; 1/2/3.

2. It is not found that the following resolutions incorporated in the agreements as indicated, and which have in-

direct application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act:

Agreement CAB	IATA No.	Title	Application
24233, R-4	004f	Restriction of Application for Travel solely between Australia and New Zealand (Revalidating and Amending)	3.
24264			
R-3	001d	Special Emergency Escape for JT23 and JT123 Agreements	2/3; 1/2/3.
R-4	001j	Special Effectiveness Resolution (NEW)	2/3; 1/2/3.
R-5	001ss	Special Emergency Escape for JT23/JT123 (TC2-Japan/Korea) Agreement (NEW)	2/3; 1/2/3.

3. It is not found that the following resolutions, incorporated in the agree-

ments as indicated, affect air transportation as defined by the Act:

Agreement CAB	IATA No.	Title	Application
24233			
R-7.....	045	Passenger Charters (Revalidating and Amending).....	3.
R-11.....	070h	TC3 Excursion Fares—Fiji to India (Revalidating and Amending).....	3.
R-12.....	070n	TC3 45-Day Excursion Fares—Australia, New Zealand to India, Pakistan, Sri Lanka, Afghanistan and Nepal (Revalidating and Amending).....	3.
R-13.....	072c	TC3 New Zealand/Fiji Early Purchase Individual Contract (Revalidating and Amending).....	3.
R-16.....	076v	TC3 Incentive-Group Fares (Revalidating and Amending).....	3.
R-17.....	077b	TC3 Group Fares for Ships' Crews—Jakarta—TC3 points (Revalidating and Amending).....	3.
R-18.....	077c	TC3 Group Fares for Ships' Crews—India, Pakistan and Sri Lanka (Revalidating and Amending).....	3.
R-19.....	077f	TC3 Individual Fares for Ships' Crews (Revalidating and Amending) Insofar as it does not apply to U.S. territories and possessions within the Pacific.....	3.
R-20.....	079f	TC3 Contract Bulk Inclusive-Tour Rules (NEW).....	3.
R-22.....	080f	TC3 35-day Individual and Group Inclusive-Tour Fares, Australia/New Zealand to India/Pakistan/Sri Lanka/Nepal/Burma (Revalidating and Amending).....	3.
R-23.....	080i	TC3 28-Day Inclusive-Tour Fares, Japan to India/Pakistan/Sri Lanka/Afghanistan/Nepal (Revalidating and Amending).....	3.
R-24.....	081j	TC3 17-Day Group Inclusive-Tour Fares Bangkok to Calcutta (Revalidating and Amending).....	3.
R-25.....	084k	TC3 Group Inclusive-Tour Fares (Revalidating and Amending).....	3.
24264:			
R-9.....	045	Passenger Charters (Readopting and Amending).....	2/3.
R-18.....	077	JT23 and JT123 Group Fares for Ships' Crews (Readopting and Amending).....	2/3; 1/2/3.
R-19.....	077k	Individual Fares for Ships' Crews (Readopting and Amending). Insofar as it does not apply to U.S. territories and possessions within the Pacific.....	2/3; 1/2/3.
R-20.....	079b	Europe-Japan Contract Bulk Inclusive Tour Rules via Polar Route (Readopting and Amending).....	2/3; 1/2/3.
R-23.....	084g	30-Day Group Inclusive-Tour Fares, Europe-Japan/Hong Kong/Manila/Taipei (Readopting and Amending).....	2/3; 1/2/3.
R-25.....	200c	Transportation of Human Eyes and Dehydrated Corneas.....	1/2/3.

4. It is found that the following resolutions, incorporated in the agreements as indicated, are adverse to the public interest and in violation of the Act.

Agreement CAB	IATA No.	Title	Application
24233:			
R-10.....	077f	TC3 Individual Fares for Ships' Crews (Revalidating and Amending) Insofar as it would apply to U.S. territories and possessions within the Pacific.....	3.
R-31.....	095h	TC3 30-Day Excursion Fares for U.S. Military Personnel (Revalidating and Amending).....	3.
R-32.....	095i	TC3 "Stand-by" Fares for U.S. Military Personnel from Guam to Bangkok, Hong Kong, and Taipei (Revalidating and Amending).....	3.
24264:			
R-10.....	077k	Individual Fares for Ships' Crews (Readopting and Amending) Insofar as it would apply to U.S. territories and possessions within the Pacific.....	2/3; 1/2/3.

5. It is found that IATA Resolution 331/086a, "Bulk Travel Discount Manila-Guam," is adverse to the public interest and in violation of the Act. All fares established pursuant to this resolution are disapproved effective July 1, 1974.

Accordingly, it is ordered, That:

1. Those portions of Agreements C.A.B. 24231, C.A.B. 24233 and C.A.B. 24264 set forth in finding paragraphs 1 and 2 above be and hereby are approved, subject, where applicable, to conditions previously imposed by the Board;

2. Jurisdiction be and hereby is disclaimed with respect to those portions of Agreements C.A.B. 24233 and C.A.B. 24264 set forth in finding paragraph 3 above;

3. Those portions of Agreements C.A.B. 24233 and C.A.B. 24264 set forth in finding paragraph 4 above be and hereby are disapproved;

4. With the exception of Agreement C.A.B. 24233, R-29, tariffs implementing those portions of Agreements C.A.B. 24231, C.A.B. 24233, and C.A.B. 24264 specified in ordering paragraphs 1 and 2 above with respect to air transportation shall be marked to expire not later than March 31, 1975;

5. Tariffs implementing Agreement C.A.B. 24233, R-29 shall be marked to expire no later than June 30, 1974; and

6. Effective July 1, 1974, IATA Resolution 086a, "Bulk Travel Discount Manila-Guam," as set forth in finding paragraph 5 be and hereby is disapproved.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc. 74-7898 Filed 4-5-74; 8:45 am]

[Docket No. 25280; Agreement C.A.B. 24265 R-1 through R-12; Order 74-4-32]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to North/Central Pacific Cargo Rate Matters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 4th day of April, 1974.

An agreement has been filed with the Board, pursuant to section 412(a) of the

Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA). The agreement was adopted by a mail vote promulgated at a meeting held in New York on January 11, 1974, and constitutes the readoption and amendment of the North/Central Pacific cargo rate structure intended for effectiveness through December 31, 1974.

There has been no IATA agreement in effect for North/Central Pacific cargo rates since October 1, 1971, and the current rates are generally those which were agreed at the Athens cargo conference in 1969. In general, the agreement now before us would readopt the old structure with increases in specific commodity rates and bulk unitization charges. The agreement additionally provides for a surcharge of three percent on all rates and charges for U.S.-originating transportation to compensate for the effects of the February 12, 1973 devaluation of the U.S. dollar.¹

Minimum charges and general cargo rates between the United States and the Far East would generally remain at status quo² while specific commodity rates would be increased by amounts ranging up to 30 percent. The highest increases in commodity rates occur for items where, as a result of open-rate filings by individual carriers, the presently effective rate (without the recent fuel-based rate increases) is considerably lower than the previous IATA-agreed rate.

The resolution governing unit-load devices and the attendant bulk unitization charges would be amended to bring the North/Central Pacific into conformance with practice in other world areas. In this connection pivot weights, minimum charges, and over-pivot rates would be reduced. The cumulative effect of these changes is an increase ranging between two and five percent in the charge for a given shipment at or above the present pivot weight.

In April 1973 the IATA carriers submitted a similar agreement in an attempt to close the North/Central Pacific open-rate situation; the Board considered that agreement in Order 73-8-124 (August 24, 1973), and approved increases in specific commodity rates and container rates. However, the former agreement also included proposals for increases in general cargo rates, which were disapproved on the basis of the carriers' earnings positions and the wide gap between the general rates and the

¹ This surcharge is essentially the same as that now in effect for U.S.-originating North/Central Pacific passenger fares.

² Proportional rates for the construction of through general cargo rates between New York and the Far East are proposed to be increased to a uniform 33 cents per kg. to result in increases in the through constructed rates ranging from 0.8 to 2.5 percent.

low specific commodity rates. The Board also disapproved specific commodity rates for certain electronic components because of the extreme directional differentials involved and the potentially severe impact on the competitive positions of the manufacturers of the goods being transported.

The objectionable increases in general cargo rates have been eliminated from the agreement now before us, and the carriers have also made substantial modifications to the directional commodity rates previously disapproved. The purpose of this order is to establish procedural dates for the receipt of carrier justification for the rates, charges and related conditions embodied in the subject agreement; comments and/or objections from interested persons; and replies to these justifications and comments.

Carrier justification, comments and/or objections by interested persons and reply comments shall be submitted within seven, seventeen and twenty-four calendar days, respectively, after the date of this order.

Accordingly, it is ordered, that: 1. All United States air carrier members of the International Air Transport Association operating services over the North/Central Pacific shall file within seven calendar days after the date of this order, full documentation and economic justification for changes in rates, charges and related conditions embodied in the subject agreement;

2. Comments and/or objections from interested persons shall be submitted within seventeen calendar days after the date of this order; and

3. Replies to justifications received in response to ordering paragraph 1 above and replies to comments received pursuant to ordering paragraph 2 above shall be submitted within twenty-four calendar days after the date of this order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary,

APPENDIX A.—Comparison of present and proposed general cargo and selected specific commodity rates from the United States west coast to Tokyo

Commodity code	Description	Minimum kilogram weightbreak	Cents per kilogram		Percent change
			Present rates ¹	Proposed rates	
	General cargo.....	45	495	495	
		45	365	365	
		100	335	335	
		200	297	297	
		300	249	249	
		400	239	239	
		500	210	210	
		200	142	155	9.2
0300.....	Fish and seafood.....	1,000	110	110	2 (22.5)
0620.....	Beef.....	500	182	143	8.3
1297.....	Suitcase parts.....	100	196	221	12.8
		500	164	187	14.0
2451.....	Dresses and sweaters.....	300	190	200	10.0
4010.....	Machinery parts.....	300	190	200	10.0
		500	169	185	9.5
		1,000	148	167	12.8
4441.....	TV tuner parts.....	300	158	173	9.5
8301.....	Optical instruments.....	200	201	220	9.5
8556.....	Oscilloscopes.....	100	239	261	9.2
		300	215	235	9.3
		500	203	223	9.9
9992.....	Trade center exhibits.....	100	239	261	9.2

¹ International Air Traffic Tariffs Corp., Agent, Tariffs CAB Nos. 259 and 399. Both present and proposed rates include 6 and 7 percent fuel-based rate increases. Currency surcharges not included.

² Under.

³ Change from present rate for highest weightbreak.

Comparison of present and proposed general cargo and selected specific commodity rates from the United States west coast to Hong Kong

Commodity code	Description	Minimum kilogram weightbreak	Cents per kilogram		Percent change
			Present rates ¹	Proposed rates	
	General cargo.....	45	515	515	
		45	384	384	
		100	354	354	
		200	316	316	
		300	266	266	
		400	256	256	
		500	227	227	
0620.....	Beef.....	500	170	183	7.6
4107.....	Helicopter parts.....	100	185	199	7.6
		300	183	174	6.7
4204.....	Automotive parts.....	100	308	223	7.2
		500	192	205	6.8
4318.....	Business machines.....	300	208	205	27.9
4417.....	Appliances.....	100	192	205	7.2
		500	159	183	15.1
		1,000	154	183	18.8
4435.....	Electronic tubes and parts.....	300	192	199	3.6
		500	138	180	30.4
4701.....	Electrical machinery.....	200	227	244	7.5
8301.....	Optical instruments.....	100	208	223	7.2
8550.....	Medical and electronic equipment.....	300	213	229	7.5
9207.....	Toys and games.....	100	213	229	7.5

¹ International Air Traffic Tariffs Corp., Agent, Tariffs CAB Nos. 259 and 399. Both present and proposed rates include 6 and 7 percent fuel-based rate increases. Currency surcharge not included.

² Under.

³ Applicable general cargo rate.

⁴ Change from present rate for highest weightbreak.

Comparison of present and proposed general cargo and selected specific commodity rates from the United States west coast to Bangkok

Commodity code	Description	Minimum kilogram weightbreak	Cents per kilogram		Percent change
			Present rates ¹	Proposed rates	
	General cargo.....	\$ 45	526	526	
		45	388	388	
		100	389	389	
		200	352	352	
		300	309	309	
		400	304	304	
		500	280	280	
0620	Beef.....	500	192	280	45.8
4204	Automotive parts.....	100	250	270	8.0
4701	Electrical machinery.....	100	250	270	8.0
9992	Trade Center exhibits.....	100	309	333	7.8

¹ International Air Traffic Tariffs Corp., Agent, Tariffs CAB Nos. 259 and 399. Both present and proposed rates include 6 and 7 percent fuel-based rate increases. Currency surcharges not included.

² Under.

³ Applicable general cargo rate.

Comparison of present and proposed general cargo and selected specific commodity rates from New York to Tokyo

Commodity code	Description	Minimum kilogram weightbreak	Cents per kilogram		Percent change
			Present rates ¹	Proposed rates	
	General cargo ²	\$ 45	519	528	1.7
		45	389	398	2.3
		100	365	368	.8
		200	327	330	.9
		300	279	282	1.1
		400	269	272	1.1
		500	239	243	1.7
0323	Fresh tuna.....	500	148	243	64.2
2451	Dresses and sweaters.....	300	223	241	8.1
4010	Machinery parts.....	300	223	241	8.1
		500	201	217	8.0
		1,000	180	199	10.6
4204	Automotive parts.....	300	201	217	8.0
4441	TV tuner parts.....	300	190	205	7.9
6002	Chemicals.....	100	276	303	9.8
		200	244	264	8.2
		500	217	234	7.8
9992	Trade center exhibits.....	100	268	293	9.3

¹ International Air Traffic Tariffs Corp., Agent, Tariffs CAB Nos. 259 and 399. Both present and proposed rates include 6 and 7 percent fuel-based rate increases. Currency surcharges not included.

² General cargo rates between New York and Asia are constructed by addition of proportional rates to the U.S. west coast-Far East rates. The proportional rates are now proposed to be increased to a uniform 33¢ per kg. at all weight-breaks.

³ Under.

⁴ Applicable general cargo rate.

APPENDIX B.—Comparison of present and proposed charge for selected unit-load devices between the United States west coast and Tokyo

ULD type	Description	Minimum dollar charge per device at present pivot weight (kilogram)				Plus over-pivot charge	Percent change
		Present		Proposed			
		Pivot weight	Pivot charge	Pivot weight	Pivot charge		
3-----	Full 125 in pallet/Igloo-----	2,300	\$3,664	2,000	\$3,362	\$465=\$3,827 (155¢/kg) ¹	4.4
5-----	Wide-body aircraft lower deck full pallet.	1,900	3,046	1,650	2,807	\$387.50=\$3,194.50 (155¢/kg) ¹	4.9
8-----	Wide-body aircraft half size lower deck container.	900	1,559	760	1,292	\$217=\$1,599 (155¢/kg) ¹	2.6

¹ Present over-pivot rates—Types 3,5: 155¢/kg. Type 8: 172¢/kg.

[FR Doc.74-8111 Filed 4-5-74;8:45 am]

[Docket Nos. 22670 and 22500; Order 74-3-112]

LOS ANGELES AIRWAYS, INC.
Order To Show Cause
Correction

In FR Doc. 74-7323 on page 11619 in the issue of Friday, March 29, 1974, the date of adoption was inadvertently omitted and should be added to read March 26, 1974.

[Docket No. 26361; Order 74-3-114]

UNION DE TRANSPORTS AERIENS (U.T.A.)
Statement of Tentative Findings and Conclusions
Correction

In FR Doc. 74-7324 in the issue of Friday, March 29, 1974, on page 11620 the docket number should read as set forth above, and an adopted date should be added to read March 26, 1974.

COMMISSION ON CIVIL RIGHTS
ARIZONA STATE ADVISORY COMMITTEE
Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Arizona State Advisory Committee (SAC) will convene at 7 p.m. on April 10, 1974, in Meeting Room 1, Holiday Inn Airport, 2201 South 24 Street, Phoenix, Arizona 85031.

Persons wishing to attend this meeting should contact the Committee Chairman or the Mountain States Regional Office of the Commission, Room 216, 1726 Champa Street, Denver, Colorado 80202.

The purpose of this meeting shall be to discuss plans to issue a press release in connection with the Arizona Prison Project.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 3, 1974.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee
Management Officer.

[FR Doc.74-8042 Filed 4-5-74;8:45 am]

MAINE STATE ADVISORY COMMITTEE
Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maine State Advisory Committee (SAC) to this Commission will convene at 7 p.m. on April 9, 1974, at the Maine Teachers Association, 35 Community Drive, Augusta, Maine 04331.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purposes of this meeting shall be (1) to review the status of each of the Maine SAC Subcommittees and (2) to discuss the status of the Maine Equal Employment project proposals.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 3, 1974.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee
Management Officer.

[FR Doc.74-8043 Filed 4-5-74;8:45 am]

MASSACHUSETTS STATE ADVISORY COMMITTEE
Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Massachusetts State Advisory Committee

(SAC) to this Commission will convene at 4:30 p.m. on April 8, 1974, at the Office of the Jewish Labor Committee, 27 School Street, Boston, Massachusetts 02108.

Persons wishing to attend this meeting should contact the Committee Chairman or the Northeastern Regional Office of the Commission, Room 1639, Federal Building, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting shall be to discuss the first draft of a schedule for a proposed Massachusetts SAC factfinding meeting concerning the Civil Service System in Massachusetts.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 3, 1974.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee
Management Officer.

[FR Doc.74-8040 Filed 4-5-74; 8:45 am]

NEVADA STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Nevada State Advisory Committee (SAC) to this Commission will convene at 7:30 p.m. on April 11, 1974, at the Pioneer Motor Inn, 221 South Virginia, Reno, Nevada 89501.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Western Regional Office of the Commission, Room 1015, 312 North Spring Street, Los Angeles, California 90012.

The purpose of this meeting shall be to discuss final plans in preparation for the Nevada SAC's factfinding meeting on penal institutions.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 3, 1974.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee
Management Officer.

[FR Doc.74-8041 Filed 4-5-74; 8:45 am]

COST OF LIVING COUNCIL

FOOD INDUSTRY WAGE AND SALARY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) notice is hereby given that the Food Industry Wage and Salary Committee, established under the authority of section 212(f) of the Economic Stabilization Act, as amended, section 4(a)(iv) of Executive Order 11695, and Cost of Living Council Order No. 14, will meet on Thursday, April 11, 1974. The meeting will be open to the public on a first-come, first-served basis at

10 A.M., in Conference Room 8202, 2025 M Street, NW., Washington, D.C.

The agenda will consist of a discussion of policy questions involving food industry wage matters, and if circumstances permit, of food industry wage cases pending before the Cost of Living Council.

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.

Issued in Washington, D.C., on April 5, 1974.

HENRY H. PERRITT, Jr.,
Executive Secretary,
Cost of Living Council.

[FR Doc.74-8208 Filed 4-5-74; 12:02 pm]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS Notice of Availability

Environmental impact statements received by the Council on Environmental Quality from March 25 through March 29, 1974. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines, the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (May 20, 1974)

Copies of individual statements are available for review from the originating agency. Back copies will also be available from a commercial source, the Environmental Law Institute, of Washington, D.C.

DEPARTMENT OF AGRICULTURE

Contact: Dr. Fred H. Tschirley, Acting Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 331-E, Administration Building, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Draft

Winter Sports Development, El Dorado National Forest, Amador and El Dorado Counties, California, March 27: Proposed is the expansion of a ski area in the Corral Flat area of El Dorado National Forest. The proposed ultimate development will include 6 ski lifts with a capacity of 2,700; one or two surface lifts; one day lodge, motel, and parking for 1,150 cars; and associated support facilities such as a power plant, sewage disposal system, wells, maintenance, and first aid buildings. Approximately 1,040 acres of Forest land and 90 acres of private land would be included in the project boundary. The statement indicates that project impact upon water, air, soil, esthetics, and wildlife will be minimal (63 pages). (ELR Order No. 40463.)

Final

Fishways in Roadless Areas, Alaska, March 27: Proposed in the statement is the construction of fishways in streams in roadless areas of National Forest lands in Alaska. The fishways would enable salmonid species to overcome upstream barriers. Methods considered include fall modification of the Alaska aluminum steepbank, and pool-weir construction. Adverse impact could result from construction activities (including trails and helicopter landing sites for access) and

aesthetic impairment (45 pages). Comments made by: DOI, HUD, DOT, DOC, State and local agencies. (ELR Order No. 40465.)

Private Lands, Sawtooth National Forest, Idaho, March 29: Proposed is the setting of standards, under P.L. 92-400 for the use, subdivision and development of privately owned property within the Sawtooth National Recreation Area of the Forest. The standards will define the activities that do not impair the fishery, historic, wildlife, natural, scenic, pastoral, and other values of the Area (129 pages). Comments made by: DOI, State and local agencies and concerned citizens. (ELR Order No. 40482.)

Douglas Fir Tussock Moth Management Plan (2), Oregon, Washington, and Idaho, March 29: The statement, a revision of the draft which was received by CEQ on January 2, 1974, was prepared jointly by the Department of Agriculture and the Department of the Interior. It refers to the proposed treatment of 650,000 acres of land with the chemical DDT, in order to suppress an unusually severe outbreak of the Douglas fir tussock moth. The objective is to protect all forest resources, particularly timber, from additional damage caused by the tussock moth. Adverse impact of the action would include effects upon non-target insects, fish, big game wildlife, and domestic livestock (approximately 1200 pages). Comments made by: USDA, DOC, COE, EPA, HEW, HUD, DOI, DOT, State and local agencies. (ELR Order No. 40481.)

Canadian Face Planning Unit, Colville National Forest, Ferry County, Wash., March 25: The statement refers to a land use and management plan for the 24,650 acre Canadian Face Planning Unit of the Colville National Forest. Management will be for timber production, natural beauty, soil and water quality, deer winter range and wildlife habitat, and recreational use. Impact will be to soil, air, and water quality, and to wildlife habitat. Additionally, 13,250 acres of essentially roadless areas will be significantly altered, with logging, road construction, and wildlife habitat improvement (90 pages). Comments made by: EPA, State and local agencies, and concerned citizens. (ELR Order No. 40459.)

RURAL ELECTRIFICATION ADMINISTRATION

Final

Transmission Line, Longmont to Del Camino, Boulder and Weld Counties, Colo., March 25: Proposed is the use by Tri-State Generation and Transmission Association, Inc. of \$457,700 in previously loaned funds for the construction of 8.5 miles of 115 kV transmission line from Longmont Northeast substation to Del Camino substation. There will be construction disruption; the line will be an intrusion upon the landscape (206 pages). Comments made by: EPA, FPC, DOI, DOT, USDA, State agencies, and concerned citizens. (ELR Order No. 40457.)

ATOMIC ENERGY COMMISSION

Contact: For Non-Regulatory Matters: Mr. W. Herbert Pennington, Office of Assistant General Manager, E-201, AEC, Washington, D.C. 20545 301-973-4241. For Regulatory Matters: Mr. A. Giambusso, Deputy Director for Reactor Projects, Directorate of Licensing, P-722, AEC, Washington, D.C. 20545 301-973-7373.

Draft

Summit Power Station, Units 1 and 2, New Castle County, Delaware, March 26: The statement refers to the proposed issuance of construction permits to the Delmarva Power and Light Co. for the 2 unit station. Identical high-temperature gas-cooled reactors will produce up to 2000 MWt each; a steam-tur-

bine generator will use this heat to provide 761 MWe (net). Exhaust steam will be cooled through mechanical-draft towers with water drawn from the Chesapeake and Delaware Canal at a maximum rate of 48 cfs. Construction related activities will disrupt 270 acres of the 1800 acre site. Approximately 17.5 miles of new transmission line will be required. The cooling tower system will adversely effect aquatic biota. (ELR Order No. 40461.)

DELAWARE RIVER BASIN COMMISSION

Final

Martins Creek Steam Electric Station, Pennsylvania, March 25: Proposed is the addition of Units 3 and 4 to the Martins Creek Steam Electric Station, which is located on the west bank of the Delaware River 10 miles north of Easton. The two oil-fired generating units will have capacities of 800 MW each. Additional facilities will include a 414 foot high, 280,000 gpm natural draft cooling tower, a 600 foot high chimney, a 930,000 barrel storage tank, and water inlet works. Cooling activities will draw water from, and add heat to, the Delaware River. Comments made by: CEQ, COE, AEC, DOC, DOD, DOI, HUD, DOT, EPA, State and local agencies. (ELR Order No. 40450.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attn: DAEN-PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, S.W., Washington, D.C. 20314, 202-693-7168.

Draft

Ouachita and Black Rivers, a 9 foot Navigation Project, Arkansas and Louisiana, March 27: The statement refers to a proposed navigation project which will include: completion of a channel with a minimum depth of 9 feet and a minimum bottom width of 100 feet, on the Ouachita River from the mouth of the Black River to Camden, Arkansas; the construction of new locks and dams at Felsenthal and Calton; the realignment of river bends; and the establishment of 2 National Wildlife Refuges, one of 65,000 acres in connection with the Felsenthal Lock and one of 18,000 acres in connection with the Columbia Lock. Adverse impact will include the inundation of 16,000 acres of lowland forest and wildlife habitat. There will be project induced navigation activity and industrial growth. (66 p.) (ELR ORDER #40466)

Santa Cruz Harbor Maintenance Dredging, Santa Cruz, Calif., March 25: Proposed is the maintenance dredging of the entrance channel to Santa Cruz Harbor, with the disposal of dredge spoil on the beach east of the jetty. There will be increased turbidity and disruption of biota as a result of the actions (San Francisco District) (92 pages). (ELR Order No. 40445.)

Hayward Creek Local Flood Protection, Massachusetts, March 25: The statement refers to a proposed local flood protection project on Hayward Creek, Braintree and Quincy. The project would include the construction of a 12 foot high dam for temporary floodwater storage; some channel works; and the installation of larger concrete pipe conduits. As a result of the project, approximately 30 acres of wetlands and water surface will become permanent open space with high wildlife values in a densely crowded urban area (Waltham District) (42 pages). (ELR Order No. 40448.)

Modification of Ludington Harbor and Channel, Michigan, March 25: The project involves the widening of Ludington Harbor breakwater entrance, inner channel, and inner harbor turning area, and deepening of the channel and turning area to depth of

27 to 29 feet. Dredged sand will be distributed south of the harbor in shallow, near shore waters parallel to the Buttersville bar and south adjoining bluffs. Adverse impacts include the removal of 5 acres of developable Pere Marquette Lake shore zone, loss of .75 acres of aquatic bottom land, and temporary effects such as construction, noise, turbidity, and increased traffic (114 pages). (ELR Order No. 40456.)

Flood Protection, South Branch Wild Rice River, Norman and Clay Counties, Minn., March 27: The proposed project involves the construction of local flood protection works, including channel modification, levees, and inlet modifications, on certain reaches of the South Branch Wild Rice River and Felton Ditch. Also included is the implementation of a wildlife corridor plan. A total of 314 acres of land will be committed to project measures; 6.6 miles of natural stream would be lost (St. Paul District) (116 pages). (ELR Order No. 40467.)

Sherburne Co. Electrical Generating Plant, Sherburne County, Minn., March 28: The statement refers to the proposed construction of a 1,360 MW, coal-fired electric generating plant in Sherburne County, including cooling towers, a 650 ft. chimney ash holding area, railroad spur line, coal storage area, wet scrubbers, and river intake and discharge structures. Adverse impacts include increases in turbidity, elimination of benthos at the site, use of 1700 acres of land, thermal and chemical degradation of water quality at river outlet site. Sulfur dioxide, nitrogen oxide, particulates, and other pollutants will increase as a result of plant operation, thus reducing air quality. The tremendous need for coal will result in strip-mining. (ELR Order No. 40474.)

New Jersey Coastal Inlets and Beaches, New Jersey, March 26: The statement refers to the construction of jetties, groins, bulkheads, beach berms, sand bypassing and the placement of beachfill and dune fill for the purpose of meeting beach erosion control, storm protection, and navigation needs of the inlets and beaches between Great Egg Harbor Inlet and Barnegat Inlet in Ocean County. The project also includes dredging the channel at Barnegat Island and Absecon Inlet. Adverse impacts, include the possible loss of productive estuarine shallow zones, malodorous and unsightly sections of beaches, and increased turbidity caused by dredging (77 pages). (ELR Order No. 40460.)

Burlington Dam, Souris River, N. Dak., March 29: The statement refers to a plan for flood control in the Souris River Basin. Structural measures would include an earth dam near Burlington, a diversion tunnel joining the Des Lacs River to the proposed Burlington Reservoir, and downstream channel works. The reservoir would be used only for temporary impoundment of floodwater about once every 30 years, or when flows in excess of 5000 cfs threaten Minot. The most significant adverse impact would occur upstream from the dam in the 25,000 acre floodwater impoundment area, which extends to the U.S.-Canadian border. Approximately 33 ranchers and other residents would require relocation. The project will have adverse impact on biological systems. (ELR Order No. 40479.)

Muskingum River Development Plan, Ohio, March 25: The statement refers to a development plan in the Muskingum River Basin, at Mansfield. The plan includes two structural flood protection projects, at Killbuck and Mansfield; and a recommendation for Congressional authorization for participation in the expansion of recreation development on quasi-public lands at the completed Muskingum Basin Lakes (in lieu of the real property being transferred to Federal ownership). There will be a loss of some riparian habitat from channel modification of Rocky

Fork and Touby Run, and levee and flood wall construction at Killbuck (Huntington District) (83 pages). (ELR Order No. 40444.)

Nine-Foot Navigation Channel, Pool 13, Illinois and Iowa, March 28: The statement refers to Pool 13, which extends from north of Fulton, Illinois to northwest of Bellevue, Iowa, and is one of twelve lock and dam facilities which comprise the Upper Mississippi River Nine-Foot Navigation Channel from Guttenberg, Iowa, to Saverton, Missouri. The statement evaluates the operation and maintenance of the pool. Adverse impact will result from dredging operations, including the disposal of spoil (Rock Island District). (ELR Order No. 40486.)

Nine-Foot Navigation Channel, Pool 17, Illinois and Iowa, March 28: The statement refers to Pool 17, which extends from just north of New Boston, Illinois, to the north of Muscatine, Iowa, and is one of twelve lock and dam facilities which comprise the Upper Mississippi River Nine-Foot Navigation Channel from Guttenberg, Iowa, to Saverton, Missouri. The statement evaluates the operation and maintenance of the pool. Adverse impact will result from dredging operations, including the disposal of spoil (Rock Island District). (ELR Order No. 40490.)

Nine-Foot Navigation Channel, Pool 21, Illinois and Missouri, March 28: The statement refers to Pool 21, which extends from the Quincy, Illinois area to Canton, Missouri and is one of twelve lock and dam facilities which comprise the Upper Mississippi River Nine-Foot Navigation Channel from Guttenberg, Iowa, to Saverton, Missouri. The statement evaluates the operation and maintenance of this pool, including necessary dredging operations. Adverse impacts will result from the dredging and the disposal of spoil (Rock Island District). (ELR Order No. 40494.)

Nine-Foot Navigation Channel, Pool 11, Iowa, March 28: The statement refers to Pool 11, which extends from Dubuque to Guttenberg, Iowa, and is one of twelve lock and dam facilities which comprise the Upper Mississippi River Nine-Foot Navigation Channel from Guttenberg, Iowa, to Saverton, Missouri. The statement evaluates the operation and maintenance of the pool, including necessary dredging operations. Adverse impact will result from the dredging and the disposal of spoil (Rock Island District). (ELR Order No. 40484.)

Nine-foot Navigation Channel, Pool 12, Iowa, March 28: The statement refers to Pool 12, which extends from Bellevue, Iowa to Dubuque, and is one of twelve lock and dam facilities which comprise the Upper Mississippi River Nine-Foot Navigation Channel from Guttenberg, Iowa, to Saverton, Missouri. The statement evaluates the operation and maintenance of the pool. Adverse impact will result from dredging operations, including the disposal of spoil (Rock Island District). (ELR Order No. 40485.)

Nine-Foot Navigation Channel, Pool 14, Iowa, March 28: The statement refers to Pool 14, which extends from Le Claire, Iowa, to north of Clinton, and is one of twelve lock and dam facilities which comprise the Upper Mississippi River Nine-Foot Navigation Channel from Guttenberg, Iowa, to Saverton, Missouri. The statement evaluates the operation and maintenance of the pool. Adverse impact will result from dredging operations, including the disposal of spoil (Rock Island District). (ELR Order No. 40487.)

Nine-Foot Navigation Channel, Pool 15, Iowa, March 28: The statement refers to Pool 15, which extends from Davenport, Iowa to an area south of Le Claire, and is one of twelve lock and dam facilities which comprise the Upper Mississippi River Nine-Foot Navigation Channel from Guttenberg, Iowa,

to Saverton, Missouri. The statement evaluates the operation and maintenance of the pool. Adverse impact will result from dredging operations, including the disposal of spoil (Rock Island District). (ELR Order No. 40488.)

Nine-Foot Navigation Channel, Pool 16, Iowa, March 28: The statement refers to Pool 16, which is north of Muscatine, Iowa, and is one of twelve lock and dam facilities which comprise the Upper Mississippi River Nine-Foot Navigation Channel from Guttenberg, Iowa to Saverton, Missouri. The statement evaluates the operation and maintenance of the pool. Adverse impact will result from dredging operations, including the disposal of spoil (Rock Island District). (ELR Order No. 40489.)

Nine-Foot Navigation Channel, Pool 18, Iowa and Illinois, March 28: The statement refers to Pool 18, which extends from Burlington, Iowa to the north of New Boston, Illinois, and is one of twelve lock and dam facilities which comprise the Upper Mississippi River Nine-Foot Navigation Channel from Guttenberg, Iowa, to Saverton, Missouri. The statement evaluates the operation and maintenance of the pool. Adverse impact will result from dredging operations, including the disposal of spoil (Rock Island District). (ELR Order No. 40491.)

Nine-Foot Navigation Channel, Pool 19, Iowa, March 28: The statement refers to Pool 19, which extends from Keokuk, Iowa to the north of Burlington, Iowa, and is one of twelve lock and dam facilities which comprise the Upper Mississippi River Nine-Foot Navigation Channel from Guttenberg, Iowa, to Saverton, Missouri. The statement evaluates the operation and maintenance of the pool. Adverse impact will result from dredging operations, including the disposal of spoil (Rock Island District). (ELR Order No. 40492.)

Nine-Foot Navigation Channel, Pool 20, Missouri and Iowa, March 28: The statement refers to Pool 20, which extends from Canton, Missouri to Keokuk, Iowa, and is one of twelve lock and dam facilities which comprise the Upper Mississippi River Nine-Foot Navigation Channel from Guttenberg, Iowa, to Saverton, Missouri. The statement evaluates the operation and maintenance of the pool, including dredging operations. Adverse impact will result from the dredging and the disposal of spoil (Rock Island District). (ELR Order No. 40493.)

Nine-Foot Navigation Channel, Pool 22, Missouri and Illinois, March 28: The statement refers to Pool 22, which extends from Saverton, Missouri to Quincy, Illinois, and is one of twelve lock and dam facilities which comprise the Upper Mississippi River Nine-Foot Navigation Channel from Guttenberg, Iowa to Saverton, Missouri. The statement evaluates the operation and maintenance of the pool. Adverse impact will result from dredging operations, including the disposal of spoil (Rock Island District). (ELR Order No. 40495.)

Minot Project, Souris River (2), Ward County, N. Dak., March 28: The statement refers to the proposed construction of channel modifications and related works along 37 miles of the Souris River channel, for the purpose of controlling flood waters. Adverse impact of the project will include the loss of 405 acres of riverine forest, and the disposal of 2,200,000 cubic yards of excavated material over an area of 150 acres (St. Paul District) (184 pages). (ELR Order No. 40475.)

Fort Gibson and Tenkiller Ferry Lakes, Okla., March 25: The statement refers to operation and maintenance activities at Fort Gibson Lake on the Grand (Neosho) River and at Tenkiller Ferry Lake on the Illinois River. The lakes are operated for reservoir regulation, flood control, the generation of

hydroelectric power, and the management of land resources. Adverse impact includes that resulting from lake fluctuations and from heavy recreational use (Tulsa District) (117 pages). (ELR Order No. 46005.)

Aquilla Lake Project, Hill County, Tex., March 27: The statement refers to a proposed multi-purpose project (flood control, water supply, recreation, fish and wildlife enhancement) project on Aquilla Creek. Project measures will include a reinforced concrete gate tower and outlet works, access roads, project buildings, public-use facilities, and reservoir cleaning. The conservation pool will inundate 7.6 miles of creek and 1,288 acres of land; an additional 5,077 acres would be inundated during flood control operations. Approximately 125 archeological sites will be affected by the impoundment (Tulsa District). (ELR Order No. 40468.)

Indian Creek Clearing Project, Wise County, Va., March 27: The statement refers to the proposed channel modification, through snagging and clearing, of 4,350 feet of Indian Creek; and the relocation of 300 feet of channel. The project is intended to improve the hydraulic efficiency of the stream, and to reduce damages caused by flooding. There will be increased turbidity, and a loss of some natural free-flowing stream (Huntington District). (43 pages). (ELR Order No. 40464.)

Final

U.S. Postal Service Facility, Manhattan, N.Y., March 29: The statement refers to the proposed construction of a major U.S. Postal Service Vehicle maintenance facility (VMP) in combination with a multi-story housing project in the lower West Side of Manhattan. The housing project would include 864 apartment units in two 27 story towers and two low rise clusters; it would be developed using air rights conveyed by the Postal Service to the City of New York for housing purposes. Comments made by: EPA, DOI, HEW, HUD, OEO, State and local agencies, and concerned citizens. (ELR Order No. 40480.)

NAVY

Contact: Mr. Joseph A. Grimes, Jr., Special Civilian Assistant to the Secretary of the Navy, Washington, D.C. 20350, 202-697-0892.

Final

Navy Family Housing Construction, Orange County, Fla., March 25: Proposed is the construction of 600 family housing units to accommodate servicemen and dependents from the Naval Training Center near Orlando. The project site is on the eastern portion of McCoy Air Force Base. Approximately 120 acres of unimproved, non-productive land will be converted into a residential community (77 pages). Comments made by: CEQ, DOI, DOT, EPA, and State and local agencies. (ELR Order No. 40446.)

FEDERAL POWER COMMISSION

Contact: Dr. Richard F. Hill, Acting Advisor on Environmental Quality, 441 G Street NW., Washington, D.C. 20426, 202-386-6084.

Final

Parr Hydroelectric Project No. 1894, Fairfield and Newberry Counties, S.C., March 25: The proposed action is the approval of an application by the South Carolina Electric and Gas Co. for a new major license for its constructed Project No. 1894. Additionally, the applicant is seeking authorization for the construction of a new pumped storage project. The upper pool would then be used for cooling the Virgil C. Summer Nuclear Station's two 900 MW units, and possibly a third 900 MW unit. Adverse impact of the new project would include the inundation of 9,350 acres, with the elimination of farm

land, timber crops, and wildlife habitat, and the displacement of 25 homes. Comments made by: USDA, COE, DOC, HEW, HUD, DOI, USCG, and State and local agencies. (ELR Order No. 40454.)

DEPARTMENT OF THE INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

Final

Proposed Oil and Gas Lease Sale, OCS Texas, Texas, March 25: The statement refers to the proposed sale of oil and gas leases to 245 tracts (1,355,684.39 acres) of OCS lands offshore Texas. Eleven tracts are situated in water depths of 300 meters or more. Each tract offered is subject to a matrix analytical technique in order to evaluate significant environmental impacts should leasing occur and subsequent oil and gas exploration ensue. The sale is tentatively scheduled for late spring 1974 (three volumes). Comments made by: EPA, DOC, DOT, AEC, FPC, DOI, State agencies, and concerned citizens. (ELR Order No. 40451.)

BUREAU OF SPORT FISHERIES AND WILDLIFE

Draft

Kofa Game Range, Yuma County, Ariz., March 28: The statement refers to several proposed actions involving the 663,700 acre Kofa Game Range. Included are: the changing of the name to the Kofa National Wildlife Refuge; the granting of sole administrative authority to BSWF; the addition of 83,500 acres of public domain to the Refuge; the withdrawal of the entire 747,200 acres from all forms of entry under the public land laws; the designation of 542,600 acres as wilderness; the continued allowance of motorized access on 9 established trails; and the continued allowance of overflight use by the Department of the Army for aircraft and artillery (126 pages). (ELR Order No. 40476.)

INTERSTATE COMMERCE COMMISSION

Contact: Mr. Fritz Kahn, General Counsel, Interstate Commerce Commission, Room 5137, Washington, D.C. 20423.

Draft

Ex Parte 270, Railroad Freight Rates, Iron Ores, March 28: The statement refers to an investigation of the freight rate structure for iron ore and iron and steel scraps. The statement indicates an inelastic demand for scrap iron and steel with the result that near term fluctuations in the freight rate for scrap will have very little impact on scrap consumption and a concomitant negligible effect on the environment. Hold-downs in the freight rate may retard the growth of small, electric furnace nonintegrated steel mills. (ELR Order No. 40483.)

TENNESSEE VALLEY AUTHORITY

Contact: Dr. Francis Gartrell, Director of Environmental Research and Development, 720 Edney Building, Chattanooga, Tennessee 37401, 615-755-2002.

Draft

Proposed Elkmont Rural Village, Limestone County, Ala., March 28: The statement refers to the proposed development of a planned rural village in order to meet the anticipated housing demand in the lower Elk River area. The village would comprise 1,500 acres and would provide housing for 3,000 to 4,000 people. Adverse impacts of the action would include those resulting from changing land use patterns, and would include the destruction of some wildlife and vegetation stands (115 pages). (ELR Order No. 40472.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL AVIATION ADMINISTRATION

Draft

Moton Field, Tuskegee, Ala., March 25: The statement refers to the proposed expansion of Moton Field in Tuskegee. The project involves acquisition of 64 acres of land in fee simple, extension of a runway, construction of a parallel taxiway, extension of a parallel taxiway, and installation of lighting and fencing. Expanded air traffic will cause increased levels of air and noise pollution (26 pages). (ELR Order No. 40441.)

Olewein Municipal Airport, Fayette County, Iowa, March 25: The statement refers to the city of Olewein's 20 year plan to expand the operation of the Olewein Municipal Airport. The early stages will include: purchasing land; lengthening and widening of a runway; construction of an apron and taxiway area; installation of lighting, and construction of a segmented circle and wind cone. Other developments during the design period include expansion of the terminal, building new hangers and adding more tie-downs. Airport expansion will cause increases in the levels of air and noise pollution (21 pages). (ELR Order No. 40440.)

Marshall Municipal Airport, Lyon County, Minn., March 25: The statement refers to the proposed expansion of the Marshall Municipal Airport in the city of Marshall. The project includes: the extension of an NW-SE Runway; construction of a new NE/SW runway; strengthening of existing aprons and taxiways; installation of a lighting system and visual slope indicator systems; and extension of the storm water drainage system. Adverse impacts are loss of approximately 217 acres of agricultural land, and increases in the levels of noise and air pollution (33 pages). (ELR Order No. 40443.)

Alpine Municipal Airport, Brewster County, Tex., March 25: The statement refers to the proposed expansion of the Alpine Municipal Airport in Alpine, Texas. Included in the project are the acquisition of 81 acres of land for airport development and 32 acres of easements for clear zones construction of a new NE/SW runway and taxiway turn-arounds, and installation of lighting, slope indicators, beacon and pavement parking. The major adverse impact is the necessary acquisition of land for development purposes (22 pages). (ELR Order No. 40442.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

U.S. 27, Dade, Broward, and Palm Beach Counties, Fla., March 25: The project involves the improvement of a 63.7 miles segment of U.S. 27 between the Palmetto Expressway to the city of South Bay. Construction of six lanes is proposed for 4.9 miles, and four lanes for the remaining 58.8 miles. Adverse impacts include the use of an unspecified amount of land, the displacement of 81 families and 25 businesses, an increase in noise pollution, and the excavation and disposal of large quantities of muck (121 pages). (ELR Order No. 40453.)

S.H. 3, Benewah County, Idaho, March 28: The statement refers to the improvement of approximately 0.9 mile of the existing S.H. 3 through the city of Santa in Benewah County and construction of two new structures over the St. Maries River and Renfro Creek. Adverse impacts include temporary turbidity in St. Maries River and Renfro Creek, causing loss of some river plants and animals, and

the displacement of families and businesses. The number of displacements will vary with the alternative chosen (71 pages). (ELR Order No. 40477.)

I-55, Normal to Gardner, McLean, Livingston, and Grundy Counties, March 25: The statement refers to the construction of 56.5 miles of I-55, a four-lane freeway, from Normal to Gardner. Adverse impacts of the project will be increased noise levels, and the use of 1550 acres of land for right-of-way (93 pages). (ELR Order No. 40458.)

I-94, Stearns County, Minn., March 25: The project involves the conversion of a section of existing U.S. 52 into part of I-94. The project length, for the 4-lane, limited access expressway is 10 miles. The proposed improvement extends from the existing section of I-94 west of Albany to the west terminus at the St. Cloud By-pass. Adverse impacts include the use of 200 acres of land, degradation of water quality, increased noise levels, and the displacement of 8 families and 2 farmsteads (42 pages). (ELR Order No. 40449.)

U.S. 2 and U.S. 83, Minot, N. Dak., March 25: The statement refers to the proposed relocation of approximately 2 miles of U.S. 2 so that it intersects with U.S. 83 at a point 1,200 feet south of the existing intersection. The relocation facility will be a four lane divided roadway. Adverse impacts are the acquisition of 99 acres of land and the relocation of approximately 10 businesses (31 pages). (ELR Order No. 40447.)

SR 34, Miner and Lake Counties, S. Dak., March 25: The statement refers to the construction of SR 34, a proposed 4-lane highway, from the west US 81, SD 34 junction 4 in Madison. Adverse impacts are the loss of approximately 400 acres of land, and channel sculpturing (16 pages). Lanes 34. (ELR Order No. 40452.)

Forest Highway Route 19, Wash., March 28: The statement refers to the reconstruction of a 4.7 mile section of Forest Highway Route 19, Tonasket-San Poil Highway, from the Okanogan-Ferry County Line easterly to the Intersection of Sixth and Clark Streets in Republic. FHR 19 is a portion of Washington State Routes 20 and 21. Adverse impacts are the loss of some agricultural land, displacement of a maximum of 5 dwellings increased air and noise pollution, and the potential for temporary sediment pollution of Granite Creek (72 pages). (ELR Order No. 40473.)

Final

Lee County Route No. 53, Ala., March 25: Proposed is the improvement of County Route 53, Wire Road, from southwest of the Auburn City limits to Sanford Avenue. Project length is 2.84 miles. Approximately 50 acres will be acquired for right-of-way (39 pages). Comments made by: DOI, HUD, EPA, USDA, HEW, DOT, State and local agencies, and concerned citizens. (ELR Order No. 40455.)

S.R. 25, Dunkin County, Mo., March 27: The statement refers to the construction of SR 25 in Dunkin County. The project is composed of 2 disconnected sections with a total length of 2.6 miles. Adverse impacts are the use of 47 acres of land, and temporary negative effects associated with construction (16 pages). Comments made by: DOI, USDA, EPA, HEW, and State and local agencies. (ELR Order No. 40469.)

U.S. 220, Guilford and Randolph Counties, N.C., March 27: The statement refers to a proposed 4-lane freeway on new location to connect I-85 in Greensboro and the new U.S. 220 freeway near Level Cross. The project is located in Randolph and Guilford Counties and will have a total length of 9.6 miles. Adverse impacts are the loss of wood-

land and agricultural land, the displacement of 18 families, and a slight increase in noise levels (70 pages). Comments made by: USDA, COE, DOC, DOI, EPA, GSA, HEW, and State and local agencies. (ELR Order No. 40471.)

State Highway 71, Colorado County, Tex., March 27: The statement considers the proposed improvement of State Highway 71 from the Fayette-Colorado County line to I-10 near Columbus. The project will consist of a 3.5 mile bypass of Columbus on new location and 8.6 miles of upgraded highway on existing location. One family will be displaced; 265 acres will be required for additional right-of-way (112 pages). Comments made by: HEW, COE, USDA, DOI, EPA, and State and local agencies. (ELR Order No. 40470.)

FEDERAL AVIATION ADMINISTRATION

Final

Portland International Airport, Oreg., March 26: The statement is an analysis of the various alternatives and options involving the extension of the South Runway at the Portland International Airport. The final recommends Plan 1, the extension of runway 10R 2,200 feet, as the best option. Regardless of the plan chosen, during the life of the runway extension there will be air pollution and noise problems which could exceed the existing problem level (2 volumes). (ELR Order No. 40517.)

U.S. COAST GUARD

Draft

VHF-FM Communications, Alaska, March 26: The statement refers to the proposed development of a VHF-FM communications system which would serve the coastal areas of Alaska. The improved communications will increase the availability of medical help, transportation, search and rescue efforts, and other safety items. There will be some construction disruption. (ELR Order No. 40478.)

BRYAN P. JENNY,
Acting General Counsel.

[FR Doc.74-7916 Filed 4-5-74; 8:45 am]

ENVIRONMENTAL PROTECTION
AGENCY

[OPP-32000/33]

RECEIPT OF APPLICATIONS FOR
PESTICIDE REGISTRATIONData To Be Considered in Support of
Applications

On November 19, 1973, the Environmental Protection Agency published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 979), and its procedures for implementation. This policy provides that EPA will, upon receipt of every application, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-37, East Tower, 401 M Street, SW., Washington, D.C. 20460.

On or before June 7, 1974, any person who (a) is or has been an applicant, (b) desires to assert a claim for compensation under Section 3(c)(1)(D)

against another applicant proposing to use supportive data previously submitted and approved, and (c) wishes to preserve his opportunity for determination of reasonable compensation by the Administrator must notify the Administrator and the applicant named in the FEDERAL REGISTER of his claim by certified mail. Every such claimant must include, at a minimum, the information listed in this interim policy published on November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy in regard to usage of existing supportive data for registration will be processed in accordance with existing procedures. Applications submitted under 2(c) will be held for the 60-day period before commencing processing. If claims are not received, the application will be processed in normal procedure. However, if claims are received within 60 days, the applicants against whom the particular claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after June 3, 1974.

APPLICATIONS RECEIVED

EPA File Symbol 1317-IU. An-Fo Manufacturing Co., 3129 Elmwood Avenue, Oakland, California 94601. *An-Fo Insecticide #2*. Active Ingredients: Petroleum Oils 97.8%; Piperonyl Butoxide Tech. 2.0%; Pyrethrins 0.2%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 33068-R. Aquashade, Inc., Box 117, Dobbs Ferry, New York 10522. *Aquashade Aquatic Growth Control*. Active Ingredients: Acid Blue 9 23.63%; Acid Yellow 23 2.39%. Method of Support: Application proceeds under 2(a) of interim policy.

EPA File Symbol 6288-I. Capitol Packaging Co., 1502 North 25th Avenue, Melrose Park, Illinois 60160. *Capitol "Bioall" House and Garden Insecticide*. Active Ingredients: (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 0.200%; Related compounds 0.028%; d-trans Allethrin (allyl homolog of Cinerin I) 0.150%; Related compounds 0.012%; Aromatic petroleum hydrocarbons 0.272%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 464-188. The Dow Chemical Company, P.O. Box 1760, Midland, Michigan 48640. *Dow Vertifume Effective Fumigant for Controlling Insect Pests in Stored Grain*. Active Ingredients: Carbon Tetrachloride 82.9%; Carbon Disulfide 16.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 279-2530. FMC Corporation, Agricultural Chemical Division, 100 Niagara Street, Middleport, New York 14105. *Pentachlorophenol 79 Dormant Fungicide*. Active Ingredients: Sodium Pentachlorophenolate 79.00%; Sodium Salts of other Chlorophenols 11.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5075-EA. Jewel Companies, Inc., 5725 N. East River Road, Chicago, Illinois 60631. *Jewel Insect Repellent*. Active Ingredients: N,N-Diethyl-Meta-Toluidide 3.78%; Other Isomers 0.42%; N-Octyl bicycloheptene dicarboximide 1.20%; 2,3,4,5-Bis(Δ2 butylene) tetrahydro-2-furaldehyde 0.30%; Di-n-propyl isocinchomeronate 0.30%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 5075-ET. Jewel Companies, Inc., 5725 N. East River Road, Chicago, Illinois 60631. *Jewel Patio Spray Outdoor Insect Fogger*. Active Ingredients: Pyrethrin 0.20%; Piperonyl butoxide, technical 1.00%; Methoxychlor, technical 1.00%; 2-Hydroxy ethyl-n-octyl sulfide 0.95%; Related compounds 0.05%; Petroleum distillate 0.92%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 5075-EI. Jewel Companies, Inc., 5725 N. East River Road, Chicago, Illinois 60631. *Jewel Ant & Roach Spray*. Active Ingredients: Pyrethrins 0.050%; Piperonyl butoxide, technical 0.100%; N-octyl bicycloheptene dicarboximide 0.166%; O,O-diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl phosphorothioate 0.500%; Aromatic petroleum distillate 0.406%; Petroleum distillate 73.603%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 3743-GGT. Southern Agricultural Chemicals, Inc., P.O. Box 527, Kingstree, South Carolina 29556. *Royal Fume Soil Fumigant*. Active Ingredients: Methyl bromide 68.6%; Chloropicrin 1.4%. Method of Support: Application proceeds under 2(c) of interim policy.

Dated: March 28, 1974.

JOHN B. RITCH, Jr.,
Director, Registration Division.

[FR Doc.74-7517 Filed 4-5-74; 8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 16070]

COMMUNICATIONS SATELLITE CORP.

Extension of Time

In the matter of Communications Satellite Corporation investigation into charges, practices, classifications, rates and regulations.

1. In its memorandum opinion and order released herein on February 15, 1974, the Commission waived § 1.1201 et seq. of its rules for a period of 45 days from February 15, 1974 in connection with proposed settlement conferences among the parties. This period will expire on April 1, 1974.

2. To facilitate further settlement conferences that are scheduled to be held shortly after April 1, 1974, we shall, on our own motion, extend the expiration date of the waiver from April 1, 1974 to April 10, 1974.

3. Accordingly, pursuant to § 0.303(f) of the rules, it is ordered, That the aforementioned waiver of § 1.1201 et seq. of the Commission's rules shall expire on April 10, 1974.

Adopted: April 1, 1974.

Released: April 3, 1974.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] WALTER R. HINCHMAN,
Chief, Common Carrier Bureau.

[FR Doc.74-7970 Filed 4-5-74; 8:45 am]

[Docket Nos. 19976, 19977; File Nos. BPH-8095, BPH-8226]

J. R. BROADCASTING CO. AND PENTECOSTAL CHURCH OF GOD OF AMERICA, INC.

Designating Applications for Consolidated Hearing on Stated Issues

In re applications of: J. R. Broadcasting Company, Joplin, Missouri, requests: 102.5 MHz, #273; 26.635 kW (H&V); 143 feet and The Pentecostal Church of God of America, Incorporated, Joplin, Missouri, requests: 102.5 MHz #273; 100 kW (H&V); 397 feet, for construction permits.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned applications which are mutually exclusive in that they seek the same channel in the same community.

2. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purposes of comparison, the areas and populations which would receive primary service, together with the availability of other primary aural services (1 mV/m or greater in the case of FM) in such areas will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

3. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

4. Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in the light of the evidence adduced pursuant to the foregoing issue which of the applications should be granted.

5. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

6. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the

hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: March 25, 1974.

Released: March 28, 1974.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 74-7971 Filed 4-5-74; 8:45 am]

[Docket No. 19978; File No. BPH-8055, etc.]

KOWL, INC., ET AL.

Designating Applications for Consolidated
Hearing on Stated Issues

In re applications of KOWL, Inc., South Lake Tahoe, California, Docket No. 19978; File No. BPH-8055, requests: 100.1 MHz, #261; 3 kW (H & V); -435 feet; New World Broadcasting Company, South Lake Tahoe, California, Docket No. 19979, File No. BPH-8077, requests: 100.1 MHz, #261; 3 kW (H & V); -165 feet; and Entertainment Enterprises, Inc., South Lake Tahoe, California, Docket No. 19980, File No. BPH-8117, requests: 100.1 MHz, #261; 3 kW (H & V); -231 feet, for construction permits.

1. The Commission, by the Chief of the Broadcasting Bureau, acting under delegated authority, has before it the captioned applications which are mutually exclusive in that each of the applicants has requested authority to operate on the same FM broadcast channel allocated to the same community. Accordingly, a comparative hearing must be held.

2. Section 73.210 of the Commission's rules provides that the main studio of a commercial FM broadcast station must either be located in the proposed city of license or that good cause must be shown for locating the main studio outside the community. Nevertheless, the Commission's Report and Order in Docket No. 19028, 27 F.C.C. 2d 851 (1971), states that it is not necessary for the Commission to consider and approve an FM main studio location at an AM main studio site in the case of commonly owned AM and FM stations licensed to serve the same principal community, since prior Commission approval is already required for an AM main studio location outside the community of license other than at the AM transmitter site, and since an AM main studio location at the AM transmitter site is presumed to be consistent with the main studio rules and the public interest. Both KOWL, Inc. (KOWL), and New World Broadcasting Company (New World) propose to locate their studio sites outside of the city of South Lake Tahoe. Since KOWL proposes to locate its FM studio at its main AM studio site, the proposal is consistent with the rules. New World, which is not an AM licensee, proposes to locate its

main studio at its FM transmitter site in Stateline, Nevada. Although New World has indicated that it has had some difficulty in finding a suitable studio site in South Lake Tahoe, it has not submitted sufficient evidence to demonstrate good cause for locating its studio outside the city limits of South Lake Tahoe. Moreover, New World has not explained how locating its main studio in Stateline would be consistent with the operation of the station in the public interest, since it has not stated how accessible the proposed studio site would be to citizens of South Lake Tahoe. Thus, an appropriate issue concerning New World's studio site has been specified.

3. Data submitted by the applicants indicate that KOWL will encompass an area of 176 square miles and a population of 17,934 persons within its 1 mV/m contour, while New World will encompass an area of 367 square miles and a population of 19,186 within its 1 mV/m contour, and Entertainment Enterprises, Inc., will encompass an area of 305 square miles and a population of 18,786 persons within its 1 mV/m contour. Thus, there is a significant difference in the size of the areas which would receive service from KOWL as compared to the areas which would receive service from the other two applicants. Consequently, for the purposes of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary (1 mV/m or better for FM) aural services in such areas will be considered under the standard comparative issue for the purpose of determining whether a comparative preference should accrue to any of the applicants.

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

5. Accordingly, it is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether good cause exists for locating New World Broadcasting Company's main studio outside of the city of South Lake Tahoe, and if so, whether the main studio location would be consistent with the operation of the station in the public interest.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications for a construction permit should be granted.

6. It is further ordered, That the applicants shall file a written appearance stating an intention to appear and present evidence on the specified issues, within the time and in the manner re-

quired by § 1.221(c) of the rules.

7. It is further ordered, That the applicants shall give notice of the hearing within the time and in the manner specified in § 1.594 of the rules, and shall seasonably file the statement required by § 1.594(g).

Adopted: March 25, 1974.

Released: March 29, 1974.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 74-7972 Filed 4-5-74; 8:45 am]

FEDERAL MARITIME COMMISSION

INDEPENDENT OCEAN FREIGHT
FORWARDER LICENSE

Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (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.

Jose Javier Saenz d/b/a
The Saego Company
1314 Texas Avenue
Houston, Texas 77002

International Freight Services Ltd., Inc.
P.O. Box 81296
Cleveland Hopkins Airport
Cleveland, Ohio 44181

Officers

Rafael Swift, President/Managing Director
Norma L. Swift, Treasurer
Edward M. Esber, Secretary

Anke H. Schmidt d/b/a
A. Hartrott, Agent
220 East 60th Street, Apt. 8C
New York, New York 10022

L & M Security Services, Inc.
324 S. Webster Avenue
Green Bay, Wisconsin 54301

Officers

Henry J. Larmay, President/Treasurer
John Schlag (J.), Secretary/Vice President
Mark S. Koch, 2nd Vice President

Nissin International Transport U.S.A., Inc.
623 Hindry Avenue
Inglewood, California 90301

Officers

Toshiharu Tsutsui
Kikuo Tsutsui
Bunji Inoue
Mitsuyo Yoshida
Shoji Ohno
Tsuneo Sasaki
Ryosuke Nishihashi
Kiyoshi Minobe

James L. Negron
750 Parkview Circle
Elk Grove Village, Illinois 60007

By the Federal Maritime Commission.
Dated: April 3, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 74-7996 Filed 4-5-74; 8:45 am]

PRUDENTIAL-GRACE LINES, INC. AND COMPANIA PERUANA DE VAPORES

Modification and Extension of Agreement; Order of Investigation and Hearing

On March 22, 1973, pursuant to its order served in Docket No. 71-71, the Commission conditionally approved Agreement No. 9939, between Prudential-Grace Lines, Inc. and Compania Peruana de Vapores, which established a pooling, sailing and equal access to government-controlled cargo arrangement for the apportionment of freight revenues derived from the carriage of all cargoes, with certain exceptions, moving under local bills of lading in the southbound trade from U.S. West Coast ports to ports in Peru.

The Commission's conditional order of approval required that Agreement No. 9939 be modified to add to Article 8 a requirement that copies of all quarterly provisional and final pool statements, pursuant to Article 8 of the agreement, be furnished the Commission, and that a new Article 18 be included to read as follows:

Further agreement of the parties—Any further agreement or understanding of the parties, pursuant to or giving effect to Articles 5, 11 and 17 shall not be effective or implemented prior to the time that an appropriate amendment with respect thereto has been filed with and approved by the Federal Maritime Commission pursuant to Section 15 of the Shipping Act, 1916.

The parties have complied with the requirements of the order and on March 19, 1973, requested that Agreement No. 9939 be modified by amending (1) Article 3 to provide that cargo destined for Bolivia but discharged at Peru is not deemed to be pool cargo; (2) Article 5 to reduce the minimum number of sailings of each party from twelve to ten per year, and to provide that the parties will endeavor to coordinate sailings and terminal facilities so that sailings will be at equal intervals and from the same terminals so far as feasible; (3) Article 7 to provide that a party earning in excess of its pool share shall pay such excess to the other party in lieu of the present provision for payment to the other party of 20 percent of the gross revenue obtained in excess of its pool share, and to further provide that there shall be deducted from gross revenue of a party 40 percent thereof for direct costs relating to the cargo; (4) Article 8c. to provide for the appointment of an independent Pool Auditor, and to provide for the preparation of monthly and annual pool statements to be filed with the appropriate agencies of Peru and the United States; (5) Article 8f. to eliminate the deduction of \$50,000 from the overcarrier's payment, and to pro-

vide that payment shall be made within 30 days after delivery of the annual pool statement, and if not made within such time the payment shall bear interest at the rate of 8 percent per annum thereafter; and (6) Article 17 to extend the term of the agreement until April 1, 1975, and also to provide that any further extension shall be subject to any required governmental approvals.

Agreement No. 9939-1 was protested by Westfal-Larsen Line. Westfal-Larsen requests an investigation and hearing in the matter on the grounds that "Provisions such as found in Agreement No. 9939-1 are among the most serious kinds of restraints upon competition, and constitute direct, per se invasion of, and interference with, the policies of the antitrust laws."

The Commission has considered the protest and comments and the reply thereto and has concluded that Agreement No. 9939-1, should be made the subject of a formal investigation to determine whether it should be approved, disapproved, or modified pursuant to Section 15 of the Shipping Act, 1916.

Beyond the protest, Agreement No. 9939-1 is deficient in one respect. Article 8f. should be revised to delete the phrase reading " * * * shall be made at the time the final statement of Pool Revenue is delivered," in order to remove the conflict as to precisely when any payment due under Article 7a. should be made.

It is therefore ordered, That pursuant to sections 15 and 22 of the Shipping Act, 1916, a proceeding is hereby instituted to determine whether Agreement No. 9939-1, is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, detrimental to the commerce of the United States, contrary to the public interest, or is in violation of the Shipping Act, 1916, and therefore, whether it should be approved, disapproved or modified;

It is further ordered, That Prudential-Grace Lines, Inc. and Compania Peruana de Vapores are hereby made respondents in this proceeding.

It is further ordered, That Westfal-Larsen Line, through its counsel whose name and address is shown in the Appendix hereto, is hereby made a petitioner in this proceeding.

It is further ordered, That a public hearing be held in this proceeding and that the matter be assigned for hearing and decision by an Administrative Law Judge at a date and place to be hereafter determined and announced by the presiding Administrative Law Judge.

It is further ordered, That notice of this Order be published in the FEDERAL REGISTER, and that a copy thereof and notice of hearing be served upon respondents and petitioner, as shown in the Appendix.

It is further ordered, That any person other than respondents and petitioner, having an interest and desiring to participate in this proceeding, shall file a peti-

tion for leave to intervene in accordance with Rule 5(1) (46 CFR 502.72) of the Commission's rules of practice and procedure.

It is further ordered, That all future notices, orders and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or pre-hearing conference, shall be mailed directly to all parties of record.

By the Commission.

NOTE.—Appendix filed as part of original.

[SEAL] FRANCIS C. HURNEY,
Secretary.

[FR Doc. 74-7993 Filed 5-4-74; 8:45 am]

UNITED STATES GULF/PERU SOUTHBOUND

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, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573 on or before April 29, 1974. 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:

Lloyd F. Dolese
Lykes Bros. Steamship Co., Inc.
Lykes Center
300 Poydras Street
New Orleans, Louisiana 70130

Agreement No. 10044-1, between Compania Peruana De Vapores (CPV) and Lykes Bros. Steamship Co., Inc., modifies the basic agreement by deleting Article 5.3.3 which requires the Pool Auditors to prepared provisional monthly results and cumulative monthly results for the pool and to submit such monthly reports to the appropriate government agencies. With the deletion, Article 5.3.4 will be redesignated as Article 5.3.3.

By Order of the Federal Maritime Commission.

Dated: April 1, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-7995 Filed 4-5-74;8:45 am]

UNITED STATES GULF/JAPAN COTTON POOL

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, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before April 18, 1974. 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:

Elkan Turk, Jr., Esq.
Burlingham, Underwood & Lord
25 Broadway
New York, New York 10004

Agreement No. 8682-11 is an application on behalf of the parties to the United States Gulf/Japan Cotton Pool (Agreement No. 8682, as amended) to suspend the requirement under Article 10 of the Agreement to effect a financial

settlement between the parties resulting from the carriage of cotton during the 1973/1974 cotton pool season. By Order of the Federal Maritime Commission.

Dated: April 2, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-7994 Filed 4-5-74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. E-8688]

ARIZONA PUBLIC SERVICE CO.

Notice of Filing of Supplement to Rate Schedule

APRIL 2, 1974.

Take notice that on March 25, 1974, Arizona Public Service Company (Arizona) tendered for filing an Agreement with Arizona Electric Power Cooperative relating to a Wholesale Power Supply Agreement containing various escalation clauses. This filing accounts for a purported total yearly estimated increase of \$18,107.44.

Arizona requests that the notice requirement of § 35.11 of the Commission's regulations be waived for this filing and that the current escalations be permitted to become effective at the beginning of each billing month. Arizona states that the reasons for these requests are the impossibility of anticipating an escalation prior to the end of a month and the elimination of multiplicity of monthly filings.

Any person desiring to be heard or protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 16, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-7936 Filed 4-5-74;8:45 am]

[Docket Nos. RI74-190, etc.]

BELCO PETROLEUM CORP. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund¹

MARCH 29, 1974.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds. It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders. (A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto [18 CFR, Chapter II], and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

¹ Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate scheduled No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf*		Rate in effect subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
RI74-190..	Belco Petroleum Corp.....	7	11	Mountain Fuel Supply Co. (Piney Field, Sublette County, Wyo.)	\$8,112	2-28-74	-----	8-31-74	32.16	1 33.512	RI73-196.
RI74-191..	Skelly Oil Co.....	273	1	El Paso Natural Gas Co. (Lydia Rentz No. 4 Unit, Rio Arriba County, N. Mex., San Juan Basin).	16,200	3-7-74	-----	5-8-74	24.0	2 28.5	
RI74-192..	R & G Drilling Co.....	5	9	El Paso Natural Gas Co. (Mesa Verde Chacra Field, San Juan County, N. Mex.).	1,225	3-7-74	-----	5-8-74	36.3	3 37	

* Unless otherwise stated, the pressure is 15.025 lb/in² a.
 † Includes 0.347 cents upward Btu adjustment.

‡ Subject to Btu adjustment from a base of 1,000 Btu per cubic foot.
 § 28.5 cents base rate plus 8.5 cents Btu adjustment.

The proposed increased rates filed by Skelly and R & G Drilling exceed the applicable ceiling prescribed in Order No. 435 and they are therefore suspended for one day from the expiration of the 60 day notice period.

Belco's proposed rate exceeds the ceiling established in Opinion No. 658 and, as a result, it is suspended for five months from the expiration of the statutory notice period. In addition, Mountain Fuel, the purchaser, has filed a protest in which it contends that the favored-nation clause in its contract with Belco, which was the basis for Belco's filing, has not been activated. Mountain Fuel claims that the sale to which Belco refers as having triggered that clause is not comparable with Belco's sale. In view of foregoing, Belco's proposed rate is also suspended because of the contractual issue raised by Mountain Fuel's protest. Accordingly, the subject proceeding shall involve the resolution of the contractual question, as well as the justness and reasonableness of the proposed rate.

[FR Doc. 74-7950 Filed 4-5-74; 8:45 am]

[Docket No. CP74-249]

CONSOLIDATED GAS SUPPLY CORP. ET AL.

Notice of Application

APRIL 2, 1974.

Take notice that on March 25, 1974, Consolidated Gas Supply Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, and Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP74-249 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline facilities extending from platform "A" in Block 118, East Cameron Area, to a point on Texas Eastern Transmission Corporation's (Texas Eastern) 30-inch pipeline in Block 235, West Cameron Area, the transportation of natural gas by Applicants for Texas Eastern through such proposed facilities on a firm basis, and the exchange of gas between Consolidated and Columbia Gulf, all offshore Louisiana and all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants request authorization to construct and operate approximately 4.46 miles of 6-inch transmission pipeline extending from the "A" Platform in Block 118, East Cameron Area, offshore Louisiana, to a point on Texas Eastern's existing 30-inch pipeline in Block 235, West Cameron Area, offshore Louisiana. Applicants will share in ownership, as well as operating and maintenance costs, however, Consolidated, as operator, will construct and operate the subject pipeline facilities.

The application states that Consolidated will deliver volumes of gas from Block 118 into Texas Eastern's 30-inch Cameron Lateral by means of the proposed pipeline for transportation by Texas Eastern to an interconnection with Transco near Ragley, Beauregard Parish, onshore Louisiana. Transco will then transport Consolidated's volumes to an existing connection with Consolidated near Leidy, Pennsylvania, pursuant to authorization previously granted in Docket No. CP72-244.

Texas Eastern will in a like manner transport the volumes of natural gas which Transco purchases in the field and will deliver these volumes to Transco at Ragley.

Additionally, Columbia Gulf will transport volumes of natural gas which Columbia Gas Transmission Company (Columbia Transmission) purchases in the field and will deliver the same to Texas Eastern for Consolidated's account pursuant to an exchange agreement between Columbia Gulf and Consolidated, dated December 14, 1973.

Applicants seek authorization to transport for Texas Eastern on a firm basis up to 2,550 Mcf of gas per day at 14.73 psia through the facilities proposed herein pursuant to a contract dated February 15, 1974, among Applicants and Texas Eastern. Applicants state that Texas Eastern has contracted to purchase certain interests in gas to be produced in East Cameron Block Nos. 118 and 119, offshore Louisiana, to be delivered in Block No. 118. Texas Eastern has, therefore, contracted with Applicants for the transportation of the subject gas from Block No. 118 by means of the proposed pipeline for delivery to Texas Eastern at an existing tap on its offshore Cameron Lateral in West Cameron Block 235, offshore Louisiana, under the terms of the February 15,

1974, agreement which provides for a charge of 2 cents per Mcf for gas so transported by Applicants.

Applicants seek additional authorization to allow Consolidated and Columbia Gulf to perform a gas-for-gas exchange of up to 3,060 Mcf of gas per day pursuant to the terms of their December 14, 1973, exchange agreement. In this regard, Consolidated is to deliver volumes of gas to Columbia Gulf which it produces in Eugene Island Block 292 Field, offshore Louisiana, at an existing connection on Columbia Gulf's 20-inch pipeline in Eugene Island Block 250. Columbia Gulf will deliver equivalent volumes to Consolidated at the interconnection of the pipeline facilities proposed herein and Texas Eastern's offshore Cameron Lateral in Block 235, West Cameron Area, offshore Louisiana.

Consolidated states that the volumes of gas which it will purchase and produce from the Block 118 Field, estimated at 4,000 Mcf per day, are required to assist it in meeting present and future market requirements. Columbia Gulf states that the volumes of gas which it will transport through the proposed pipeline facilities and exchange with Consolidated, estimated at 2,600 Mcf per day, will serve a similar purpose as does Transco which estimates volumes it will purchase from the field at 1,300 Mcf per day.

The estimated cost of the proposed facilities is \$652,855, which cost is to be shared by Applicants.¹ Consolidated's share of such cost is \$325,039, and will be financed from funds on hand and from funds to be obtained from Consolidated's parent corporation, Consolidated Natural Gas Company. Columbia Gulf and Transco will finance their shares of the cost, estimated to be \$216,692 and \$111,124, respectively, from funds on hand.

Applicants state that it is estimated that construction of the proposed facilities will commence immediately upon issuance of the authorization sought

¹ Ownership percentages have been calculated based upon the estimated initial through-put volumes to be purchased, produced or transported from the field by Consolidated, Transco, and Columbia Gulf, whose respective percentage interests are 50.21276, 17.02127, and 33.19149. Operating and maintenance costs will be shared in the same proportion.

herein and will be completed within one month.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before April 15, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matters finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 74-7938 Filed 4-5-74; 8:45 am]

[Docket No. E-7769]

DELMARVA POWER & LIGHT CO.

Order Approving Settlement Agreement and Requiring Filing of Revised Fuel Clause

APRIL 1, 1974.

On September 1, 1972, Delmarva Power and Light Company, Delmarva Power and Light Company of Maryland, and Delmarva Power and Light Company of Virginia (Collectively "Delmarva") tendered for filing revised wholesale rate schedules to become effective October 1, 1972. Based on a 1971 test year, Delmarva states that its proposed rates would have provided increased revenues of \$1,504,823 (a 12.15 percent increase) from jurisdictional sales and service and a rate of return of 9.00 percent on the consolidated average original cost rate base. By order issued September 29, 1972, the Commission accepted the revised rates for filing, ordered the matter set for hearing and suspended the proposed rate schedules until March 1, 1973. By order of the Commission issued October 31,

1972, after due notice by publication, leave to intervene was granted to Accomack-Norfolk Electric Cooperative; Choptank Electric Cooperative, Inc.; Delmarva Electric Cooperative; the Cities of Dover, Newark, Seaford and Milford, Delaware; and the St. Michaels Utility Commission and the Commissioners of St. Michaels, Maryland.

By negotiation and as a result of conferences among the representatives of Delmarva and the intervenors, a proposed settlement of the issues involved in this proceeding was set forth in a Stipulation and Agreement filed August 30, 1973, and an Addendum to Stipulation and Agreement filed October 23, 1973. The Presiding Administrative Law Judge certified the settlement to the Commission on the 26th of October 1973.

The agreement would reduce Delmarva's proposed increase of \$1,504,823 by approximately \$170,000 based on 1972 sales and would result in a rate of return of 7.621%, as indicated on Attachment A. The reduction would reduce the rate of Tariff customers only. With no reduction in the corresponding Rate Schedules for REA Cooperative customers.

The principal provisions of the proposed settlement agreement may be summarized as follows:

(1) The rates to the Tariff customers are reduced in the aggregate amount of \$170,000 based on 1972 sales.

(2) Delmarva will not file for or seek any further rate increase to the intervenors in this proceeding prior to June 1, 1974; but such moratorium shall not extend to any filing or rate adjustment required or resulting from adoption by the Federal Power Commission of proposed rules presently under consideration in FPC Docket No. R-479 (Fuel Clause) or FPC Docket No. R-446 (Deferred Income Tax Accounting).

(3) The settlement shall become effective as of March 1, 1973, and Delmarva shall make appropriate refunds for the period beginning March 1, 1973, to the date of issuance of this order, with interest at the rate of 7 percent per annum from the date of payment.

Notice of certification of the settlement was issued on November 9, 1973, providing for comments to be filed on or before November 23, 1973. No comments opposing the settlement have been filed. Staff, however, on November 23, 1973, filed comments supporting the settlement but pointing out that the fuel clause which was made part of the settlement does not conform to Commission Opinion No. 633 issued in New England Power Company, Docket No. E-7541 in that Delmarva's own fuel cost variations are imputed to its purchased and interchange energy. Staff stated that during settlement discussions the parties agreed that any change in the fuel clause to conform to Opinion No. 633 would have a negligible effect on the customers since Delmarva has a very small amount of purchased and interchange energy within its system. Staff further stated that the parties were of the opinion that Delmarva might have to revise its fuel clause upon final disposition of the current rule-

making proceeding in Docket No. R-479 and that postponing revision of the fuel clause until that time would relieve the Company of added administrative burdens.

Commission Staff was correct in asserting that Delmarva's proposed fuel clause does not conform to the Commission's Regulations, as interpreted in Opinion No. 633, in that Delmarva's own fuel cost variations are imputed to purchased and interchange energy. We must reject, however, the proposition that due to this item's relatively small dollar impact and the current proceeding in Docket No. R-479, this settlement should be accepted without revision of the proposed fuel clause. This Commission has consistently required the filing of new clauses or the elimination of provisions within clauses which are inconsistent with Opinion No. 633.¹

Accordingly, we shall require Delmarva within 30 days of the date of issuance of this order to file a revised fuel clause which does not impute the fuel cost variations associated with power from its own generation to its purchased and interchange energy, as prescribed in Opinion No. 633.

As to all other items included within the proposed settlement, we conclude that each has been disposed of in a manner consistent with the public interest. Therefore, we shall accept and approve the Stipulation and Agreement subject to the conditions set forth above.

The Commission finds. (1) The settlement of these proceeding on the basis of the proposed agreement filed by Delmarva on August 30, 1973, and the subsequent Addendum filed on October 23, 1973, as hereinafter conditioned, is reasonable and proper in the public interest in carrying out the provisions of the Federal Power Act.

The Commission orders. (A) The settlement agreement filed by Delmarva in Docket No. E-7769 is incorporated herein by reference, is approved and shall be made effective subject to the terms and conditions of this order.

(B) Within 30 days of the date of issuance of this order, Delmarva shall file a revised fuel adjustment clause which does not impute the fuel cost variations associated with power from its own generation to its purchased and net interchange energy, as prescribed in Opinion No. 633.

(C) Thirty days prior to the effectuation of any rate change pursuant to the

¹ See: *Jersey Central Power & Light Company*, Docket No. E-8424, issued November 30, 1973; *Indiana and Michigan Electric Company*, Docket No. E-7740, issued September 28, 1973; *Dayton Power & Light Company*, Docket No. E-8189, issued July 9, 1973; *Wisconsin Power & Light Company*, Docket No. E-8158, issued June 26, 1973; *Wisconsin Public Service Corporation*, Docket No. E-8157, issued June 26, 1973; and *Gulf States Utilities Company*, Docket No. E-8121, issued June 14, 1973; *Kansas Power & Light Company*, Docket No. E-8125, issued May 31, 1973; *Northern States Power Company (Wisconsin)*, Docket No. E-7856, issued April 27, 1973; *Toledo Edison Company*, Docket No. E-7127, issued February 28, 1973.

Tax Provisions contained in Delmarva's wholesale Rate Schedules and FPC Electric Tariffs, Delmarva shall file with the Commission calculations to show the computation of such rate change.

(D) Delmarva shall fully comply with the provisions of the settlement agreement, and with the terms and conditions of this order.

(E) Within 30 days of the date of issuance of this order Delmarva shall file revised tariff sheets and rate schedule supplements consistent with provisions of the settlement agreement and the terms and conditions of this order.

(F) This order is without prejudice to

any findings or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its staff, or any party or person affected by this order, in any proceeding now pending or hereinafter instituted by or against Delmarva or any person or party.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

ATTACHMENT A

DELMARVA POWER & LIGHT COMPANY AND SUBSIDIARIES

Deficiencies in revenues and rates of return earned from settlement revenues test year 1972

	Settlement revenues		
	Coops	Tariff	Total
Cost of service	\$6,743,038	\$10,632,899	\$17,375,937
Revenues	6,236,153	9,840,712	16,076,865
Deficiency	506,885	792,187	1,299,072
Reduction in revenue taxes	23,013	47,531	70,544
Reduction in income for FIT	483,872	744,656	1,228,528
Reduction in return	251,613	387,221	638,834
Return at 9 percent	1,567,598	2,602,858	4,170,456
Return earned	1,315,985	2,215,637	3,531,622
Rate base	17,417,753	28,920,647	46,338,400
Rate of return earned (percent)	7.555	7.661	7.621

Capital structure and rate of return, Dec. 31, 1972

Class of capital	Amount of capital	Capital ratios	Cost of capital or allowance	Weighted return
		Percent	Percent	Percent
Long-term debt	\$292,000,000	49.97	6.004	3.000
Preferred stock	90,000,000	15.40	6.716	1.034
Deferred taxes (281)	3,978,427	.68		
Equity	198,389,037	33.95	10.566	3.587
Total	584,367,464	100.00	X	7.621

[FR Doc.74-7951 Filed 4-5-74; 8:45 am]

[Docket Nos. RP72-155 and RP73-104]

EL PASO NATURAL GAS CO.

Order Authorizing Modification of Existing Purchased Gas Adjustment Clause, Establishing Separate Purchased Gas Adjustment Clause, Granting Intervention, Providing for Rate Adjustments Subject to Conditions and Rejecting Additional Rate Adjustments

MARCH 29, 1974.

On February 14, 1974, El Paso Natural Gas Company (El Paso) tendered for filing forty-two tariff sheets (see Appendix A) to its FPC Gas Tariff Volume No. 1, Third Revised Volume 2 and Original Volume No. 2A. The proposed tariff sheets would (1) establish a new Purchased Gas Adjustment Clause (PGAC) to become effective January 1, 1974, for certain rate schedules¹ (Clean High

Pressure Gas rate schedules); (2) modify the presently effective PGAC, effective January 1, 1974, to permit rate adjustments of certain "keyed" rate schedules² not presently covered by its present PGAC; (3) provide original "Statement of Rates" tariff sheets for Volumes 2 and 2A applicable to the aforementioned rate schedules; and (4) provide revised "Statement of Rates" tariff sheets, to become effective April 1, 1974, containing an adjustment in the stated rate levels to reflect increases in the cost of purchased gas applicable to the rate sched-

¹ Rate Schedules X-7, X-14, X-25, X-30 to Revised Volume No. 2 and Rate Schedules FS-25, FS-26, FS-27, FS-28, FS-29, FS-30, FS-34, FS-35 and FS-45 to Original Volume No. 2A. These rate schedules are referred to as "keyed" since they provide for a rate identical to the rate in effect from time to time under a designated rate schedule contained in Original Volume No. 1.

ules designated in footnotes 1 and 2 supra.

Upon examination of El Paso's proposed PGAC pertaining to Clean High Pressure Rate Schedules, we find that it is proper and in conformance with Commission Order No. 452. The special rate schedules contained in Volume 2A include pricing adjustment clauses whereby El Paso may increase rate levels within the special rate schedules to reflect increases in the cost of clean high pressure pipeline gas purchased from suppliers within a designated area.³ The separate PGAC for Clean High Pressure rate schedules would establish a purchase gas adjustment procedure similar to the currently effective PGAC except for listing the suppliers to be utilized in the calculation of purchased gas costs.

In addition to the establishment of the proposed PGAC-Clean High Pressure provision, El Paso included as part of the instant filing, First Revised Sheet No. 1-D to its FPC Gas Tariff, Original Volume No. 2A, reflecting the first rate adjustment under the new provision. The revised sheet reflects an increase of 7.5351¢ per Mcf in the rates of the seven special clean high pressure rate schedules to recover increases in purchase gas costs from the designated area since June of 1970. It is intended to supersede Original Sheet No. 1-D which established base tariff rates including a current component for the weighted average purchased gas cost of 19.343¢ per Mcf. Thus, the superseding sheet reflected an increase in the weighted average purchased gas cost to 26.8785¢ per Mcf based upon the actual costs of purchased gas for the month of December, 1973.

Rate adjustments for purchase gas costs can be made only after establishing a current base cost of purchase gas.⁴ Upon examination of the instant filing, we have determined that the base cost of purchased gas established by the proposed PGAC-Clean High Pressure Gas would be the current 26.8785¢ per Mcf and not the 19.343¢ per Mcf cost of purchased gas in June, 1970. Therefore, no purchased gas rate adjustment is appropriate and accordingly, we shall reject the tendered sheet.

Upon consideration of the proposed revision of the existing PGAC to include the keying provision described above, we find the proposal to be proper and in conformance with Commission Order No. 452. We shall, therefore, accept the proposed modification.

El Paso also filed revised tariff sheets⁵ reflecting rate increase adjustments of 2.71¢ per Mcf in its keyed rate schedules to be effective April 1, 1974. The increase is identical to that reflected in El Paso's semi-annual rate adjustment

³ Areas other than the San Juan Basin and Rocky Mountain areas.

⁴ See Commission Order No. 452 issued April 14, 1972 and Commission Order No. 452-A issued June 13, 1972.

⁵ First Revised Sheet 1-D to its Third Revised Volume No. 2 and Third Revised Sheet 1-C to its Original Volume No. 2A.

¹ Rate Schedules FS-3, FS-6, FS-7, FS-10, FS-12, FS-31 and FS-32 to Original Volume No. 2A.

filed for under its existing PGAC, Original Volume No. 1. We have this day issued an order accepting that increase, and suspending it for one day until April 2, 1974, subject to refund. Accordingly, we shall also accept, and suspend until April 2, 1974, subject to reduction and refund, El Paso's adjustment under its proposed modified PGAC as it applies to the keyed rate schedules.

El Paso requests waiver of the Commission's notice requirements to permit the proposed PGAC's to become effective January 1, 1974, so that it can commence accumulating appropriate changes and credits to Account 191 Unrecovered Purchased Gas Cost, particularly as they relate to clean high pressure gas. Upon consideration of El Paso's request, we have concluded that the company has not demonstrated sufficient cause for granting of the waiver. Therefore, we shall accept those tariff sheets relating to the modification of El Paso's existing PGAC and those establishing a separate PGAC for clean high pressure gas, to become effective March 17, 1974, thirty days after filing.

Public notice of El Paso's filing was issued March 7, 1974, with protests and petitions to intervene due on or before March 18, 1974. On March 18, 1974, a petition to intervene was filed by American Smelting and Refining Company, Compania Minera De Cananea, S.A. De C.V., Inspiration Consolidated Copper Company and Kennecott Copper Corporation. In their petition the companies asked that revision of El Paso's existing PGAC will directly affect each of them. Petitioners do not request a hearing in this matter, but seek to intervene in order to insure that their interests are adequately represented. We shall permit such intervention.

The Commission finds. (1) Good cause exists for accepting for filing El Paso's proposed PGAC-Clean High Pressure.

(2) El Paso's tendered Original Sheet 1-D and superseding First Revised Sheet 1-D to Original Volume No. 2A, Statement of Rates For Group II (Clean High Pressure Rate Schedules) does not properly reflect the current base cost of purchased gas, and should be rejected.

(3) Good cause exists for accepting for filing El Paso's proposed modification of its currently effective PGAC.

(4) Good cause exists to accept the proposed rate adjustments for the keyed rate schedules under the modified PGAC subject to the conditions set forth in ordering Paragraph D.

(5) Good cause for waiver of the Commission's notice requirements has not been demonstrated by El Paso in its tendered filing.

(6) The participation of the above-named petitioners in this proceeding may be in the public interest.

The Commission orders. (A) El Paso's proposed PGAC-Clean High Pressure is hereby accepted for filing to become effective March 17, 1974.

(B) Those rate adjustments proposed under the PGAC-Clean High Pressure provision are rejected, and El Paso shall, within 30 days of the issuance of this

order, file Original Sheet No. 1-D to Original Volume No. 2A, Statement of Rates For Group II (Clean High Pressure Rate Schedules) which properly restates the current base cost of purchased gas.

(C) El Paso's proposed modification to its existing PGAC is hereby accepted for filing to become effective March 17, 1974.

(D) The proposed rate adjustments under the modified PGAC, as they apply to the keyed rate schedules, are hereby accepted and suspended until April 2, 1974, shall be subject to reduction and refund consistent with the Commission's findings in the proceedings prescribed in our order issued this date relating to El Paso's proposed semi-annual PGAC adjustment.

(E) The above-named petitioners are hereby permitted to intervene in the present proceeding, subject to the rules and regulations of the Commission: *Provided, however*, That the participation of such intervenors shall be limited to matters affecting asserted rights and interests specifically set forth in their petition to intervene, and *Provided, further*, That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74-7939 Filed 4-5-74;8:45 am]

[Docket No. E-8672]

IOWA POWER AND LIGHT CO.

Notice of Cancellation

MARCH 28, 1974.

Take notice that on March 4, 1974, Iowa Power and Light Company (Iowa Power) tendered for filing notice of cancellation of Rate Schedule FPC No. 30, a power sales agreement between Iowa Power and Iowa-Illinois Gas and Electric Company (Iowa-Illinois) dated August 20, 1968. Iowa Power also tendered for filing notice of cancellation of FPC Rate Schedule FPC No. 38, a participation agreement between Iowa Power and Iowa-Illinois dated October 27, 1970.

Iowa Power requests a retroactive effective date of January 1, 1970 for Rate Schedule FPC No. 30 which Iowa Power states expired by its terms December 31, 1969. Iowa Power requests a retroactive effective date of May 1, 1971 for Rate Schedule FPC No. 38 which expired by its terms April 30, 1971.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 852 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 15, 1974. Protests will be considered by the

Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-7940 Filed 4-5-74;8:45 am]

[Docket Nos. CP74-255 and CP74-256]

MIDWESTERN GAS TRANSMISSION CO. AND GREAT LAKES TRANSMISSION CO.

Order To Show Cause

MARCH 29, 1974.

The Commission on this day has issued an order approving amendments to import authorizations previously issued to Midwestern Gas Transmission Company (Midwestern) and Great Lakes Transmission Company (Great Lakes) (Docket Nos. G-18314, et al.) Midwestern and Great Lakes had sought approval of a minimum price of 105 percent of the Manitoba Zone rates charged Canadian customers of TransCanada Pipe Line Limited (TransCanada), the supplier. The Commission modified the proposed amendments, however, to provide that while the 105 percent provision might be applied to the Manitoba Zone rates in effect on April 1, 1974, any further increase would be subject to approval by the Commission upon a new application. "Possible price increases may be such that it would no longer be in the public interest that the importation should continue." (p. 5)

It is apparent that the same considerations may apply to the existing import authorizations of Midwestern and Great Lakes which at present allow any upward adjustment in price reflecting 105 percent of the Manitoba Zone rates without further application to or approval by this Commission. Accordingly, Midwestern and Great Lakes will be required to show cause why their existing import authorizations should not be amended to conform to the modifications required by our order of even date in Dockets Nos. G-18314, et al. This action is taken pursuant to the Commission's authority under section 3 of the Natural Gas Act.

The Commission orders. Midwestern Gas Transmission Company and Great Lakes Transmission Company are directed to show cause within 30 days why their outstanding import authorizations which contain an unmodified provision for prices equal to 105 percent of the Manitoba Zone rates to Canadian customers should not be modified to provide that no price increase to an amount greater than 105 percent of the applicable Manitoba Zone rate to Canadian customers effective April 1, 1974, is permitted by the import authorizations, and prior application to and approval by the Commission will be required before any such increase will be authorized.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc. 74-7941 Filed 4-5-74; 8:45 am]

[Docket Nos. G-18314; CP66-121; CP66-110;
and CP66-112]

**MIDWESTERN GAS TRANSMISSION CO.
AND GREAT LAKES TRANSMISSION CO.**

**Order Amending Order Authorizing
Importation of Natural Gas**

MARCH 29, 1974.

On September 5 and September 7, 1973, Midwestern Gas Transmission Company (Midwestern) and Great Lakes Gas Transmission Company (Great Lakes) (Petitioners) respectively filed petitions to amend three of six import authorizations previously granted in these dockets¹ to allow the inclusion of an adjustment clause in Petitioners' purchased gas contracts with TransCanada Pipelines Limited (TransCanada). The proposed adjustment clause would amend the pricing provisions of the three contracts to provide that whenever the contract price per Mcf computed at 100 percent load factor is less than 105 percent of the regulated price of gas sold by TransCanada at the Manitoba Zone Rate, the commodity portion of the contract rate shall be increased by the difference between the contract and the zone rate.

By order issued January 23, 1974, the Commission consolidated these dockets and established hearing procedures to determine whether the existing contracts and the proposed amendments were required by the present and future public convenience and necessity. By order of February 21, 1974, the Commission waived the initial decision with respect to the proposed adjustment clauses, and provided for expedited procedure on that issue. Hearing was had before Administrative Law Judge Israel Convisser on February 28, 1974. Initial briefs or comments were filed on March 11, 1974, by TransCanada Pipelines Limited (TransCanada), Wisconsin Gas Company, Michigan Consolidated Gas Company, Great Plains Natural Gas Company, Michigan Wisconsin Pipe Line Company, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) in support of the adjustment clause, and by the Commission staff and North Central Public Service Co., Division of Donovan Companies, Inc. (North Central) advocating conditions or modification. On March 14, 1974, Inter-City Gas Limited filed a brief supporting Petitioners.

¹The importation authorizations were granted in Opinion No. 331, 22 FPC 775 (Midwestern, Docket No. G-18314); Opinion No. 521, 37 FPC 1070 (Midwestern and Great Lakes, Docket No. CP66-110, *et al.*); Opinion No. 577, 43 FPC 635 (Midwestern and Great Lakes, Docket No. CP79-19, *et al.*); and Dockets Nos. CP71-222 and CP71-223, 45 FPC, 1034, 1037 (Great Lakes).

Reply briefs were filed March 18, 1974, by Great Lakes, Midwestern, TransCanada, and the Commission Staff.

The Canadian National Energy Board amended TransCanada's licenses to export gas to Midwestern and Great Lakes to provide:

Commencing on the 1st day of April, 1974, the prices to be received for the gas to be exported under the authority of and in accordance with this License shall be not less than 105 per cent of the comparable price to Canadian customers in the zone from which the export is made and shall be computed in accordance with the provisions of Precedent Agreement * * *

Order No. AO-7-GL-20 as to Great Lakes, and Order No. AO-3-GL-1 as to Midwestern, both approved by Order in Council P.C. 1974-151, January 23, 1974. Each of the Precedent Agreements provide that the original contract of sale be amended to contain the following: "For each month the commodity charge shall be a sum equal to twenty and seventy-five hundredths cents (20.75¢) per Mcf of natural gas actually delivered by Seller to Buyer at the delivery point; provided, however, that if and so often as the price per Mcf under the rates provided herein (hereinafter called 'the contract price') computed at 100% load factor shall be less than 105% of the regulated price per Mcf, as hereinafter defined, computed at 100% load factor, of gas sold by Seller in the Manitoba Rate Zone, said rate of twenty and seventy-five hundredths cents (20.75¢) shall be increased by the amount that 105% of the regulated price computed at 100 percent load factor exceeds the contract price calculated at 100 percent load factor. The 'regulated price' shall mean the price provided under a tariff available on a uniform basis to customers in Manitoba which shall have been prescribed by the National Energy Board of Canada or which shall have been filed with such Board and is in effect for the sale of gas by Seller on a demand/commodity basis providing for a minimum annual bill calculated by adding the sum of the monthly demand charges and the product obtained by multiplying 75 percent of the contracted demand by the number of days in the contract year and by the effective commodity charge per Mcf."

Petitioners and TransCanada argue that if the Commission does not amend Petitioners' import authorizations to allow the higher price called for by the Precedent Agreements and the NEB order, it will result in the loss of the gas² on April 1. They state that TransCanada's costs justify the increased price to Canadian consumers, and the NEB has so determined. Also, the American companies take the gas 73 miles further down the pipeline from the load center for sales to Canadian customers in the Manitoba rate zone, which justified an

²87,600 Mcf a day for Great Lakes (Tr. 34), and 345,892 Mcf a day for Midwestern (Tr. 21-2), its total northern system supply (Tr. 23).

additional 5 percent over the Canadian customers' rate. The NEB had previously indicated exports should be priced at at least 105 percent of the domestic price in Canada, and this Commission approved the 105 percent provision. El Paso Natural Gas Company, 45 FPC 252, 253 (1971). This Commission has pegged the price for one export to Canada at 120 percent of the domestic American price. Panhandle Eastern Pipe Line Co., 15 FPC 46, 63 (1956).

All intervening customers of Petitioners except North Central support Petitioners, saying most of them need the gas and all saying that the increase is reasonable. The immediate prices will be increased from 28.64 and 29.72 cents per Mcf to approximately 37.71 cents per Mcf at the border.³ Producers in the fields from which TransCanada purchases are receiving as high as 53 cents. North Central supports the proposed amendments to the Precedent Agreements, but with the modification that 105 percent of the Canadian price be tracked at all times, that is, below as well as above the original contract prices.

North Central also argues that:

TransCanada has a CD-90 rate available to Manitoba customers who wish to purchase gas at a 90 percent load factor. Midwestern has one customer to whom it sells about 78 percent of its gas at or very near 100 percent load factor. It seems likely that the rest of Midwestern's customers would purchase enough gas so that if Midwestern were a Canadian customer, it might well use TransCanada's CD-90 rate. If so, then that rate, and not the CD-75 rate should be used as the base to which the 105 percent would be applied. (Comments, page 2)

Staff advances the second argument of North Central in more detail, and as to both Petitioners.

Staff contends the Petitioners should pay no more for imported gas than is justified by the cost of serving Petitioners and the rate in the Canadian domestic market. This is also the maximum level of costs which Petitioners should be allowed to flow through their PGA. Staff proposes therefore that the Commission condition acceptance of the amendments to the import authorizations so that Petitioners purchase gas at a rate no higher than 100 percent of the rate for domestic customers taking service under the CD-75 rate schedule. This rate, as discussed above, most closely approximates the cost of service to Petitioners by TransCanada in fact, exceeds it and equals the rate to domestic customers.

* * * If the Commission feels bound by the NEB decision and approves the amendments as proposed it would be recognizing that 105 percent of the CD-75 Manitoba rate is the amount Petitioners are contractually required to pay in order to receive gas from TransCanada. However, based on the evidence in the record, if Petitioners collect rates from U.S. customers based on this price, Petitioners will be receiving revenues in excess of TransCanada's actual cost of serving the export sales. The American consumer should not be obliged to pay rates in excess of the cost of service simply because Peti-

³TransCanada has before the NEB another application for a rate increase of about 7 cents.

tioners contractually bound themselves to pay such excessive rates. In this event Staff recommends that Petitioners only be allowed to pass through their PGA costs equal to the CD-75 rate at 100 percent load factor, as these rates approximate TransCanada's cost of service and are reasonable. (Staff Init. Brief, page 17)

Staff also recommends:

* * * that the second phase of these proceedings consider whether continued importation of natural gas is in the public convenience and necessity in light of the higher price. (Staff Init. Brief, page 16).

We find that the public convenience and necessity require pricing amendments to the authorizations of Midwestern and Great Lakes to import natural gas to permit the importation of gas at the increased prices which will be effective April 1, 1974. We are unwilling, however, to authorize the importation for the remaining terms of these contracts at 105 percent of whatever price level may be fixed for Canadian consumers. Possible price increases may be such that it would no longer be in the public interest that the importation should continue. Accordingly, our order will provide that in the case of any price increase above the April 1, 1974, level, Petitioners must apply to this Commission for further amendment of their import authorizations. The Commission pursuant to Section 3 of the Natural Gas Act will issue such additional orders as it may find necessary and appropriate to determine whether the proposed import at a new price or other unilaterally imposed conditions will be consistent with the public interest. With this modification, the Petitioners' petitions will be granted, and the Precedent Agreements approved.

The provision for 105 percent of the price to Canadian customers is reasonable under present circumstances, including the present prices. The modification proposed by North Central, that the 105 percent of Canadian price be tracked below the contract prices as well as above them, seems unnecessary because it is most unlikely that commodity charges will ever again be as low as 20.75 cents per Mcf. The use of CD-75 rates to Canadian customers as a basis for computing the export rates we find reasonable at the present time.

There remain Petitioners' three import authorizations, not the subject of this proceeding, which provide for a price equal to 105 percent of the Manitoba Zone Rate to Canadian customers. A collateral order will be issued requiring Petitioners to show cause why these authorizations should not be amended to conform to the authorizations herein.

The Commission orders. (A) The Commission's prior orders, as set forth herein, are amended so as to authorize the importation of natural gas by Petitioners at the rates to be effective April 1, 1974, pursuant to the terms and conditions of the Precedent Agreements as set forth herein, but at no higher rates than those effective April 1, 1974.

(B) In the event any higher rates than those effective April 1, 1974, shall be re-

quired in the future by the terms of the Precedent Agreements, application shall be made to this Commission for further amendment of the import authorizations, and it is a condition of each of these authorizations that no such higher rate shall be paid without approval and amended authorization by this Commission.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc. 74-7942 Filed 4-5-74; 8:45 am]

[Docket No. E-7625]

MISSISSIPPI POWER CO.
Filing of Revised Tariff Sheets

APRIL 2, 1974.

Take notice that on March 22, 1974, Mississippi Power Company filed herein certain revised tariff sheets to its FPC Electric Tariff Original Volume No. 1. Mississippi states the proposed revised tariff sheets are being filed in compliance with the Commission's Opinion and Order No. 665, issued September 27, 1973, and supplementing the revised sheets previously filed on October 26, 1973.

Any person desiring to be heard and to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's rules and practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 16, 1974. Protests will be considered by the Commission 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 must file a petition to intervene. The above filing is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 74-7943 Filed 4-5-74; 8:45 am]

[Docket Nos. E-8641, etc.]

NEW ENGLAND POWER CO.

Order Upon Petition for Emergency Relief

MARCH 29, 1974.

On February 26, 1974, New England Power Company (NEPCO) filed a Petition for Emergency Relief requesting (1) acceptance of a rate increase filing (Rate R-8); (2) waiver, of §§ 1.7(b), 35.13(b) (4) (i) and 35.13(b) (5) (i) of the Commission's rules and regulations to the extent this may apply; and (3) establishment of April 1, 1974 as the effective date of the proposed Rate R-8. Accompanying the Petition was a Motion to consolidate Rate R-8 with dockets consolidated with Rate R-7 (Docket Nos. E-8251, E-8169, E-8476).

The proposed Rate R-8 increase would result in increased annual revenues of

\$39,700,000, obtained by an increase in NEPCO's energy charge to its primary service for resale customers of 2.5 mills per kilowatt hour. NEPCO's present R-7 rate was filed with the Commission on June 1, 1973, and became effective January 1, 1974, subject to refund. The proposed R-8 rate would supersede the present effective rate in each of the rate schedules covering service to NEPCO's 33 wholesale for resale customers.

NEPCO requests waiver of §§ 35.13(b) (4) (i) and 35.13(b) (5) (i) of the Commission's regulations in order that its R-8 Rate may be accepted for filing unaccompanied by the detailed cost of service data and testimony required by those sections. NEPCO asks permission to file this data and testimony on April 15, 1974.

In support of its proposed rate increase (R-8), NEPCO states that it had insufficient net earnings in the twelve-month period ending December 31, 1973 to meet the two times coverage requirement specified in its mortgage indenture for interest on its outstanding long term bonds; that it had insufficient income available for annual interest and preferred stock dividend requirements to meet the 1½ times test specified in its by-laws; that it would reach attainment of its short term debt borrowing limit by late summer; and, it estimates negative internal cash generation of \$500,000 in 1974 with earnings at the R-7 rate level.

In support of its requests for waivers, NEPCO states its accounting practices are programmed for year-end closing of accounts which means that detailed data cannot be compiled before April 15, 1974. NEPCO requests § 1.7(b) of the Commission's Rules be waived because of the emergency need of NEPCO for the earliest possible effective date.

In support of its Motion to consolidate Rate R-8 with the dockets consolidated with Rate R-7 (Docket Nos. E-8251, et al.) NEPCO points out that Rate R-7 was filed on June 1, 1973 using 1972 as the test year, as was then required by the Commission's Regulations. NEPCO states that if the relief requested in its petition is granted, actual 1973 data and estimated 1974 data will be filed in support of its proposed rate levels by April 15, 1974. The hearing could then proceed upon the R-7 and R-8 rate levels. The other dockets consolidated with Rate R-7 concern: (1) Generation and transmission credits given to Narragansett Electric Company by NEPCO for the period July 1, 1973 through January 1, 1974; (2) similar credits for the period starting January 2, 1974; and, (3) NEPCO's proposed revenue adjustment clause.

Notice of the initial tender was issued on March 4, 1974, providing for all comments and petitions to intervene to be filed on or before March 15, 1974.

On March 15, 1974, the NEPCO Customer Rate Committee and 27 other parties¹ (hereinafter the NEPCO Customers) and Congressman Michael J.

¹ See Appendix A.

Harrington, by separate submittals, filed petitions to intervene, protests of proposed rate changes, and motions for rejection of waivers. The NEPCO Customers question the emergency situation which NEPCO states exists. Specifically, the NEPCO Customers question the calculations used by NEPCO to show Rate R-8 revenues are necessary for NEPCO to issue needed new financing. For this reason, the NEPCO Customers move that NEPCO's petition for waiver be denied and that the filing be held in abeyance until the cost of service data is filed. In the alternative, the NEPCO Customers request that the proposed Rate R-8 be suspended for the full five-month period and that the intervenors be admitted as full parties.

Congressman Harrington objects to what he views as NEPCO's "flooding" of rate increases within the last few years without regard for the merits of the particular case. Congressman Harrington states that in spite of NEPCO's claim of impoverishment, its parent company, New England Electric System, has recently enjoyed the two most prosperous years in its history. Congressman Harrington petitions the Commission to deny NEPCO's requests for waivers, suspend the Rate R-8 for the full five-month period, and deny NEPCO's motion for consolidation with the R-7 dockets.

Based on our review of NEPCO's filing and the pleadings in response thereto we cannot ascertain whether an emergency exists which would warrant immediate implementation of NEPCO's proposed rate increase. Accordingly, we shall suspend NEPCO's proposed increased rates for the maximum statutory period until September 1, 1974, pending our review of the information presented at the conference as herein-after ordered and the cost of service data and testimony to be filed by NEPCO as hereinafter ordered on or before April 15, 1974. Should determine after our review of this information and data, that an emergency situation exists, the five month suspension until September 1, 1974 may be shortened as deemed appropriate.

The fact that certain issues of law and fact in this docket are substantially the same as those in Docket Nos. E-8251, E-8169 and E-8476 it is appropriate that these proceedings be consolidated with the proceedings in Docket No. E-8641 for purposes of hearing and decision. In view of this action, we shall set service and hearing dates to be applicable to all of these dockets as noted below. In determining just and reasonable rates for the period covered by Docket No. E-8251 (January 1, 1974 through April 30, 1974), we shall consider actual 1973 cost and revenue data and similar data for 1974 as may be applicable.

As to NEPCO's request for waiver of §§ 35.13(b) (4) (i), 35.13(b) (5) (i) and 1.7 (b) of the Commission's rules and regulations, we believe good cause exists for such waiver, and we shall grant NEPCO's request that R-8 Rate be accepted for filing as of February 26, 1974.

The Commission finds:

(1) The motions to reject filed by Congressman Harrington and the NEPCO customers should be denied.

(2) The proposed Rate R-8 changes in rates and charges, tendered by NEPCO on February 26, 1974, should be accepted for filing as of February 26, 1974, and suspended for 5 months to become effective September 1, 1974 as hereinafter ordered.

(3) The consolidation of the instant proceeding with Docket Nos. E-8251, E-8169, and E-8476 should be allowed.

(4) It is necessary and proper in the public interest to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in NEPCO's proposed Rate R-8 in this docket, and that the tendered rate schedules be suspended as hereinafter provided.

(5) The disposition of this proceeding should be expedited in accordance with the procedure set forth below.

(6) NEPCO should be required to file on or before April 15, 1974, actual data for 1973 and estimated data for 1974 in support of this proposed increase.

(7) Participation in this proceeding of the above-named petitioners to intervene may be in the public interest.

(8) A conference should be held as hereinafter ordered.

The Commission orders:

(A) The motions to reject filed by Congressman Harrington and the NEPCO customers are hereby denied.

(B) Docket Nos. E-8641, E-8251, E-8169 and E-8476 are hereby consolidated for purposes of hearing and decision.

(C) The procedural dates in Docket Nos. E-8251, E-8169, and E-8476 as established in the notice clarifying prior notice issued March 22, 1974, are hereby superseded by the procedural dates as hereinafter ordered.

(D) Pursuant to authority of the Federal Power Act, particularly 205(e) thereof, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held on October 1, 1974, in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning the lawfulness of the rate schedules as proposed to be amended herein.

(E) On or before July 30, 1974, the Commission Staff shall serve any prepared testimony and exhibits additional to that already served. Any prepared testimony and exhibits of intervening parties shall be served on or before August 20, 1974. Any rebuttal evidence by NEPCO shall be served on or before September 10, 1974.

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in ac-

cordance with the policies expressed in the Commission's rules of practice and procedure.

(G) Nothing contained herein should be construed as limiting the rights of the parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to § 1.18 of the Commission's rules of practice and procedure.

(H) Pending hearing and a final decision thereupon, NEPCO's proposed rates are accepted for filing as of February 26, 1974, and suspended for 5 months and the use thereof deferred until September 1, 1974 subject to such change as may be required upon our review of the comments and responses received at the conference as herein ordered and the cost of service data and testimony to be filed by NEPCO on or before April 15, 1974. Should we determine after our review of this information and data that an emergency exists, the five month suspension until September 1, 1974, may be shortened as deemed appropriate.

(I) On April 5, 1974, a conference, at which a transcript will be made, shall convene for the purposes of receiving comments from all the parties as to whether an emergency situation exists. All comments and responses received that day will be considered part of the record in this proceeding.

(J) On or before April 15, 1974, NEPCO shall file actual 1973 and estimated 1974 data, as well as its testimony and exhibits, in support of NEPCO's proposed increases.

(K) The above named petitioners are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission; *Provided, further*, That the admission of such intervenors shall not be construed as recognition by the Commission that it may be aggrieved because of any order or orders issued by the Commission in this proceeding.

(L) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

APPENDIX A

PARTIES JOINING IN A FILING TO PROTEST, TO INTERVENE, AND MOTION TO REJECT, FILED MARCH 15, 1974

NEPCO Customer Rate Committee, The Electrical Departments and Plants of the following Massachusetts Towns and Cities:

Ashburnham	Marblehead
Bolton	Merrimac
Danvers	Middleton
Georgetown	North Attleboro
Groton	Paxton
Hingham	Peabody
Holden	Princeton
Hudson	Shrewsbury
Hull	Sterling
Ipswich	Tenysleton
Littleton	Wakefield
Mansfield	West Boylston

Littleton, New Hampshire, The Manchester Electric Company, and The New Hampshire Electric Cooperative.

[FR Doc.74-7949 Filed 4-5-74; 8:45 am]

[Docket No. RP74-72]

NORTHWEST PIPELINE CORP.**Order Accepting for Filing Tendered Revised Tariff Sheets, Denying Permission To Withdraw Previously Tendered and Suspended Tariff Sheet and Permitting Interventions**

MARCH 29, 1974.

On March 1, 1974, Northwest Pipeline Corporation (Northwest) tendered for filing, pursuant to Section 4 of the Natural Gas Act and Part 154 of the Commission's Regulations thereunder, Second Alternate Substitute First Revised Sheet No. 52 and Alternate Original Sheet No. 52A to its FPC Gas Tariff, First Revised Volume No. 3. These tendered revised tariff sheets would allow Northwest to establish a deferred account to include demand charge credits to customer's monthly bills as provided by Section 6 of Rate Schedules ODL-1 and PL-1 resulting from curtailments due to gas supply deficiency. Under those sheets, Northwest would recover debit balances in this account by establishing a surcharge for a subsequent six-month period. Adjustments under this provision would become effective on Northwest's PGA anniversary dates after 45 days notice. Northwest proposes an effective date of February 1, 1974, for these changes in the General Terms & Conditions of its tariff so as to protect itself from losses of approximately \$300,000 during the months of February and March, 1974. To accomplish the proposed effective date for its tender, Northwest has requested waiver of § 154.22 of the Commission's regulations.

Under section 4(d) of the Natural Gas Act, 15 U.S.C. 8717(c), and § 154.51 of our regulations under the Natural Gas Act, the Commission, for good cause shown, may allow changes to take effect without requiring the thirty days notice provision. In view of the fact that Northwest stands to incur approximately \$300,000 in losses during February and March, 1974, if the tendered sheets are not in effect for those months, good cause has been shown to waive those notice provisions and we shall make the tendered sheets effective as of February 1, 1974.

In addition to the above changes, Northwest proposes to withdraw First Revised Sheet No. 52 which is presently under suspension in Docket No. RP74-49. This sheet contains inter alia, section 13.5 of Northwest's General Terms & Conditions of its tariff which permits "Relief from Demand Charge Adjustment" when there is a gas supply deficiency. The tendered tariff sheets that were suspended by our order of January 18, 1974,¹ contain the procedures for curtailing deliveries on Northwest's system, when such action is required by reason of a gas supply deficiency on the system. In the event that Northwest moved to place its curtailment plan into effect under the provisions of

section 4 of the Act, its plan for curtailment would not contain the relief from demand charge adjustments that Northwest presently claims is so essential to its financial stability. In the alternative, however, Northwest might request that its Second Alternate Substitute First Revised Sheet No. 52 and Alternate Original Sheet No. 52A remain in effect while its suspended curtailment plan was in effect. That situation, however, will place its curtailment plan in a chaotic state since Second Alternate Substitute First Revised Sheet No. 52 contains section 13.3 curtailment procedures, while its Original Sheets Nos. 51 through 51D contain procedures in section 13.4 for Priority of Service and Curtailments as well as procedures in section 13.4 for Firm Service—Resale and Direct—which also deals with curtailment procedures on Northwest's system. Accordingly, Northwest's request to withdraw First Revised Sheet No. 52 should be denied.

On March 27, 1974, Colorado Interstate Gas Company (CIG), Mountain Fuel Supply Company (Mountain Fuel), Sierra Pacific Power Company (Sierra Pacific) and Washington Natural Gas Company (Washington Natural) filed petitions to intervene in Docket No. RP74-72. The respective parties allege that, as customers of Northwest, they have a substantial interest in this proceeding and are not adequately represented by other parties. These petitioners, however, do not request a formal hearing.

The Commission finds:

(1) The intervention of CIG, Mountain Fuel, Sierra Pacific and Washington Natural in this proceeding may be in the public interest.

(2) Good cause exists to accept for filing Second Alternate Substitute First Revised Sheet No. 52 and Alternate Original Sheet No. 52A to Northwest's FPC Gas Tariff, First Revised Volume No. 3 and to waive the statutory notice provision and our Regulations in order to permit those sheets to be made effective as hereinafter ordered.

(3) Good cause exists to deny Northwest permission to withdraw First Revised Sheet No. 52.

The Commission orders:

(A) CIG, Mountain Fuel, Sierra Pacific and Washington Natural are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission; *Provided, however*, That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene; *And provided, further*, That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The tariff sheets designated in finding paragraph (2) above are hereby accepted for filing effective as of February 1, 1974.

(C) Northwest is hereby denied per-

mission to withdraw First Revised Sheet No. 52.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74-7944 Filed 4-5-74; 8:45 am]

[Docket No. RP73-108]

PANHANDLE EASTERN PIPE LINE CO.**Further Extension of Time and Postponement of Prehearing Conference and Hearing**

APRIL 1, 1974.

On March 19, 1974, Commission Staff Counsel filed a motion for an extension of the procedural dates fixed by notice issued January 29, 1974, in the above-designated matter. The motion states that all participants in an informal conference held on March 14, 1974, agreed with the proposed revised dates.

Upon consideration, notice is hereby given that the procedural dates are modified as follows:

Service of direct case by Staff, March 20, 1974.
Service of direct case by Interveners, April 16, 1974.

Prehearing Conference, April 23, 1974 (10 a.m. e.d.t.).

Service of rebuttal by all parties except Panhandle, May 1, 1974.

Service of rebuttal by Panhandle, May 10, 1974.

Cross-examination, May 21, 1974 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-7945 Filed 4-5-74; 8:45 am]

[Docket Nos. RP71-119, RP74-31-20]

**PANHANDLE EASTERN PIPE LINE CO.
ET AL.****Order Granting in Part Temporary Extraordinary Relief, Prescribing Procedures**

APRIL 2, 1974.

By order issued November 6, 1973, in Docket No. RP71-119, we accepted and made effective as of November 1, 1973, revised tariff sheets tendered by Panhandle Eastern Pipe Line Company (Panhandle). Those revised tariff sheets contain Panhandle's proposed curtailment plan which conformed to the curtailment procedures contained in the Commission's Statement of Policy, issued in Docket No. R-469, Order No. 467-B.

Numerous petitions for extraordinary relief have been filed by Panhandle's customers. The Commission by order issued on December 13, 1973, in Docket Nos. RP74-31-1, et al. granted temporary extraordinary relief to some of the petitioners who alleged and showed to the Commission's satisfaction that irreparable injury would ensue unless immediate relief was granted.

On March 4, 1974, Anchor Hocking Corporation (Anchor Hocking) filed a petition for extraordinary relief¹ from

¹ The tariff sheets were designated as follows: Original Sheet Nos. 51A, 51B, 51C, and 51D, First Revised Sheet Nos. 11, 26, 50, 51, 52, and 54, and Second Revised Sheet No. 24.

¹ Anchor Hocking filed this petition pursuant to the guidelines set forth in the December 13, 1973, Order on Clarification issued in Docket No. RP71-119. It petitioned Panhandle in the first instance for emergency relief and that pipeline denied its request.

the natural gas curtailments being imposed pursuant to the 467-B curtailment plan of Panhandle upon its Winchester, Indiana plant. Anchor Hocking requests that in any orders issued by the Commission with respect to its aforementioned petition that the Commission: (1) Grant it permanent extraordinary relief from curtailments under Panhandle's 467-B curtailment plan so as to avoid irreparable injury; (2) direct Panhandle to deliver the necessary volumes of gas up to the volumes set forth below to its Winchester, Indiana plant during the period February through October 1974; and (3) pending action on its request for permanent extraordinary relief that the Commission grant Anchor Hocking immediate temporary relief consistent with (1) and (2) in order to avert a shutdown of its Winchester, Indiana plant in March or April of 1974.

Anchor Hocking, a direct industrial customer of Panhandle, asserts that natural gas is the only form of fuel that can be utilized in its feeders and lehrs and that these processes must be shut down without that fuel. It further contends that due to the federal government's regulations allocating petroleum supplies, it will not be able to obtain fuel oil as alternative fuel. Anchor Hocking states that unless relief is granted, it will be forced to shut down two-thirds of its operations in February and to totally shut down in March or April 1974, with substantial irreparable injury to its employees, itself, and the public.

Anchor Hocking has pledged itself to exercise due diligence to obtain oil supplies and to use oil as an alternative fuel to the fullest extent possible. However, it contends that it requires a total of up to 1,109,990 Mcf of gas from Panhandle during the months of February through October 1974 in order to continue operations and avoid irreparable injury. Anchor Hocking maintains that such volumes are within the 6,000 Mcf per day specified as Panhandle's maximum delivery obligation under its contract with Panhandle.

In an attachment to its petition, Anchor Hocking breaks down its requirements on a daily basis as follows:

	Mcf/day
Feeders and Lehrs.....	790
3 Glass Melting Furnaces.....	3,165
Boller Fuel.....	260
Total Plant.....	4,215

Under Panhandle's current projected Order No. 467-B curtailment estimates during the ensuing months, Anchor Hocking's entitlement would not be adequate to enable it to fully operate its feeders and lehrs for the November through April period. Therefore, absent the grant of relief, Anchor Hocking would be required to reduce production even if sufficient fuel oil is obtained to operate all other equipment.

*These figures were incorporated in Appendix I to the January 11, 1974, letter from Anchor Hocking to Panhandle requesting emergency relief pursuant to the guidelines set forth in our Order on Clarification issued on December 13, 1973, in this docket.

The Federal Energy Office has recently indicated to the Commission that the fuel oil situation was expected to improve and that industrial customers requiring fuel oil can petition the states for allotments from the states' "set-aside" supplies. In addition, under the generally improved situation many industrials are now able to purchase oil directly from wholesalers.

In view of the necessity to limit petitions requesting immediate extraordinary relief to the minimum volumes of gas essential to maintain plant operation and absent a clear showing that fuel oil cannot be presently obtained by Anchor Hocking, the Commission is constrained to limit its request for emergency relief to the volume of 790 Mcf of natural gas per day required to operate the feeders and lehrs at its Winchester, Indiana plant.

In the light of the allegations of irreparable injury to both the community and the company, we will partially grant Anchor Hocking the extraordinary relief it requests on a temporary basis (790 Mcf/d) pending a determination of the appropriateness of its petition on the merits in formal hearing that will be scheduled with respect to this matter herein. Anchor Hocking will be required at this hearing to show all the efforts it has undertaken to acquire supplies of fuel oil, including its endeavors to obtain an allotment from the Federal Energy Office and results of such efforts. Additionally, Anchor Hocking may be required to pay back all or part of the gas obtained under the grant, if the evidentiary record requires such action.

Several petitions to intervene in the matter relating to Anchor Hocking's petition for extraordinary relief in Docket No. RP74-31-20 have been filed with the Commission.³ The petitioners seeking intervention in the latter docket have already been permitted to intervene in the proceeding relating to a permanent curtailment plan for Panhandle in Docket No. RP71-119. Since many of the parties in the latter docket may also wish to participate herein, they shall also be deemed parties in Docket No. RP74-31-20 with all the attendant rights attached thereto. However, in order to maintain an orderly procedure any intervenor desiring to record objections and protests to the requested relief must file a formal protest to the notice of petition stating with particularity the nature of its objections.

The Commission orders: (A) The petition for extraordinary relief filed by Anchor Hocking is partially granted to the extent indicated above, on a temporary basis pending notice and hearing.

(B) The grant for the temporary relief in Ordering paragraph (A) above is

³Petitions to specifically intervene in the aforementioned dockets were filed by Michigan Gas Utilities Company; Indiana Gas Company, Inc.; National Distillers and Chemical Corporation; General Motors Corporation; Foster-Forbes Glass Company; Glass Containers Corporation; Kerr Glass Manufacturing Company; Owen's Illinois, Inc., and Missouri Public Service Company.

specifically conditioned upon the fact that the Commission may require Anchor Hocking to repay all or part of the volumes of gas taken under this grant if such action is deemed appropriate on the basis of the evidentiary record made in this proceeding.

(C) A hearing shall be convened at 10 a.m. (e.t.) on April 22, 1974, in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C., before an Administrative Law Judge to determine whether extraordinary relief should be granted to Anchor Hocking on the basis requested in its petition for extraordinary relief.

(D) All parties including intervenors and Staff will file and serve on all other parties their evidence and testimony on or before April 17, 1974.

(E) Cross-examination shall commence on April 22, 1974.

(F) Those petitioners seeking permission to intervene in the proceeding entitled Panhandle Eastern Pipeline Company (Anchor Hocking Corporation) at Docket No. RP74-31-20, along with all other parties previously granted intervention in the proceeding entitled Panhandle Eastern Pipeline Company in Docket No. RP71-119 are permitted to intervene in and participate in the above-styled proceeding relating to the petition for extraordinary relief filed by Anchor Hocking Corporation in Docket No. RP74-31-20 subject to the Rules and Regulations of the Commission: *Provided, however*, That the participation of such intervenors shall be limited to matters effecting rights and interest specifically set forth in their petitions to intervene. *Provided, further*, That the admission of such intervenors shall not be construed as recognition by the Commission that subject intervenors might be aggrieved because of any order or orders issued by the Commission in this proceeding.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74-7946 Filed 4-5-74; 8:45 am]

[Docket No. E-8176]

SOUTHERN CALIFORNIA EDISON CO. **Further Extension of Time and Postponement of Prehearing Conference and Hearing**

MARCH 29, 1974.

On March 22, 1974, the Cities of Anaheim, et al. (Cities) filed a motion for a further extension of approximately seven weeks of the procedural dates fixed by notice issued February 6, 1974, in the above-designated matter. The motion states that Commission Staff Counsel and Counsel for Anza Electric Cooperative have no objection to the proposed changed dates. On March 27, 1974, Southern California Edison Company (Edison) filed an answer opposing the motion. On March 27, 1974, Cities filed a reply to Edison's answer.

Upon consideration, notice is hereby given that the procedural dates are further modified as follows:

Service of intervenor evidence, May 1, 1974.
 Prehearing conference, May 14, 1974 (10 a.m. e.d.t.).
 Service of Company rebuttal, May 31, 1974.
 Hearing, June 18, 1974 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-7947 Filed 4-5-74; 8:45 am]

[RP72-75 etc.]

UNITED GAS PIPE LINE CO. ET AL.

Order Rejecting Proposed PGA Rate Increases and Denying in Part Permission To Amend Suspended Rates

MARCH 29, 1974.

In the matter of United Gas Pipe Line Company, RP72-75, RP72-133 and RP74-20; Southern Natural Gas Company, RP72-91 (Phase II) and RP73-64; South Georgia Natural Gas Company, RP73-49; Texas Gas Transmission Corporation, RP72-156 and RP74-25; Texas Eastern Transmission Corporation, RP72-98; Natural Gas Pipeline Company of America, RP71-125; Mid-Louisiana Gas Company, RP73-43; Chattanooga Gas Company, CP73-329; Consolidated Gas Supply Corporation, RP72-157; North Penn Gas Company, RP73-8; Lawrenceburg Gas Transmission Company, RP73-23; Mississippi River Gas Transmission Corporation, RP72-149; and United Natural Gas Company, RP74-35.

On December 28, 1973, the Commission issued Order No. 500 relating to increases in the severance tax of the State of Louisiana. That order provided that producer rate filings reflecting the increase in the Louisiana severance tax, and not exceeding the applicable higher ceiling authorized in either Opinion 598 or 607 as a result of such tax increase, shall be accepted, without refund obligation, effective January 1, 1974, if filed on or before January 31, 1974, or the date of filing, whichever is later. The order also provided that pipeline companies with purchased gas adjustment (PGA) clauses may, commencing with the effective date of the producer increases, accumulate increased costs relating to producer filings made pursuant to Order No. 500 in their deferred accounts. The February 22, 1974 Order Denying Rehearing of Order No. 500 pointed out that while Order No. 500 permits inclusion of the increased purchased gas costs in deferred accounts, it does not preclude a pipeline from making a proper filing under Section 4 of the Natural Gas Act and the regulations thereunder in order to recover the tax increases.

Between January 31, 1974, and March 11, 1974, Southern Natural Gas Company, South Georgia Natural Gas Company, Texas Gas Transmission Corporation, Texas Eastern Transmission Corporation, Natural Gas Pipeline Company of America, Mid-Louisiana Gas Company, Chattanooga Gas Company, Consolidated Gas Supply Corporation, North Penn Gas Company, Lawrenceburg Gas Trans-

mission Company, Mississippi River Gas Transmission Corporation, and United Natural Gas Company (Companies) tendered for filing proposed changes in rates purporting to be made pursuant to PGA clauses in their respective FPC gas tariffs. These filings include, among other things, tracking of the increased Louisiana taxes which would permit the Companies to recover the increased taxes earlier than they would by filing semi-annual rate changes pursuant to the provisions of their PGA clauses. These filings are therefore improper and we shall reject them without prejudice to the Companies refiling tariff sheets which comport with the provisions of their approved PGA clauses and are otherwise in compliance with the Commission's Regulations and outstanding applicable orders.

On February 15, 1974, as later supplemented on March 8, 1974, United Gas Pipe Line Company (United) filed Substitute Fifteenth Revised Sheet No. 4, with a proposed effective date of April 6, 1974. The Revised Sheet is intended to, among other things, adjust United's rates filed September 21, 1973, and suspended until April 6, 1974, by Commission Order of November 6, 1973, in Docket No. RP74-20, so as to reflect changes in the Louisiana severance tax. Under the terms of United's PGA clause, the subject increase in the Louisiana severance tax can only be reflected in United's rates as of July 1, 1974. In the interim United may record such increase in its deferred purchased gas account established under its PGA clause. Accordingly, we shall reject the filed Substitute Sheet without prejudice to United refiling to reflect other adjustments, such as those which might be indicated by Commission Opinion No. 671.

The Commission finds:

(1) The proposed PGA rate increase filings do not conform to the Commission's Regulations nor do they comport with the directives of Order No. 500 and the Order Denying Rehearing issued February 22, 1974, and should be rejected.

(2) Rejection of the proposed PGA rate increase filings should be without prejudice to the Companies refiling tariff sheets which comport with the provisions of their approved PGA clauses and are otherwise in compliance with the Commission's regulations and outstanding applicable orders.

(3) Good cause has not been shown to grant United's special permission to amend its rates suspended in Docket No. RP74-20 so as to reflect increases in Louisiana severance tax.

(4) United's proposed Substitute Fifteenth Revised Sheet No. 4, filed February 15, 1974 should be rejected without prejudice to United refiling to reflect adjustments other than increases in Louisiana severance tax.

The Commission, acting pursuant to the authority of the Natural Gas Act, particularly Section 4 thereof, orders:

(A) That the tendered PGA rate increase filings be rejected without prej-

udice to the Companies filing new tariff sheets reflecting purchased gas cost adjustments properly includable under the provisions of their presently approved PGA clauses and which are otherwise in compliance with the Commission's regulations and outstanding applicable orders.

(B) Special permission to amend United's rates suspended in Docket No. RP74-20 is denied as such proposed amendments would relate to increases in Louisiana severance tax.

(C) United's proposed Substitute Fifteenth Revised Sheet No. 4, filed February 15, 1974, is hereby rejected without prejudice to United refiling to reflect adjustments other than increases in Louisiana severance tax.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74-7948 Filed 4-5-74; 8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs., Temporary Reg. F-216]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in a telephone rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Washington Utilities and Transportation Commission in a proceeding (Cause No. U-74-14) involving the application of the Pacific Northwest Bell Telephone Company for a telephone rate increase.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ARTHUR F. SAMPSON,
Administrator of General Services.

MARCH 28, 1974.

[FR Doc.74-7933 Filed 4-5-74; 8:45 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

OLD BEN COAL CO. AND ALABAMA BY-PRODUCTS CORP.

Applications for Renewal Permits

Applications for Renewal Permits for Noncompliance with the Mandatory Dust Standard (2.0 mg/m³) have been received as follows:

- (1) ICP Docket No. 20164, OLD BEN COAL COMPANY, Mine No. 24, Mine ID No. 11 00589 0, Benton, Illinois.
 Section ID No. 004 (58th thru 63rd North Entry Group off 1st W.S.).
 Section ID No. 009 (9th thru 18th East South Cross Entry Group).
 Section ID No. 017 (1st thru 8th East South Cross Entry Group).
 Section ID No. 040 (1st thru 5th Main North Entry Group).
 Section ID No. 045 (13th, 14th, 15th W. Panel off 63rd North off 1st West South).
 Section ID No. 049 (6th, 7th, 8th, 9th, 10th Main North).
 Section ID No. 052 (1st thru 12th West North Cross Entries).
 Section ID No. 056 (15A, 15th, 16th, 17th N. Panel off 1st East South).
 Section ID No. 057 (1A, 1st, 2nd, 3rd S. Panel off 1st West North).
 Section ID No. 059 (1st, 2nd, 3rd, 3A North Panel off 11A West North).
 Section ID No. 060 (18A, 18th, 19th, 20th North Panel off 1st East South).
 Section ID No. 061 (16th-27th West off 63rd North off 1st West South).
 Section ID No. 062 (4A, 4th, 5th, 6th South Panel off 1st West North).
- (2) ICP Docket No. 20623, ALABAMA BY-PRODUCTS CORPORATION, Mary Lee No. 1 Mine, Mine ID No. 01 005150, Good Springs, Alabama.
 Section ID No. 001 (5025).
 Section ID No. 002 (50 Heading).
 Section ID No. 003 (10 South Heading).
 Section ID No. 004 (30 Heading).
 Section ID No. 005 (3025).
 Section ID No. 006 (10 South Right).
 Section ID No. 007 (3065).
 Section ID No. 008 (30 Heading).

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., Pub. L. 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed on or before April 23, 1974. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel 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, NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

APRIL 2, 1974.

[FR Doc. 74-7954 Filed 4-5-74; 8:45 am]

REX COAL CO.

Applications for Initial Permits

Applications for Initial Permits for Noncompliance with the Electric Face Equipment Standard have been received for items of equipment in the underground coal mines listed below.

ICP Docket No. 4360-000, REX COAL COMPANY Mine No. 1, Mine ID No. 44 01889 0 Haysi, Virginia.

In accordance with the provisions of section 305(a)(2) (30 U.S.C. 865(a)(2)) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Pub. L. 91-173), notice is hereby given that requests for public hearing as to an application for an initial permit may be filed within 15 days after publication of this notice. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel upon request.

A copy of each application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street, NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

APRIL 2, 1974.

[FR Doc. 74-7953 Filed 4-5-74; 8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts MUSEUM ADVISORY PANEL

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a closed meeting of the Museum Advisory Panel to the National Endowment for the Arts will be held at 9 a.m. on April 10 and 11, 1974 in the eighth floor conference room of the McPherson Building, 1425 K Street, NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence by the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of January 10, 1973, this meeting, which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b), (4), (5), and (6)), will not be open to the public.

Further information with reference to this meeting can be obtained from Mrs. Luna Diamond, Advisory Committee Management Officer, National Endow-

ment for the Arts, Washington, D.C. 20506, or call (202) 382-5871.

EDWARD M. WOLFE,
Administrative Officer, National
Endowment for the Arts, Na-
tional Foundation on the Arts
and the Humanities.

[FR Doc. 74-8058 Filed 4-5-74; 8:45 am]

VISUAL ARTS ADVISORY PANEL

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a closed meeting of the Visual Arts Artists' Services Advisory Panel to the National Council on the Arts will be held at 11 a.m. on April 10, 1974 in Room 1200 of the Shoreham Building, 806 15th Street, NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of January 10, 1973, this meeting, which involves matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b), (4), (5), and (6)), will not be open to the public.

Further information with reference to this meeting can be obtained from Mrs. Luna Diamond, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 382-5871.

EDWARD M. WOLFE,
Administrative Officer, National
Endowment for the Arts, Na-
tional Foundation on the
Arts and the Humanities.

[FR Doc. 74-8057 Filed 4-5-74; 8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

REQUESTS FOR CLEARANCE OF REPORTS INTENDED FOR USE IN COLLECTING INFORMATION

Notice of List

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on April 3, 1974 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication

of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office of Management and Budget Washington, D.C. 20503, (202-395-4529).

NEW FORMS

DEPARTMENT OF AGRICULTURE

Economic Research Service, Livestock Trucker Survey—Part I, Form —, Single time, Foster/Lowry, Livestock trucking firms.
Farmers Home Administration, Report of Natural Disaster (Specific)—Emergency, Agricultural Loans, Form FHA 441-28, Occasional, Lowry, Community leaders, farmers, and agricultural leaders.
Report of Natural Disaster (General)—Emergency, Agricultural Loans, Form FHA 441-27, Occasional, Lowry, Community leaders, farmers, and agricultural leaders.
Food and Nutrition Service, Racial/Ethnic Group Participation (WIC Program), Form FNS 191, Quarterly, Sunderhahf/Lowry, Local agencies (health clinics).

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

Arts Facilities Survey, Form FES 3, Occasional, Foster, Managers of public and private facilities.

COST OF LIVING COUNCIL

Insurer's Report of Claims Reviewed, Form CLC 101, Occasional, Hulett, Health insurance carriers.
Health Insurer's Semi-annual Report, Form CLC 102, Semiannual, Hulett, Health insurance carriers.
Exception Form for Acute Care Hospitals, Form CLC 62, Single time, Hulett, Acute care hospitals.
Exception Form for Long-Term Care Institutions, Form CLC 72, Single time, Hulett, Long-term care institutions.
Medical Practitioners/Medical Laboratories Application for Exception, Form CLC 82, Occasional, Hulett, Medical practitioner & med. laboratories.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Application to Participate in the State Student Incentive Grant Program, Form OE 1288, Annual, Lowry, State agencies.
Educational Talent Search Program Evaluation Data Collection Instruments, Form OE 321-1 thru -4, Single time, HRD/Planchon, Talent search project directors and staff.
Center for Disease Control, Add to Tuberculosis Statistics Activity, Form CDC 5.61, 5.62, 5.63, Annual, Wann, State & local health departments.
Food and Drug Administration, Investigation of Consumers' Perceptions of Patient Package Inserts for Oral Contraceptives, Form FDA 0321, Single time, Wann, Woman 15-45 yrs. of age representing this age group in U.S.

NATIONAL SCIENCE FOUNDATION

Hazardous Substances Survey of Chemical Industry, Form —, Single time, Ellett, Chemical manufacturers.

SMALL BUSINESS ADMINISTRATION

SBA Questionnaire for SBIC Assisted Small Business Concerns, Form —, Single time, Hulett/Weiner, All types of small business concerns.

REVISIONS

None.

EXTENSIONS

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration, Report of Radio Transmitting Antenna Construction, Alteration and/or Removal, Form NOAA 76-10, Single time, Evinger (x), Owner of transmitting towers licensed by FCC.

DEPARTMENT OF THE INTERIOR

Geological Survey, Notice of Incidents of Non-Compliance Detected and Actions Taken, Form 9-1832, Occasional, Evinger (x).

PHILLIP D. LARSEN,

Budget and Management Officer.

[FR Doc.74-8066 Filed 4-5-74; 8:45 am]

POSTAL RATE COMMISSION

VISITS TO POST OFFICES

APRIL 5, 1974.

Notice is hereby given that employees of the Postal Rate Commission will be visiting Postal Service facilities on the dates indicated for the purpose of acquiring general background knowledge of postal operations.

No particular matter at issue in contested procedures before the Commission nor the substantive merits of a matter that is likely to become a particular matter at issue in contested proceedings before the Commission will be discussed. Report of the visits will be on file in the Commission's docket room.

Place of Visit	Date of Visit
Cleveland, Ohio post office	Apr. 16, 1974
Cincinnati, Ohio post office	Apr. 17, 1974

By direction of the Commission.

JOSEPH A. FISHER,

Secretary.

[FR Doc.74-8025 Filed 4-5-74; 9:23 am]

SECURITIES AND EXCHANGE COMMISSION

BROKER-DEALER MODEL COMPLIANCE PROGRAM ADVISORY COMMITTEE

Public Meetings and Extension of Comment Period

Pursuant to section 10(a)(2) of the Federal Advisory Committee's Act, Pub. L. 92-463, 86 Stat. 770, the Securities and Exchange Commission announces the following public advisory committee meetings.

The Commission's Advisory Committee on a Model Compliance Program for Broker-dealers, established on October 25, 1972 (Securities Exchange Act Release No. 9835), will hold meetings on May 20, 21 and 22, 1974 at the Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. The meetings will commence at 10:30 a.m. local time.

This Advisory Committee was formed to assist the Commission in developing a model compliance program to serve as an industry guide for the broker-dealer community. Assisted by this Committee's work, the Commission plans to publish

a guide to broker-dealer compliance under the securities acts in order to advise broker-dealers of the standards to which they should adhere if investor confidence in the fairness of the market place is to be warranted and sustained. The Committee's recommendations are not intended to result in the expansion of Commission rules governing broker-dealers, but to inform broker-dealers as to the existing requirements and how they may comply with them.

The Committee's scheduled meeting will be for the purpose of reviewing comments received from the public regarding the Draft, and considering possible revisions to the Draft.

The Committee has extended the deadline for public suggestions from April 1, to May 1, 1974, for the benefit of those who may have only recently received a copy of the Guide.

The Committee's meetings are open to the public. Any interested person may attend and appear before or file statements with the Advisory Committee. Said statements, if in written form, may be filed before or after the meeting. Oral statements shall be made at the time and in the manner permitted by the Advisory Committee.

[SEAL] GEORGE A. FITZSIMMONS,

Secretary.

MARCH 25, 1974.

[FR Doc.74-7990 Filed 4-5-74; 8:45 am]

[811-1234]

CHANNING BOND FUND, INC.

Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

APRIL 1, 1974.

Notice is hereby given that Channing Bond Fund, Inc., a Maryland corporation, ("Channing Maryland"), 280 Park Avenue, New York, New York 10017, registered under the Investment Company Act of 1940 (the "Act") as an open-end diversified management investment company, has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that its predecessor, Channing Bond Fund, Inc., a Delaware corporation ("Channing Delaware"), 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.

On December 31, 1973, Channing Delaware was merged into Channing Maryland. All of the assets and liabilities of Channing Delaware were transferred by operation of law to Channing Maryland, and the corporate existence of Channing Delaware ceased.

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 effective-

ness 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 April 23, 1974, 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 the 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. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following April 23, 1974, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive 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] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-7986 Filed 4-5-74; 8:45 am]

[811-520]

CHANNING SECURITIES, INC.

Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

APRIL 1, 1974.

Notice is hereby given that Channing Securities, Inc., a Maryland corporation ("Channing Maryland"), 280 Park Avenue, New York, New York 10017 registered under the Investment Company Act of 1940 (the "Act") as an open-end diversified management investment company, has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that its predecessor, Channing Securities, Inc., a Delaware corporation ("Channing Delaware"), 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.

The application states that on December 31, 1973, Channing Delaware was merged into Channing Maryland and that thereupon the corporate existence of Channing Delaware ceased and all of

its assets and liabilities were transferred by operation of law to Channing Maryland.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than April 23, 1974 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 the 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. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following April 23, 1974 unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive 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] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-7984 Filed 4-5-74; 8:45 am]

[811-15]

CHANNING SHARES, INC.

Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

APRIL 1, 1974.

Notice is hereby given that Channing Shares, Inc., a Maryland corporation, ("Channing Maryland"), 280 Park Avenue, New York, New York 10017, registered under the Investment Company Act of 1940 (the "Act") as an open-end, diversified management investment company, has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that its predecessor, Channing Shares, Inc., a Delaware corporation ("Channing Delaware"), 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.

On December 31, 1973, Channing Delaware was merged into Channing Maryland. All of the assets and liabilities of Channing Delaware were transferred by operation of law to Channing Maryland, and the corporate existence of Channing Delaware ceased.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than April 23, 1974, 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 the 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. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following April 23, 1974, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive 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] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-7983 Filed 4-5-74; 8:45 am]

[811-1805]

CHANNING VENTURE FUND, INC.

Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

APRIL 1, 1974.

Notice is hereby given that Channing Venture Fund, Inc., a Maryland corporation ("Channing Maryland"), 280 Park Avenue, New York, New York 10017, registered under the Investment Company Act of 1940 (the "Act") as an open-end, diversified, management investment company, has filed an application pursuant to section 8(f) of the Act for an or-

der of the Commission declaring that its predecessor, Channing Venture Fund, Inc., a Delaware corporation ("Channing Delaware"), 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.

On December 31, 1973, Channing Delaware was merged into Channing Maryland. All of the assets and liabilities of Channing Delaware were transferred by operation of law to Channing Maryland, and the corporate existence of Channing Delaware ceased.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than April 23, 1974, 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 the 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. As provided by rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following April 23, 1974, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive 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] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-7985 Filed 4-5-74; 8:45 am]

[File No. 500-1]

GEON INDUSTRIES, INC.

Notice of Suspension of Trading

MARCH 29, 1974.

The common stock of Geon Industries, Inc. being traded on the American Stock

Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Geon Industries, 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 exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to sections 19 (a) (4) and 15(c) (5) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange is suspended, for the period from March 31, 1974 through April 9, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-7987 Filed 4-5-74; 8:45 am]

[70-5475]

TRANSOK PIPE LINE CO. AND PUBLIC SERVICE COMPANY OF OKLAHOMA

Proposed Issue and Sale of Notes by Holding Company to Nonaffiliates and by Subsidiary to Holding Company

APRIL 2, 1974.

Notice is hereby given that Public Service Company of Oklahoma ("Public Service"), 600 South Main Street, Tulsa, Oklahoma 74102, a public-utility subsidiary company of Central and South West Corporation, a registered holding company, and Transok Pipe Line Company ("Transok"), 712 Petroleum Club Building, Tulsa, Oklahoma 74101, an intrastate pipeline company and a subsidiary company of Public Service, have filed an application-declaration and amendments thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a), 7, 9(a), 10, 12(b), and 12(f) of the Act and Rules 43, 45, and 50 promulgated 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.

Public Service intends to purchase from Harvey S. Diem, Sr. and Edith Ruth Diem ("Sellers"), for \$1,752,555, a tract of land consisting of 1,168.37 acres in Rogers County, Oklahoma, for use as a site for a nuclear electric generating station, in accordance with the terms of an option agreement between the parties dated March 15, 1973. Under the terms of the agreement, Public Service will make a payment of \$175,255.50 at the time of the signing of the purchase contract for the tract of land and will pay an additional \$332,985.45 at the date of the closing. Public Service proposes to pay the remainder of the purchase price, amounting to \$1,244,314.05, by issuing five promissory notes to the Sellers in the amount of \$248,862.81 each, payable

one note each year for five years from the date of the deed conveying the property to Public Service. The notes will bear interest (at the option of the Sellers at the time of the closing) either (a) at the rate of 6% per annum on each note payable annually or (b) interest payable annually at a rate of interest equal at all times to the prime rate of interest at the First National Bank and Trust Company of Tulsa, Oklahoma. It is provided that such rate of interest shall change as of the day following each date on which any change shall be made in the prime rate at said bank.

In addition, as previously authorized by the Commission, by Order dated December 21, 1971 (Holding Company Act Release No. 17404), Transok proposes to issue and sell from time to time, and Public Service proposes to acquire Transok's unsecured promissory notes in an amount not to exceed \$15,000,000 at any one time outstanding. Each note will be dated the date each such borrowing is made, will mature no later than December 31, 1976, and will bear interest from the date thereof until maturity at $\frac{1}{2}$ of 1 percent above the prime rate of interest in effect at the First National Bank and Trust Company of Tulsa on the date each such borrowing is made. The notes may be paid by Transok in whole or in part at any time without premium or penalty.

The proceeds of the notes will be used by Transok to repay an outstanding note to Public Service in the amount of \$5,060,720. The remainder (\$9,939,380) will be used to finance a part of Transok's construction-expenditures and exploration program. For the period January 1, 1974 through December 31, 1975, such expenditures are estimated as follows: \$5,720,000 for gas gathering and compression facilities; \$8,930,000 for construction of a gas transmission line; \$4,000,000 for gas and oil storage facilities and \$14,000,000 for exploration, acquisition and development of gas properties in Transok's area of operations. It is stated that these estimated expenses are to enable Transok to furnish boiler fuel for existing, planned and future generating stations of Public Service.

Fees and expenses to be incurred in connection with the proposed transactions are estimated at \$3,100. It is represented that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than April 25, 1974, 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 amended or as it may be further amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such

rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive 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 Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 74-7988 Filed 4-5-74; 8:45 am]

VETERANS ADMINISTRATION

MEDICAL RESEARCH SERVICE MERIT REVIEW BOARDS

Notice of Meetings

The Veterans Administration gives notice pursuant to Pub. L. 92-463 of meetings of the following Merit Review Boards.

Merit Review Board	Date	Time	Location
Respiration	Apr. 15, 1974	8:30 a.m.—5 p.m.	Room 442, LAF. ¹
Behavioral sciences	Apr. 17, 1974	do	Board Room, Hotel Wash. ²
Infectious diseases	do	do	Room 442, LAF.
Immunology	Apr. 22, 1974	do	Do.
Alcoholism and drug dependence	Apr. 26, 1974	12:30 p.m.—5 p.m.	Do.
Surgery	Apr. 29, 1974	8 a.m.—5 p.m.	Do.
Nephrology	Apr. 30, 1974	8:30 a.m.—5 p.m.	Room 640, VACO. ³
Neurobiology	May 1, 1974	do	Room 442, LAF.
Cardiovascular studies	May 3, 1974	do	Do.
Endocrinology	do	10 a.m.—6 p.m.	Banquet Room, Holiday Inn. ⁴
Gastroenterology	May 4, 1974	8:30 a.m.—5 p.m.	Do.
Hematology	May 8, 1974	do	Library, Haddon Hall. ⁵
Basic Sciences	May 13, 1974	8 a.m.—5 p.m.	Room 442, LAF.
Oncology	May 15, 1974	8:30 a.m.—5 p.m.	Do.

¹ LAF: Lafayette Building, 811 Vermont Avenue NW., Washington, D.C.

² Hotel Wash: Hotel Washington, Pennsylvania Avenue at 15th Street NW., Washington, D.C.

³ VACO: Veterans Administration Central Office, 510 Vermont Avenue NW., Washington, D.C.

⁴ Holiday Inn: Holiday Inn, 45 Industrial Highway, Essington, Pa.

⁵ Haddon Hall: Boardwalk, at South North Carolina Avenue, Atlantic City, N.J.

These meetings will be for the purpose of evaluating the scientific merit of research conducted in each specialty by Veterans Administration investigators working in Veterans Administration hospitals and clinics.

The meetings will be open to the public up to the seating capacity of the rooms for one-half hour at the start of each meeting to discuss the general status of the program. The meetings will be closed thereafter for discussion and evaluation of individual programs. Because of the limited seating capacity of the rooms, those who plan to attend should contact Gerald Libman, Acting Chief, Program Development and Review Division, Medical Research Service, Veterans Administration Central Office, Washington, DC, 20420, (202-389-5065) at least two days prior to each meeting. Minutes of the meetings and rosters of the members of the Boards may be obtained from this source.

By direction of the Administrator.

Dated: April 1, 1974.

[SEAL] R. L. ROUDEBUSH,
Deputy Administrator.

[FR Doc. 74-7963 Filed 4-5-74; 8:45 am]

INTERSTATE COMMERCE COMMISSION

[AB-19 (Sub-No. 8)]

BALTIMORE & OHIO RAILROAD CO. AND BALTIMORE AND OHIO RAILROAD CO. IN PENNSYLVANIA

Abandonment of Certain Railroad Lines

Correction

In FR Doc. 74-7326, appearing at page 11635 of the issue of March 29, 1974, the last word in the fourth line of the third paragraph, now reading "Fla.", should read "Pa."

[Notice 481]

ASSIGNMENT OF HEARINGS

APRIL 3, 1974.

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 April 8, 1974.

No. 35796, Bus Fares, Between New York, N.Y., and New Jersey Points, now being assigned hearing June 3, 1974 (1 week), at New York, N.Y., in a hearing room to be later designated.

MC 110563 Sub 115, Coldway Food Express, Inc., now assigned April 16, 1974, at New York, N.Y., is cancelled, and the application is dismissed.

MC 110563 Sub-118, Coldway Food Express, Inc., now assigned April 15, 1974, at New York, N.Y., is cancelled and the application is dismissed.

MC-119777-276, Ligon Specialized Hauler, Inc., now being assigned hearing June 17, 1974 (2 days), at St. Louis, Mo., in a hearing room to be later designated.

MC-F-11942, United Trucking Service, Inc.—Control—Harper Truck Service, Inc., now being assigned hearing June 19, 1974 (3 days), at St. Louis, Mo., in a hearing room to be later designated.

MC-F-12060, Anderson Motor Service, Inc.—Purchase—Toedebusch Transfer, Inc., now being assigned hearing June 24, 1974 (3 days), at St. Louis, Mo., in a hearing room to be later designated.

FD-27506, Prairie Trunk Railway—Acquisition and Operation—Between Flora and Shawneetown, in Clay, Wayne, White, and Gallatin Counties, Ill., and FD-27507, Prairie Trunk Railway—Securities, now being assigned hearing June 26, 1974 (3 days), at Flora, Ill., in a hearing room to be later designated.

I & S M-27312, Restructured Rates and Charges, Central States Territory and I & S M-27312 Sub 2, Restructured Rates and Charges, Indiana Motor Rate and Tariff Bureau, now being assigned hearing May 21, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 74-8007 Filed 4-5-74; 8:45 am]

[No. AB-19 (Sub-No. 9)]

BALTIMORE AND OHIO RAILROAD COMPANY

Abandonment Between Patterson Creek, W. Va., and McKenzie, Md.

APRIL 3, 1974.

Present: Kenneth H. Tuggle, Commissioner, to whom the matter which is the subject of this order has been assigned for action thereon.

Upon consideration of the record in the above-entitled proceeding and of a staff-prepared environmental threshold assessment survey which is available for public inspection upon request; and

It appearing, that no environmental impact statement need be issued in this proceeding, because this proceeding does

not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.; and good cause appearing therefore:

It is ordered, That applicant be, and it is hereby, directed to publish the appended notice in a newspaper of general circulation in Allegany County, Md., and Mineral County, W. Va., within 15 days of the date of service of this order, and to certify to this Commission that this has been accomplished.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by forwarding a copy to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 27th day of March, 1974.

By the Commission, Commissioner Tuggle.

[SEAL]

ROBERT L. OSWALD,
Secretary.

NOTICE

The Interstate Commerce Commission hereby gives notice that by order dated March 27, 1974, it has been determined that the proposed abandonment of the line of the Baltimore and Ohio Railroad Company between Patterson Creek, W. Va., and McKenzie, Md., a distance of 6.21 miles, if approved by the Commission, would not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq., and that preparation of a detailed environmental impact statement will not be required under section 4332(2) (C) of the NEPA.

It was concluded, among other things, that inasmuch as traffic is now handled through the Cumberland, Md., Yard instead of the Keeper, W. Va., Yard, there is no longer any traffic handled over this line. Furthermore, there are no development plans for this area of West Virginia, and the applicant will retain ownership of the right-of-way in the event that it becomes necessary to reinstitute rail service in the future. The determination was based upon the staff preparation and consideration of a threshold assessment survey, which is available for public inspection upon request at the Interstate Commerce Commission, Office of Proceedings, Washington, D.C. 20423; telephone 202-343-6989.

Interested parties may comment on this matter by the submission of representations to the Interstate Commerce Commission, Washington, D.C. 20423, on or before April 23, 1974.

[FR Doc.74-8009 Filed 4-5-74; 8:45 am]

[Rev. S.O. 994; I.C.C. Order No. 118; Amdt. No. 1]

CENTRAL RAILROAD CO. OF NEW JERSEY Rerouting Traffic

APRIL 3, 1974.

Upon further consideration of I.C.C. Order No. 118 (Central Railroad Company of New Jersey, Robert D. Timpany, Trustee) and good cause appearing therefor:

It is ordered, That: I.C.C. Order No. 118 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date*. This order shall expire at 11:59 p.m., June 30, 1974, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., March 31, 1974, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 29, 1974.

INTERSTATE COMMERCE
COMMISSION,
R. D. PFAHLER,
Agent.

[SEAL]

[FR Doc.74-8008 Filed 4-5-74; 8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

April 3, 1974.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before April 23, 1974.

FSA No. 42823—*Joint Water-Rail Container Rates—American President Lines, Ltd.* Filed by American President Lines, Ltd. (No. 10), for itself and interested rail carriers. Rates on general commodities between ports in India and rail stations on the U.S. Atlantic and Gulf Seaboard. Grounds for relief—Water competition.

By the Commission.

[SEAL]

ROBERT L. OSWALD,
Secretary.

[FR Doc.74-8010 Filed 4-5-74; 8:45 am]

[Notice 56]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before April 29, 1974. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-75032. By order of April 2, 1974, the Motor Carrier Board approved the transfer to Gaylord T. Huskie, dba G. T. Huskie, Denison, Kans., of Certificate No. MC-72390 issued to Everett R. Burton, dba E. R. Burton, Birmingham, Kans., authorizing the transportation of: Commodities of a general commodity nature, between specified points in Kansas and Missouri. Edward S. Dunn, Attorney, Holton, Kans. 66436.

No. MC-FC-75044. By order of April 2, 1974, the Motor Carrier Board approved the transfer to Bill Rohrbaugh's Charter Service, Inc., Spring Grove, Pa., of Certificates Nos. MC-114677, MC-114677 (Sub-No. 2), and MC-114677 (Sub-No. 3), issued by the Commission March 22, 1955, July 8, 1958, and September 12, 1962, respectively, in the name of Richard Laverne Hess, Doing Business As Hess' Bus Service, Westminster, Md., authorizing the transportation of passengers and their baggage in special operations beginning and ending at named points in Maryland and extending to points in Pennsylvania, New York, Virginia, New Jersey, Delaware, the District of Columbia, Florida, Louisiana, Tennessee, and West Virginia; and passengers and their baggage, and express and newspapers between Westminster, Md., and Littleton, Pa. Mr. Christian V. Graf, Attorney at Law, 407 North Front Street, Harrisburg, Pa. 17101.

No. MC-FC-75047. By order entered April 1, 1974, the Motor Carrier Board approved the transfer to W-P Truck Lines, Inc., Pittsburgh, Pa., of the operating rights set forth in Certificate No. MC-19000, issued December 20, 1965, to

Dorothy H. Loughman, Doing Business As Waynesburg-Pittsburgh Local Express, Waynesburg, Pa., authorizing the transportation of general commodities, with the usual exceptions, between specified points in Pennsylvania; and household goods and machinery, materials, supplies, and equipment, incidental to or used in the construction, development, operation, and maintenance of facilities for the discovery, development, and pro-

duction of natural gas and petroleum, between points in Greene County, Pa., on the one hand, and, on the other, points in New Jersey, Maryland, New York, West Virginia, Virginia, Ohio, and the District of Columbia. William J. Lippman, 1819 H Street NW., Washington, D.C. 20006, Attorney for applicants.

[SEAL]

ROBERT L. OSWALD,
Secretary.

[FR Doc.74-8006 Filed 4-5-74;8:45 am]

LIST OF FEDERAL REGISTER PAGES AND DATES—APRIL:

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during April.

3 CFR	Page	7 CFR—Continued	Page	14 CFR	Page
PROCLAMATIONS:		PROPOSED RULES:		PROPOSED RULES:	
4279.....	11861	Ch. IX.....	12015	39.....	11991,
4280.....	12325	210.....	12258	11992, 12243-12245, 12336, 12337	12337
4281.....	12327	225.....	12258	71.....	11874, 11993, 12337
4282.....	12329	244.....	12139	97.....	12730
4283.....	12331	908.....	12762	103.....	12337
		1001.....	12027	139.....	11874
EXECUTIVE ORDERS:		1002.....	12027	241.....	11993, 12731
11280 (superseded by EO		1004.....	12027	372a.....	12338
11776).....	11865	1006.....	12257		
11776.....	11865	1007.....	11915	PROPOSED RULES:	
		1012.....	12257	25.....	12260
4 CFR		1013.....	12257	39.....	12768
400.....	11869	1015.....	12027	71.....	11929, 12362, 12768
407.....	11869	1030.....	11915	75.....	12769
		1032.....	11915	121.....	12260
5 CFR		1033.....	12027	139.....	11929
213.....	12091, 12333, 12727	1036.....	12027	288.....	12142
		1040.....	12027		
6 CFR		1049.....	12027	15 CFR	
150.....	11892, 11971, 12214	1050.....	11915	923.....	11999
152.....	11892, 11971, 11972, 12214, 12249	1060.....	11915		
PROPOSED RULES:		1061.....	11915	16 CFR	
150.....	12534, 12540	1063.....	11915	13.....	12001, 12338
		1064.....	11915	PROPOSED RULES:	
7 CFR		1065.....	11915	423.....	12036
2.....	12333	1068.....	11915	502.....	12362
30.....	11893	1076.....	11915		
225.....	12727	1078.....	11915	17 CFR	
250.....	11893	1079.....	11915	275.....	12108
301.....	11973, 11979	1090.....	11915	PROPOSED RULES:	
701.....	12105	1097.....	11915	240.....	12771
778.....	12727	1098.....	11915		
905.....	12105-12107	1104.....	11915	18 CFR	
907.....	12250	1106.....	11915	1.....	12731
908.....	11979, 12250	1108.....	11915		
910.....	12333	1427.....	12027	19 CFR	
1001.....	11980			4.....	12091
1002.....	11981	8 CFR		12.....	12091
1004.....	11981	100.....	12334	18.....	12091
1007.....	11983	103.....	12334	19.....	12091
1015.....	11981	214.....	12334	20.....	12091
1030.....	11983	242.....	12335	24.....	12091
1032.....	11983	299.....	12336	56.....	12091
1033.....	11981	316a.....	12336	127.....	12092
1036.....	11981	PROPOSED RULES:		141.....	12095
1040.....	11982	103.....	12139	144.....	12095
1049.....	11982			147.....	12095
1050.....	11983	9 CFR		148.....	12096
1060.....	11983	73.....	12251	PROPOSED RULES:	
1061.....	11984	82.....	11991	111.....	12356
1063.....	11984	97.....	12252		
1064.....	11984	PROPOSED RULES:		20 CFR	
1065.....	11984	2.....	11921	405.....	12096
1068.....	11984	71.....	11921	410.....	12098
1076.....	11984	318.....	12763	416.....	12731
1078.....	11984	381.....	12763	422.....	11875
1079.....	11985			725.....	11875
1090.....	11985	10 CFR		PROPOSED RULES:	
1097.....	11985	2.....	12353	405.....	12763
1098.....	11985	210.....	12353	416.....	12027
1104.....	11985	211.....	11933, 12109		
1106.....	11986	212.....	12010, 12012, 12013, 12252, 12353	21 CFR	
1108.....	11986	PROPOSED RULES:		90.....	11876
1421.....	12107, 12251	211.....	12846	121.....	12098
1430.....	11986			128b.....	11876
1468.....	11987	12 CFR		135.....	12099
1481.....	12727	202.....	11873	135b.....	12099
1483.....	12728	203.....	11873	135c.....	12246
1823.....	12728	270.....	11873	135e.....	12100
		528.....	12110		
		615.....	12354		

21 CFR—Continued		Page	35 CFR		Page	45 CFR—Continued		Page
PROPOSED RULES:			253		12345	270		11886
121	11923, 12259		36 CFR			1069		12108
128	11923		2		11882	1350		11886
133	11923		4		11882	46 CFR		
135	12259		7		11883	160		12747
1301	12138		PROPOSED RULES:			10		12033
23 CFR			5		11904	47 CFR		
637	11879		7		11904	2		12351
652	12732		37 CFR			15		12748
24 CFR			1		12247	73		12748
41	12732		2		12247	81		12748
200	12246		38 CFR			PROPOSED RULES:		
207	12002		1		12248	73		11931, 12035
213	12002		2		12747	74		12771
221	12003		3		11883, 12100	49 CFR		
232	12004		52		12101, 12102, 12346, 12350	171		12750
234	12005		164		11884	172		12750
235	12005		180		12008	173		12751
236	12005		416		12502	174		12752
244	12005		418		12832	178		11891, 12752
500	12732		421		12822	213		12351
550	12732		PROPOSED RULES:			571		12104
1914	11894, 12007, 12339	12341	52		12769	574		12104
1915	11895		180		12143	1003		11891
PROPOSED RULES:			200		12034	1033		11891, 12009, 12010, 12352, 12353
1916	12030		410		12263	1037		12753
1917	12031		416		12356, 12524	1048		12754
1918	12031		418		12842	1131		12010
25 CFR			421		12829	PROPOSED RULES:		
162	12732		423		11930, 12263	172		12261
254	12246		41 CFR			173		12034, 12261
PROPOSED RULES:			9-5		11884	178		12034
183	12755		14-1		12103	255		12527
26 CFR			14-12		12103	1201		12038
1	11880		14-18		12103	1202		12038
170	12734		14-26		12103	1203		12038
250	12735		29-1		12248	1204		12038
251	12736		29-26		12248	1205		12038
29 CFR			105-61		11884	1206		12038
1910	12342		42 CFR			1207		12038
1952	11881		PROPOSED RULES:			1208		12038
PROPOSED RULES:			83		11923	1209		12038
1905	12141		43 CFR			1210		12038
1952	12141		PUBLIC LAND ORDERS:			50 CFR		
1954	12142		2302 (revoked in part by P.L.O. 5419)		12104	217		11892
31 CFR			5419		12104	218		11892
9	11882		45 CFR			219		11892
32A CFR			205		12008	220		11892
OI Reg. 1	12344		206		12008	221		11892
33 CFR			PROPOSED RULES:			222		11892
3	12007		17		11903	PROPOSED RULES:		
110	12007		21		12313	17		11903
209	12115, 12255, 12737		216		12356	21		12313
401	12746		260		11922	216		12356
PROPOSED RULES:			5419		12104	260		11922
82	12767					5419		12104
117	12033							

FEDERAL REGISTER PAGES AND DATES—APRIL

Pages	Date
11855-11964	Apr. 1
11965-12079	2
12081-12235	3
12237-12317	4
12319-12720	5
12721-12848	8

federal register

MONDAY, APRIL 8, 1974

WASHINGTON, D.C.

Volume 39 ■ Number 68

PART II



ENVIRONMENTAL PROTECTION AGENCY

■

NONFERROUS METALS MANUFACTURING POINT SOURCE CATEGORY

**Effluent Guidelines and Standards and
Proposed Limitations**

Title 40—Protection of the Environment

CHAPTER I—ENVIRONMENTAL
PROTECTION AGENCYSUBCHAPTER N—EFFLUENT GUIDELINES AND
STANDARDSPART 421—NONFERROUS METALS MAN-
UFACTURING POINT SOURCE CATEGORYBauxite Refining, Primary Aluminum Smelt-
ing, and Secondary Aluminum Smelting
Subcategories

On November 30, 1973, notice was published in the *FEDERAL REGISTER* (38 FR 33170), that the Environmental Protection Agency (EPA or Agency) was proposing effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources within the bauxite refining subcategory, the primary aluminum smelting subcategory, and the secondary aluminum smelting subcategory of the nonferrous metals manufacturing category of point sources.

The purpose of this notice is to establish final effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources in the nonferrous metals manufacturing category of point sources, by amending 40 CFR Ch. I, Subchapter N, to add a new Part 421. This final rulemaking is promulgated pursuant to sections 301, 304(b) and (c), 306(b) and (c) and 307(c) of the Federal Water Pollution Control Act, as amended, (the Act); 33 U.S.C. 1251, 1311, 1314(b) and (c), 1316(b) and (c) and 1317(c); 86 Stat. 816 et seq.; Pub. L. 92-500. Regulations regarding cooling water intake structures for all categories of point sources under section 316(b) of the Act will be promulgated in 40 CFR Part 402.

In addition, the EPA is simultaneously proposing a separate provision which appears in the proposed rules section at 39 FR 12829 of this issue, stating the application of the limitations and standards set forth below to users of publicly owned treatment works which are subject to pretreatment standards under section 307(b) of the Act. The basis of that proposed regulation is set forth in the associated notice of proposed rulemaking.

The legal basis, methodology and factual conclusions which support promulgation of this regulation were set forth in substantial detail in the notice of public review procedures published August 6, 1973 (38 FR 21202) and in the notice of proposed rulemaking for the bauxite refining subcategory, the primary aluminum smelting subcategory, and the secondary aluminum smelting subcategory. In addition, the regulations as proposed were supported by four other documents:

(1) The document entitled "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Bauxite Refining Subcategory of the Aluminum Segment of the Nonferrous Metals Manufacturing Point Source Category" (October 1973), (2) the document entitled "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the

Primary Aluminum Smelting Subcategory of the Aluminum Segment of the Nonferrous Metals Manufacturing Point Source Category" (October 1973), (3) the document entitled "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Secondary Aluminum Smelting Subcategory of the Aluminum Segment of the Nonferrous Metals Manufacturing Point Source Category" (October 1973), and (4) the document entitled "Economic Analysis of Proposed Effluent Guidelines, The Nonferrous Metals Industry (Aluminum)" (September 1973). All of these documents were made available to the public and circulated to interested persons at approximately the time of publication of the notice of proposed rulemaking.

Interested persons were invited to participate in the rulemaking by submitting written comments within 30 days from the date of publication. Prior public participation in the form of solicited comments and responses from the States, Federal agencies, and other interested parties were described in the preamble to the proposed regulation. The EPA has considered carefully all of the comments received and a discussion of these comments with the Agency's response there-to follows.

(a) *Summary of major comments.* The following responded to the request for written comments which was contained in the preamble to the proposed regulation: Consolidated Aluminum Corporation, Reynolds Aluminum, Ormet Corporation, Aluminum Company of America, Kaiser Aluminum and Chemicals Corporation, American Metals Climax, Inc., U.S. Department of Commerce, ESOWIAC, U.S. Department of the Interior, County Sanitation Districts of Los Angeles County, Aluminum Recycling Association, Colorado Department of Public Health, U.S. Water Resources Council, and U.S. Department of Health, Education and Welfare. Each of the comments received was carefully reviewed and analyzed. The following is a summary of the significant comments and the Agency's response to these comments:

(1) A comment was submitted by Kaiser Aluminum Company raising a question concerning the relationship of the proposed guidelines for bauxite refining to the provisions of a consent decree between EPA and the Company dated October 13, 1972. EPA met with representatives of the Company and reviewed the provisions of the consent decree, as well as additional technical and economic information concerning the treatment for the Kaiser plants.

EPA is generally in agreement that the total impoundment technology that is "best practicable" for the bauxite refining subcategory is not consistent with the sand bed filtration system being installed by the Company pursuant to the consent decree. Technical information indicates that zero discharge of all process waste water pollutants may not be achievable with the sand bed filtration system. How-

ever, the possibility of some discharge of recycled liquids and associated wastes was contemplated in the consent decree, which includes a complete procedure for submission and approval of effluent limits for these waste streams.

Consent decrees and permits negotiated in good faith prior to the passage of the Act and issuance of effluent guidelines continue in effect without regard to the limitations in the guidelines, except where exceptional circumstances have been presented to warrant amendment of a decree or permit. It is the opinion of EPA that no exceptional circumstances have been presented to warrant amendment of this decree through the effluent guidelines process. It has been determined therefore that the guidelines and standards will not apply to the Kaiser plants for the discharges covered by the consent decree.

Since the provisions of the consent decree will govern the establishment of limitations of the effluent discharges from these two plants, it is the determination of the Agency that there is no need to modify the industry-wide guidelines to include effluent limitations data regarding these two plants.

(2) One commenter suggested that the allowable discharges resulting from excess rainfall as provided under §§ 421.12, 421.13 and 421.14 of the proposed guidelines for the bauxite refining subcategory should be limited solely to supernatant water so that the discharge of suspended red mud and other pollutants will be minimal.

The three sections presented in the proposed regulations for this subcategory should have stated that the allowable discharge would be the overflow from the impoundment facility. The proposed regulations will be changed to read " * * * there may be discharged from the overflow of a process waste water impoundment * * * "

(3) Two commenters considered the storm water discharge provisions of §§ 421.12, 421.13 and 421.14 of the proposed regulations for the bauxite refining subcategory to be unreasonable and not amenable to implementation and management.

The three sections presented in the proposed regulations were not intended to allow the discharge of excess rainfall at the end of a calendar month. Discharge can occur from the impoundment area at any time during the calendar month, but records of process waste water effluent volumes, discharge volumes, and net precipitation data kept during the calendar month must justify the total excess rain water discharge at the end of that month. Thus, the management and implementation of such an allowable discharge program is not unreasonable.

(4) One commenter stated that storm water runoff should not be considered as a process waste water source, as listed in the proposed effluent guidelines for the bauxite refining subcategory.

As defined by § 421.11(b), as proposed, "process waste water" means any water which, during the refining process, comes

into direct contact with any raw material, intermediate by-product, or product used in or resulting from the manufacture of alumina from bauxite. That segment of storm water runoff which cannot be segregated from process waste waters becomes, by combination therewith, a process waste water. Obviously, the remaining storm water runoff, because it does not meet the definition of § 421.11(b), is not considered as a process waste water source. Maximization of storm water runoff segregation will minimize the total process waste water volume.

(5) A comment was received that the entire concept of evaporators to meet the proposed effluent limitations for the bauxite refining subcategory should be deleted. Evaporators are not cost effective, consume precious energy, and produce solid wastes.

Evaporators are currently being used by several domestic bauxite refineries for maintaining acceptable salt levels in spent liquor returning to the digesters from the precipitators. The use of salting-out evaporators is specifically for process purposes. The guidelines as proposed could require evaporators to maintain salt levels low enough to permit reuse of process water by evaporation of purge streams.

Chloride salts are formed from chloride values introduced at the chlor-alkali facility producing the caustic; sulfate salts are formed from sulfur added to bauxite for zinc precipitation. Methods to minimize chloride introduction and other methods for zinc precipitation should be available shortly. These changes should preclude or minimize the use of salting-out evaporators for pollution control.

(6) One commenter felt that the effluent limitations for the bauxite refining subcategory should allow the discharge of barometric condenser water after reducing the pH to 9, if necessary.

On a volumetric basis, barometric condenser water is the largest process waste water source at a bauxite refinery. River or pond water at a neutral pH is introduced into the condensers. If either no demisting devices are used or they are used but are not properly operated, caustic values will be entrained into the condenser water. These entrained caustic values alter both the pH and the alkalinity content of the receiving water. Reducing the pH of this water back to within the 6.0 to 9.0 range will precipitate high values of total suspended solids which itself is a process waste water pollutant.

(7) One commenter suggested that cyanide not be selected as a significant pollutant for the primary aluminum smelting subcategory.

Cyanide was found in the effluents from some primary aluminum smelters in low concentrations. Treatment technology for effective cyanide removal is currently available at reasonable cost. However, further data have shown that typical concentrations of cyanide found in these same effluents are too small in magnitude to be significantly reduced by current

technology. Therefore, cyanide will be deleted from the list of significant pollutants for this subcategory.

(8) Two commenters stated that dumping or land filling sludges produced as a result of some liquid effluent treatment processes may not be an adequate solution if these sludges contain soluble solid fluorides, such as CaF_2 or cryolite.

The removal of metals from waste water by chemical precipitation methods produces a sludge which requires adequate precautions to prevent contamination of subsurface waters. It is expected that the guidelines will focus attention on the problem of solids disposal so that satisfactory solutions will be found. Chemical precipitation with solids separation is accepted as the best practicable control technology for this industry. Soluble metal salts produced by concentration or recovery techniques such as evaporation pose a greater environmental hazard than the metallic hydroxides resulting from chemical treatment. An environmentally acceptable solution to this problem, which is not peculiar to this industry, is expected prior to the deadline for application of the best available technology economically achievable in 1983.

(9) One responder to the FEDERAL REGISTER request for comments felt that the proposed single day maximum effluent limitations guidelines for the primary aluminum subcategory were improperly developed. The commenter argued that limits are arbitrary and do not allow for process upsets, runoff effects, and operational flexibility. It was also contended that the limitations are not supported by field data at even exemplary plants.

Data from nine plants indicate that the ratio of maximum discharge to average discharge for fluoride, suspended solids, and oil and grease is less than 2. The effluent limitations conservatively establish the ratio of single day maximum to 30-day maximum at 2. EPA believes this ratio allows flexibility to account for conditions such as process upsets. Runoff is not considered a process waste water.

(10) Two commenters felt that the proposed new source performance standards for the primary aluminum smelting subcategory do not take into account either the need for secondary scrubbing to meet stringent air pollution standards or the climatic conditions existing in certain localities which would be a limiting factor to total impoundment.

New technologies which are being used or are planned for use at new primary aluminum smelters include dry primary and secondary scrubbing; air-cooled, solid state rectifiers; and nonwater molten metal degassing. Low fluoride concentrations in cell rooms can be maintained by the installation of highly efficient hooding, by operating with computer head-off and crust-breaking techniques, and by employing well-designed damper and draft systems. These new technologies have indicated, by means of current atmospheric emission test data, that the application of secondary scrubbing will not be necessary for new sources to meet stringent air pollution regula-

tions. Also, the new technologies will preclude the use of water polluting processes and techniques, and therefore, because of limited water use, total impoundment will not be necessary.

(11) One comment received was that the proposed new source performance standards for the primary aluminum smelting subcategory provide tighter restrictions on fluorides and suspended solids than are required by the 1983 proposed best available technology economically achievable guidelines. It was argued that the new source performance standards should be the same as the proposed 1983 guidelines.

As stated on page 134 of the Development Document for the primary aluminum smelting subcategory, the new source performance standards are lower for fluoride and suspended solids than those applicable to existing sources by 1983 because of the availability to new sources of dry scrubbing for potline air. Basically, a new source has complete freedom to select unit processes which minimize the use of water.

(12) Another commenter stated that there is no current trend toward dry scrubbing at existing primary aluminum facilities.

The opposite of this statement is true. Numerous primary aluminum smelters, of all three types of cells, have reported the use or probable use of dry scrubbing systems.

(13) One commenter felt that the use of air cooling or totally consumptive cooling of cast primary aluminum would not be feasible when direct chill or horizontal direct chill casting is practiced. Zero discharge of process pollutants from the cast house would be an unrealistic goal.

Zero discharge from the cast house is not required by the guidelines. Some plants may choose to pursue zero discharge of cast house water as the means to achieve no discharge of process waste water pollutants. The guidelines do not require process modifications that would be technically impractical.

(14) One commenter requested clarification as to the applicability of the primary aluminum smelting subcategory effluent limitations. This commenter felt that additional discharges of process pollutants should be allowed for such operations as cryolite recovery from used potlining, hydrofluoric acid production, and the production of on-site power, when such operations are conducted at the primary aluminum smelter solely for the purpose of producing an end product to be used in the manufacture of aluminum at the same plant. Also, since some smelters cast other than primary metal produced directly from alumina, an additional pollution allowance was suggested, based upon actual casting rate.

The effluent limitations apply to process waste water streams as defined in the proposed regulations. Ancillary operations not defined in § 421.20 are not covered by these guidelines.

(15) A comment was received stating that the effluent limitations for the secondary aluminum smelting subcategory

should allow a discharge of a bleed stream from the metal cooling water recirculation system. The commenter supported his position by referring to a statement made in the Development Document for this subcategory.

Alternatives, other than the discharge of a salt bleed stream, are available. If a bleed stream exists, this effluent can be used to flash cool hot ingots. During flashing, the contained salts will be deposited as a very thin layer on the ingot surface and will not alter the quality of this product. This procedure is practiced by several existing facilities within this subcategory. Another alternative is air cooling. Evaporation is a third, and least likely, alternative. The statement made in the Development Document for this subcategory will be corrected.

(16) One responding party suggested that COD be deleted from the proposed list of significant pollutants for the secondary aluminum smelting subcategory.

Sufficient COD to require limitation was found in the effluents from chlorine fume scrubbing operations. Data indicate that treatment reduces COD to the levels proposed in the regulations.

(17) Several commenters questioned the designation of the Derham, Alcoa, and Teller processes as "currently available" for the secondary aluminum smelting subcategory.

All three of these processes are demonstrated to varying degrees. Any one of these systems could, if necessary, be employed by the industry to meet the effluent limitations based on the best practicable control technology currently available.

(18) One commenter felt that evaporation of the bleeds from recirculation systems to achieve compliance with the "no discharge" secondary aluminum smelting effluent guideline is neither a cost nor an energy effective solution.

Evaporation of the bleeds from recirculation systems to achieve no discharge of process waste water pollutants is not required. It is one method to achieve the effluent limitations. The guidelines are developed to allow maximum flexibility to the smelter. Impoundment also may be feasible for some smelters.

(19) One secondary aluminum smelting subcategory comment was received that stated that the variability of aluminum scrap used, type of smelter operations (differing furnaces), products produced (from specific alloys to nonalloys), and plant sizes make the use of discharge limits based on the waste of magnesium produced in wet scrubbing operations for chlorine demagging impossible to enforce.

Section 308 of the Act authorizes the Administrator to require dischargers to maintain records for the purpose of determining compliance with the effluent limitations. Data collected during the study to develop the guidelines indicate that information on recovered magnesium is readily available and routinely recorded by most plants in this subcategory.

(20) Two commenters stated that the cost figures and the economic impact conclusions reported in the proposed rules for the secondary aluminum smelting subcategory cannot be confirmed.

The cost and economic impact conclusions were based on the best data available at the time of this study. Additional data were solicited from the industry in the preamble to the proposed regulations.

(21) Two commenters felt that the intention of the proposed guidelines to prohibit the discharge of only specified pollutants without regard to the discharge of other unspecified pollutants is not clear.

The pollutants subject to effluent limitations are those contained in the process waste waters which were identified as "significant." The significant pollutants and the corresponding effluent limitations appear in the appropriate sections of the regulation. If a pollutant does not appear with a corresponding effluent limitation, the pollutant is not subject to control by the regulations.

(22) Several commenters stated that the data establishing effluent limitations are in some cases on a gross basis and in others on a net basis.

The resultant limitations are presented on an absolute basis. The use of such limitations is appropriate since the concentration of a pollutant remaining after a given treatment is relatively independent of the concentration in the waste or the source of the pollutant.

(b) *Revision of the proposed regulation prior to promulgation.* As a result of public comments and continuing review and evaluation of the proposed regulation by the EPA, the following significant changes have been made in the regulation:

(1) Paragraph (b) of §§ 421.12, 421.13, and 421.14 has been modified by adding "the overflow of" to "there may be discharged from such impoundment." The modified phrase "there may be discharged from the overflow of a process waste water impoundment" now stipulates that the allowable discharge resulting from excess rainfall is limited solely to supernatant water.

(2) Cyanide as well as oil and grease have been deleted from the proposed list of significant pollutants for the primary aluminum smelting subcategory. Oil and grease has been deleted from the proposed list of significant pollutants for the secondary aluminum smelting subcategory. These deletions were made since data have shown that typical concentrations of both cyanide and oil and grease found in the effluents of these subcategories are too small in magnitude to be significantly reduced by current technology.

(3) Section 304(b)(1)(B) of the Act provides for "guidelines" to implement the uniform national standards of section 301(b)(1)(A). Thus Congress recognized that some flexibility was necessary in order to take into account the complexity of the industrial world with

respect to the practicability of pollution control technology. In conformity with the Congressional intent and in recognition of the possible failure of these regulations to account for all factors bearing on the practicability of control technology, it was concluded that some provision was needed to authorize flexibility in the strict application of the limitations contained in the regulation where required by special circumstances applicable to individual dischargers. Accordingly, a provision allowing flexibility in the application of the limitations representing best practicable control technology currently available has been added to each subpart, to account for special circumstances that may not have been adequately accounted for when these regulations were developed.

(c) *Economic impact.* The effluent limitation guidelines now being promulgated are expected to have only minimal effects on the aluminum industry. In the primary sector, no price increases are expected and no plant closings or employment impacts are anticipated in 1977 or 1983. Plant closings in the secondary sector are expected only in 1983 and only in the case of wet dress milling operations. These plants make up about 1 percent of total aluminum production capacity and represent about 160 employees. In the remaining secondary operations no closings are anticipated and price increases are expected to be less than .1 percent.

For seven of the industry's nine bauxite refining plants, the majority of the costs for meeting the 1977 guidelines has already been incurred. Any additional costs are expected to range from zero to less than 1.6 percent of the sale value of alumina (0.2 percent of the sale value of aluminum). For the remaining two plants, both technical and economic analysis have indicated that a requirement of no discharge of process waste water pollutants may not be practicable. At these two plants, the 1977 requirements of no discharge of process waste water pollutants is to be applied to only those process waste water streams not covered by a consent decree, which was agreed upon for these two plants in October of 1972. The consent decree contemplates the possible need for a discharge and includes a complete procedure for establishing effluent limitations for these plants.

The 1983 requirement for these plants is still no discharge of process waste water pollutants; however, the additional time is expected to be sufficient to allow the technical and economic problems associated with no discharge to be solved.

(d) *Cost-benefit analysis.* The detrimental effects of the constituents of waste waters now discharged by point sources within the aluminum segment of the nonferrous metals manufacturing point source category are discussed in section VI of each respective report entitled "Development Document for Effluent Limitations Guidelines for the Bauxite Refining Subcategory of the Alumi-

num Segment of the Nonferrous Metals Manufacturing Point Source Category," "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Primary Aluminum Smelting Subcategory of the Aluminum Segment of the Nonferrous Metals Manufacturing Point Source Category," and "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Secondary Aluminum Smelting Subcategory of the Aluminum Segment of the Nonferrous Metals Manufacturing Point Source Category." It is not feasible to quantify in economic terms, particularly on a national basis, the costs resulting from the discharge of these pollutants to our Nation's waterways. Nevertheless, as indicated in section VI, the pollutants discharged have substantial and damaging impacts on the quality of water and therefore on its capacity to support healthy populations of wildlife, fish and other aquatic wildlife and on its suitability for industrial, recreational and drinking water supply uses.

The total cost of implementing the effluent limitations guidelines includes the direct capital and operating costs of the pollution control technology employed to achieve compliance and the indirect economic and environmental costs identified in section VIII and in the supplementary report entitled "Economic Analysis of Proposed Effluent Guidelines, the NONFERROUS METALS INDUSTRY (Aluminum)" (September 1973). Implementing the effluent limitations guidelines will substantially reduce the environmental harm which would otherwise be attributable to the continued discharge of polluted waste waters from existing and newly constructed plants in the nonferrous metals industry. The Agency believes that the benefits of thus reducing the pollutants discharged justify the associated costs which, though substantial in absolute terms, represent a relatively small percentage of the total capital investment in the industry.

(e) *Solid waste control.* Solid waste control must be considered. The waterborne wastes from the nonferrous metals industry may contain a considerable volume of metals in various forms as a part of the suspended solids pollutant. Best practicable control technology and best available control technology as they are known today, require disposal of the pollutants removed from waste waters in this industry in the form of solid wastes and liquid concentrates. In some cases these are nonhazardous substances requiring only minimal custodial care. However, some constituents may be hazardous and may require special consideration. In order to ensure long term protection of the environment from these hazardous or harmful constituents, special consideration of disposal sites must be made. All landfill sites where such hazardous wastes are disposed should be selected so as to prevent horizontal and vertical migration of these contaminants to ground or surface waters. In cases where geologic conditions

may not reasonably ensure this, adequate precautions (e.g., impervious liners) should be taken to ensure long term protection to the environment from hazardous materials. Where appropriate the location of solid hazardous materials disposal sites should be permanently recorded in the appropriate office of the legal jurisdiction in which the site is located.

(f) Publication of information on processes, procedures, or operating methods which result in the elimination or reduction of the discharge of pollutants.

In conformance with the requirements of section 304(c) of the Act, three manuals entitled, "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Bauxite Refining Subcategory of the Aluminum Segment of the Nonferrous Metals Manufacturing Point Source Category," "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Primary Aluminum Smelting Subcategory of the Aluminum Segment of the Nonferrous Metals Manufacturing Point Source Category," and "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Secondary Aluminum Smelting Subcategory of the Aluminum Segment of the Nonferrous Metals Manufacturing Point Source Category," are being published and will be available in approximately ten weeks.

(g) *Final rulemaking.* In consideration of the foregoing, 40 CFR Ch. I, Subchapter N is hereby amended by adding a new Part 421, Nonferrous Metals Manufacturing Point Source Category, to read as set forth below. This final regulation is promulgated as set forth below and shall be effective June 3, 1974.

Dated: March 26, 1974.

JOHN QUARLES,
Acting Administrator.

Subpart A—Bauxite Refining Subcategory

- Sec.
421.10 Applicability; description of the bauxite refining subcategory.
421.11 Specialized definitions.
421.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
421.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.14 [Reserved].
421.15 Standards of performance for new sources.
421.16 Pretreatment standards for new sources.

Subpart B—Primary Aluminum Smelting Subcategory

- 421.20 Applicability; description of the primary aluminum smelting subcategory.
421.21 Specialized definitions.
421.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practical control technology currently available.

Sec.

- 421.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.24 [Reserved].
421.25 Standards of performance for new sources.
421.26 Pretreatment standards for new sources.

Subpart C—Secondary Aluminum Smelting Subcategory

- 421.30 Applicability; description of the secondary aluminum smelting subcategory.
421.31 Specialized definitions.
421.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
421.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
421.34 [Reserved].
421.35 Standards of performance for new sources.
421.36 Pretreatment standards for new sources.

AUTHORITY: Secs. 301, 304(b) and (c), 306 (b) and (c) add 307(c) of the Federal Water Pollution Control Act as amended, (the Act); 33 U.S.C. 1251, 1311, 1314(b) and (c), 1316 (b) and (c) and 1317(c); 86 Stat. 816 et seq.; Pub. L. 92-500.

Subpart A—Bauxite Refining Subcategory

§ 421.10 Applicability; description of the bauxite refining subcategory.

The provisions of this subpart are applicable to discharges resulting from the refining of bauxite to alumina by the Bayer process or by the combination process.

§ 421.11 Specialized definitions.

For the purpose of this subpart:
(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.

(b) The term "bauxite" shall mean ore containing alumina monohydrate or alumina trihydrate which serves as the principal raw material for the production of alumina by the Bayer process or by the combination process.

(c) The term "product" shall mean alumina.

§ 421.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been

available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) Subject to the provisions of paragraph (b) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters.

(b) During any calendar month there may be discharged from the overflow of a process waste water impoundment either a volume of process waste water equal to the difference between the precipitation for that month that falls within the impoundment and the evaporation within the impoundment for that month, or, if greater, a volume of process waste water equal to the difference between the mean precipitation for that month as established by the National Climatic Center, National Oceanic and Atmospheric Administration, for the area in which such impoundment is located (or as otherwise determined if no monthly data have been established by the National Climatic Center).

§ 421.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) Subject to the provisions of paragraph (b) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the

best available technology economically achievable: There shall be no discharge of process waste water pollutants to navigable waters.

(b) During any calendar month there may be discharged from the overflow of a process waste water impoundment either a volume of process waste water equal to the difference between the precipitation for that month that falls within the impoundment and the evaporation within the impoundment for that month, or, if greater, a volume of process waste water equal to the difference between the mean precipitation for that month that falls within the impoundment and the mean evaporation for that month as established by the National Climatic Center, National Oceanic and Atmospheric Administration, for the area in which such impoundment is located (or as otherwise determined if no monthly data have been established by the National Climatic Center).

§ 421.14 [Reserved]

§ 421.15 Standards of performance for new sources.

(a) Subject to the provisions of paragraph (b) of this section, the following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

(b) During any calendar month there may be discharged from the overflow of a process waste water impoundment either a volume of process waste water equal to the difference between the precipitation for that month that falls within the impoundment and the evaporation within the impoundment for that month, or, if greater, a volume of process waste water equal to the difference between the mean precipitation for that month as established by the National Climatic Center, National Oceanic and Atmospheric Administration, for the area in which such impoundment is located (or as otherwise determined if no monthly data have been established by the National Climatic Center).

§ 421.16 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the bauxite refining subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128 of this chapter, except that, for the purpose of this section, § 128.133 of this chapter shall be amended to read as follows:

In addition to the prohibitions set forth in § 128.131 of this chapter the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in § 421.15: *Provided*, That,

if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

Subpart B—Primary Aluminum Smelting Subcategory

§ 421.20 Applicability; description of the primary aluminum smelting subcategory.

The provisions of this subpart are applicable to discharges resulting from the production of aluminum from alumina by the Hall-Heroult process.

§ 421.21 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter, shall apply to this subpart.

(b) The term "product" shall mean hot aluminum metal.

§ 421.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

(a) In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations,

specify other limitations, or initiate proceedings to revise these regulations.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Fluoride.....	2.0	1.0
TSS.....	3.0	1.5
pH.....	Within the range 6.0 to 9.0.	
English units (pounds per 1,000 lb of product)		
Fluoride.....	2.0	1.0
TSS.....	3.0	1.5
pH.....	Within the range 6.0 to 9.0.	

§ 421.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Fluoride.....	0.1	0.05
TSS.....	.2	.1
pH.....	Within the range 6.0 to 9.0.	
English units (pounds per 1,000 lb of product)		
Fluoride.....	0.1	0.05
TSS.....	.2	.1
pH.....	Within the range 6.0 to 9.0.	

§ 421.24 [Reserved]

§ 421.25 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Fluoride.....	0.05	0.025
TSS.....	.1	.05
pH.....	Within the range 6.0 to 9.0.	
English units (pounds per 1,000 lb of product)		
Fluoride.....	0.05	0.025
TSS.....	.1	.05
pH.....	Within the range 6.0 to 9.0.	

§ 421.26 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the primary aluminum smelting subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in Part 128, of this chapter, except that, for the purpose of this section, § 128.133 of this chapter shall be amended to read as follows:

In addition to the prohibitions set forth in § 128.131 of this chapter, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in § 421.25: *Provided*, That if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

Subpart C—Secondary Aluminum Smelting Subcategory

§ 421.30 Applicability; description of the secondary aluminum smelting subcategory.

The provisions of this subpart are applicable to discharges resulting from the recovery, processing, and remelting of aluminum scrap to produce metallic aluminum alloys.

§ 421.31 Specialized definitions.

For the purpose of this subpart:
(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this subpart.
(b) The term "product" shall mean hot aluminum recovered.

§ 421.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all

information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

(a) The following limitations establish the quantity or quality of pollutants or pollutant properties, which may be discharged by a point source subject to the provisions of this subpart and which uses water for metal cooling, after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart and which uses aluminum fluoride in its magnesium removal process ("demagging process"), after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants to navigable waters.

(c) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart and which uses chlorine in its magnesium removal process, after ap-

plication of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations
	Average of daily values for 30 consecutive days shall not exceed
	Metric units (kilograms per 1,000 kg magnesium removed)
TSS.....	175
COD.....	6.5
pH.....	Within the range of 7.5 to 9.0.
	English units (pounds per 1,000 lb magnesium removed)
TSS.....	175
COD.....	6.5
pH.....	Within the range of 7.5 to 9.0.

(d) The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart and which processes residues by wet methods, after application of the best practical control technology currently available.

Effluent characteristic	Effluent limitations
	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 kg of product)
TSS.....	1.5
Fluoride.....	.4
Ammonia (as N).....	.01
Aluminum.....	1.0
Copper.....	.003
COD.....	1.0
pH.....	Within the range of 7.5 to 9.0.
	English units (pounds per 1,000 lb of product)
TSS.....	1.5
Fluoride.....	.4
Ammonia (as N).....	.01
Aluminum.....	1.0
Copper.....	.003
COD.....	1.0
pH.....	Within the range of 7.5 to 9.0.

§ 421.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be

no discharge of process waste water pollutants to navigable waters.

§ 421.34 [Reserved]

§ 421.35 Standards of performance for new sources.

(a) The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

(b) Application of the factors listed in section 306(b) of the Act may require variation from the standard of performance set forth in this section for any point source subject to such standard of performance and which uses chlorine in the magnesium removal process ("demagging" process). If variation is determined to be necessary for any such source, the discharge of process waste water pollutants shall be allowed from the magnesium removal process only, and such source shall be subject to effluent limitations no less stringent than those required by paragraph (c). § 421.32.

§ 421.36 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the secondary aluminum smelting subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in part 128 of this chapter, except that, for the purpose of this section, § 128.133 of this chapter shall be amended to read as follows:

In addition to the prohibitions set forth in § 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in § 421.35: *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall, except in the case of standards providing for no discharge of pollutants, be correspondingly reduced in stringency for that pollutant.

[FR Doc.74-7621 Filed 4-5-74;8:45 am]

ENVIRONMENTAL PROTECTION
AGENCY

[40 CFR Part 421]

NONFERROUS METALS MANUFACTURING
POINT SOURCE CATEGORYProposed Applications of Effluent Limitations
Guidelines for Existing Sources to
Pretreatment Standards for Incompatible
Pollutants

Notice is hereby given pursuant to sections 301, 304 and 307(b) of the Federal Water Pollution Control Act, as amended (the Act); 33 U.S.C. 1251, 1311, 1314, and 1317(b); 86 Stat. 816 et seq.; Pub. L. 92-500, that the proposed regulation set forth below concerns the application of effluent limitations guidelines for existing sources to pretreatment standards for incompatible pollutants. The proposal will amend 40 CFR Part 421—Nonferrous Metals Manufacturing Point Source Category, establishing for each subcategory therein the extent of application of effluent limitations guidelines to existing sources which discharge to publicly owned treatment works. The regulation is intended to be complementary to the general regulation for pretreatment standards set forth at 40 CFR Part 128. The general regulation was proposed July 19, 1973 (38 FR 19236), and published in final form on November 8, 1973 (38 FR 30982).

The proposed regulation is also intended to supplement a final regulation being simultaneously promulgated by the Environmental Protection Agency (EPA or Agency) which provides effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources within the bauxite refining, primary aluminum smelting, and secondary aluminum smelting subcategories of the nonferrous metals manufacturing point source category. The latter regulation applies to the portion of a discharge which is directed to the navigable waters. The regulation proposed below applies to users of publicly owned treatment works which fall within the description of the point source category to which the guidelines and standards (40 CFR Part 421) promulgated simultaneously apply. However, the proposed regulation applies to the introduction of incompatible pollutants which are directed into a publicly owned treatment works, rather than to discharges of pollutants to navigable waters.

The general pretreatment standard divides pollutants discharged by users of publicly owned treatment works into two broad categories: "Compatible" and "incompatible." Compatible pollutants are generally not subject to pretreatment standards. (See 40 CFR 128.110 (State or local law) and 40 CFR 128.131 (Prohibited wastes) for requirements which may be applicable to compatible pollutants.) Incompatible pollutants are subject to pretreatment standards as provided in 40 CFR 128.133, which provides as follows:

In addition to the prohibitions set forth in § 128.131, the pretreatment standard for

incompatible pollutants introduced into a publicly owned treatment works by a major contributing industry not subject to section 307(c) of the Act shall be, for sources within the corresponding industrial or commercial category that established by promulgated effluent limitations guidelines defining best practicable control technology currently available pursuant to sections 301(b) and 304(b) of the Act: *Provided, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutant; and provided further, That when the effluent limitations guidelines for each industry are promulgated, a separate provision will be proposed concerning the application of such guidelines to pretreatment.*

The regulation proposed below is intended to implement that portion of § 128.133, above, requiring that a separate provision be made stating the application to pretreatment standards of effluent limitations guidelines based upon best practicable control technology currently available.

Questions were raised during the public comment period on the proposed general pretreatment standard (40 CFR Part 128) about the propriety of applying a standard based upon best practicable control technology currently available to all plants subject to pretreatment standards. In general, EPA believes the analysis supporting the effluent limitations guidelines is adequate to make a determination regarding the application of those standards to users of publicly owned treatment works. However, to ensure that those standards are appropriate in all cases, EPA now seeks additional comments focusing upon the application of effluent limitations guidelines to users of publicly owned treatment works.

Sections 421.15, 421.25, and 421.35 of the proposed regulation for point sources within the bauxite refining, primary aluminum smelting, and secondary aluminum smelting subcategories (November 30, 1973; 38 FR 33181), contained the proposed pretreatment standard for new sources. The regulation promulgated simultaneously herewith contains §§ 421.16, 421.26, and 421.36 which state the applicability of standards of performance for purposes of pretreatment standard for new sources.

Preliminary Development Documents were made available to the public at approximately the time of publication of the notice of proposed rulemaking, and the final Development Documents, entitled "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Bauxite Refining Subcategory of the Aluminum Segment of the Nonferrous Metals Manufacturing Point Source Category," "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Primary Aluminum Smelting Subcategory of the Aluminum Segment of the Nonferrous Metals Manufacturing Point

Source Category," and "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Secondary Aluminum Smelting Subcategory of the Aluminum Segment of the Nonferrous Metals Manufacturing Point Source Category," are now being published. The economic analysis report, entitled "Economic Analysis of Proposed Effluent Guidelines for the Aluminum Industry," (September 1973) was made available at the time of proposal. Copies of the preliminary Development Documents and economic analysis report will continue to be maintained for inspection and copying during the comment period at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street, SW., Washington, D.C. Copies will also be available for inspection at EPA regional offices and at State water pollution control agency offices. Copies of the Development Documents may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Copies of the economic analysis report will be available for purchase through the National Technical Information Service, Springfield, Virginia 22151.

On June 14, 1973, the Agency published procedures designed to insure that, when certain major standards, regulations, and guidelines are proposed, an explanation of their basis, purpose and environmental effects is made available to the public (38 FR 15653). The procedures are applicable to major standards, regulations and guidelines which are proposed on or after December 31, 1973, and which either prescribe national standards of environmental quality or require national emission, effluent or performance standards or limitations.

The Agency determined to implement these procedures in order to insure that the public was provided with background information to assist it in commenting on the merits of a proposed action. In brief, the procedures call for the Agency to make public the information available to it delineating the major environmental effects of a proposed action, to discuss the pertinent nonenvironmental factors affecting the decision, and to explain the viable options available to it and the reasons for the option selected.

The procedures contemplate publication of this information in the FEDERAL REGISTER, where this is practicable. They provide, however, that where such publication is impracticable because of the length of this material, the material may be made available in an alternate format.

The Development Documents referred to above contain information available to the Agency concerning the major environmental effects of the regulation proposed below. The information includes: (1) The identification of pollutants present in waste waters resulting from bauxite refining, primary aluminum smelting, and secondary aluminum smelting, the characteristics of these pollutants; and the degree of pollutant reduction obtainable through implementation of the proposed standard; and (2) the anticipated effects on other aspects of the

environment (including solid waste disposal and energy requirements) of the treatment technologies available to meet the standard proposed.

The Development Documents and the economic analysis report referred to above also contain information available to the Agency regarding the estimated cost and energy consumption implications of those treatment technologies and the potential effects of those costs on the price of nonferrous metals manufacturing. The four reports exceed, in the aggregate, 400 pages in length and contain a substantial number of charts, diagrams and tables. It is clearly impracticable to publish the material contained in these documents in the *FEDERAL REGISTER*. To the extent possible, significant aspects of the material have been presented in summary form in the preamble to the proposed regulation containing effluent limitations guidelines, new source performance standards and pretreatment standards for new sources within the nonferrous metals manufacturing category (38 FR 33170; November 30, 1973). Additional discussion is contained in the analysis of public comments on the proposed regulation and the Agency's response to those comments. This discussion appears in the preamble to the promulgated regulation (40 CFR Part 421) which currently is being published in the rules and regulations section of the *FEDERAL REGISTER*.

The options available to the Agency in establishing the level of pollutant reduction obtainable through the best practicable control technology currently available, and the reasons for the particular level of reduction selected are discussed in the documents described above. In applying the effluent limitations guidelines to pretreatment standards for the introduction of incompatible pollutants into municipal systems by existing sources in the bauxite refining, primary aluminum smelting, and secondary aluminum smelting subcategories, the Agency has, essentially, three options. The first is to declare that the guidelines do not apply. The second is to apply the guidelines unchanged. The third is to modify the guidelines to reflect: (1) Differences between direct dischargers and plants utilizing municipal systems which affect the practicability of the latter employing the technology available to achieve

the effluent limitations guidelines; or (2) characteristics of the relevant pollutants which require higher levels of reduction (or permit less stringent levels) in order to insure that the pollutants do not interfere with the treatment works or pass through them untreated.

As described in the Development Documents, the process waste waters from the bauxite refining, primary aluminum smelting, and secondary aluminum smelting subcategories contain high concentrations of pollutants which could interfere with the operation of publicly owned treatment works, pass through such works untreated or inadequately treated or otherwise be incompatible with such treatment works. In the opinion of the EPA, these process waste waters should be treated to the level required by the application of the best practicable control technology currently available before discharge of these materials to publicly owned treatment works.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the EPA Information Center, Environmental Protection Agency, Washington, D.C. 20460, Attention: Mr. Philip B. Wisman. Comments on all aspects of the proposed regulations are solicited. In the event comments are in the nature of criticisms as to the adequacy of data which are available, or which may be relied upon by the Agency, comments should identify and, if possible, provide any additional data which may be available and should indicate why such data are essential to the development of the regulations. In the event comments address the approach taken by the Agency in establishing pretreatment standards for existing sources, EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of sections 301, 304 and 307(b) of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. The EPA information regulation, 40 CFR 2, provides that a reasonable fee may be charged for copying.

In consideration of the foregoing, it is hereby proposed that 40 CFR Part 421 be

amended to add §§ 421.14, 421.24, and 421.34 as set forth below. All comments received on or before May 3, 1974, will be considered.

Dated: March 26, 1974.

JOHN QUARLES,
Acting Administrator

40 CFR Part 421 is proposed to be amended as follows:

- Sec.
421.14 Pretreatment Standards for Existing Sources.
421.24 Pretreatment Standards for Existing Sources.
421.34 Pretreatment Standards for Existing Sources.

§ 421.14 Pretreatment Standards for Existing Sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 421.12 above shall apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may not be introduced into a publicly owned treatment works, except in compliance with such limitations.

§ 421.24 Pretreatment Standards for Existing Sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 421.22 above shall apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may not be introduced into a publicly owned treatment works, except in compliance with such limitations.

§ 421.34 Pretreatment Standards for Existing Sources.

For the purpose of pretreatment standards for incompatible pollutants established under § 128.133 of this chapter, the effluent limitations guidelines set forth in § 421.32 above shall apply and, subject to the provisions of Part 128 of this chapter concerning pretreatment, process waste water from this subcategory may not be introduced into a publicly owned treatment works, except in compliance with such limitations.

[FR Doc. 74-7620 Filed 4-5-74; 8:45 am]

MONDAY, APRIL 8, 1974
WASHINGTON, D.C.

Volume 39 ■ Number 68

PART III



ENVIRONMENTAL PROTECTION AGENCY

■

FERTILIZER MANUFACTURING POINT SOURCE CATEGORY

**Effluent Guidelines and Standards and
Proposed Limitations**

Title 40—Protection of the Environment
CHAPTER I—ENVIRONMENTAL
PROTECTION AGENCY

SUBCHAPTER N—EFFLUENT GUIDELINES AND
STANDARDS

PART 418—FERTILIZER MANUFACTURING
POINT SOURCE CATEGORY

Phosphate, Ammonia, Urea, Ammonium
Nitrate, and Nitric Acid Subcategories

On December 7, 1973 notice was published in the FEDERAL REGISTER (38 FR 33852), that the Environmental Protection Agency (EPA or Agency) was proposing effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources within the phosphate subcategory, the ammonia subcategory, the urea subcategory, the ammonium nitrate subcategory and the nitric acid subcategory of the fertilizer manufacturing category of point sources.

The purpose of this notice is to establish final effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources in the fertilizer manufacturing category of point sources, by amending 40 CFR Chapter I, Subchapter N, to add a new Part 418. This final rulemaking is promulgated pursuant to sections 301, 304 (b) and (c), 306 (b) and (c) and 307(c) of the Federal Water Pollution Control Act, as amended (the Act); 33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316 (b) and (c) and 1317(c); 86 Stat. 816 et seq.; Pub. L. 92-500. Regulations regarding cooling water intake structures for all categories of point sources under section 316(b) of the Act will be promulgated in 40 CFR Part 402.

In addition, the EPA is simultaneously proposing a separate provision which appears in the proposed rules section at 39 FR 12842 of this issue, stating the application of the limitations and standards set forth below to users of publicly owned treatment works which are subject to pretreatment standards under section 307(b) of the Act. The basis of that proposed regulation is set forth in the associated notice of proposed rulemaking.

The legal basis, methodology and factual conclusions which support promulgation of this regulation were set forth in substantial detail in the notice of public review procedures published August 6, 1973 (38 FR 21202) and in the notice of proposed rulemaking for the fertilizer manufacturing category. In addition, the regulations as proposed were supported by two other documents: (1) The document entitled "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Basic Fertilizer Chemicals Segment of the Fertilizer Manufacturing Point Source Category" (November 1973) and (2) the document entitled "Economic Analysis of Proposed Effluent Guidelines for the Fertilizer Industry" (November 1973). Both of these documents were made available to the public and circulated to interested persons at approximately the

time of publication of the notice of proposed rulemaking.

Interested persons were invited to participate in the rulemaking by submitting written comments within 30 days from the date of publication. Prior public participation in the form of solicited comments and responses from the States, Federal agencies, and other interested parties were described in the preamble to the proposed regulation. The EPA has considered carefully all of the comments received and a discussion of these comments with the Agency's response thereto follows:

The regulation as promulgated contains some significant departures from the proposed regulation. The following discussion outlines the reasons why these changes were made and why other suggested changes were not made.

(a) *Summary of comments.* The following responded to the request for written comments contained in the preamble to the regulation: The United States Water Resources Council; Kaiser Agricultural Chemicals; Vistron Corporation; Phillips Petroleum Company; Terra Chemicals International, Inc.; Hercules, Inc.; Hawkeye Chemical Company; The Fertilizer Institute; Gardiner, Inc.; The University of Nebraska, College of Agriculture; County Sanitation District of Los Angeles County; Farmland Industries, Inc.; Gulf Oil Company, U.S.; Florida Phosphate Council; Agway, Inc.; C.F. Industries, Inc.; State of New York, Department of Environmental Conservation; Freeport Chemical Company; Tennessee Valley Authority; E. I. DuPont de Nemours and Company; and the United States Department of Commerce. Each of the comments received was carefully reviewed and analyzed.

The following is a summary of the significant comments and the Agency's response to those comments.

(1) Several commenters considered the proposed limits on the discharge of fluoride and total phosphorus to be too stringent. The validity of the data was questioned, and the contractor's initial recommendations were advocated. It was also commented that the limitations proposed could be attained only at a pH greater than 9.0.

In reviewing the data on which the proposed standards were based, it was discovered that the low phosphorus concentrations in one plant were attributable to dilution of its impoundment water from underground springs. Accordingly, the promulgated effluent limitations for phosphorus have been recalculated employing the data from the remaining plants for which information is available. These limitations can be achieved within the revised pH limitations.

(2) One person complained that requiring a high pH will necessarily increase the total dissolved solids concentration.

The total dissolved solids concentration is not necessarily increased to any significant degree when the pH level is

raised by use of lime. The benefits of retaining metals, radioactive substances and other harmful constituents as precipitates outweighs the possible harm of slightly increasing the total dissolved solids concentration. The pH limitations promulgated will not adversely affect aquatic organisms.

(3) It was stated that even those plants in the phosphate category which employ 93 percent sulphuric acid (rather than 50 percent) and which therefore contribute no water to the gypsum pond from the process, cannot consistently achieve no discharge. Moreover, the use of gypsum pond water to dilute the sulphuric acid was claimed to be unproved.

Gypsum pond water dilution of sulphuric acid is presented as one method of insuring a negative water balance in the gypsum pond, so that no contaminated water need be discharged except during periods of intense precipitation—the level of control specified as attainable by the best available technology economically achievable. This technology is currently in use in European plants, is domestically available through two process design companies, and has recently been put into operation in one major American plant. Other methods of achieving a negative water balance are also available to plants utilizing concentrated as well as dilute acid. For example, companies which employ concentrated acid and which have not achieved no discharge commonly allow rainwater runoff from surrounding areas to enter their gypsum ponds, thus substantially increasing the volume of influent water which the pond must accept. Curtailment of this practice would allow plants to meet the no discharge requirement except during periods of catastrophic rainfall. The issue is discussed in more detail in paragraph (5), below.

(4) One company requested that separate subcategories be established for those phosphate fertilizer plants which recover fluoride and those which do not have a market for by-product fluoride. The justification offered for this additional subcategorization was that the latter plants will have a much higher fluoride concentration in their raw waste water.

The fact of higher fluoride concentrations in the raw waste load is largely irrelevant since lime precipitation (one technology cited in the Development Document) will achieve the effluent limitations on fluoride regardless of whether or not a portion of the fluoride is recovered in the process.

(5) The concept of total impoundment of gypsum pond water was severely criticized. Several plants pump storm runoff into their gypsum ponds, making a state of no discharge impossible. The cost of treating gypsum pond overflow for storms up to a 24 hour, 10 or 25 year rainfall event was stated to be excessive.

The problem of gypsum pond water containment centers on the current practice at many plants of pumping storm runoff into the gypsum ponds. In some

instances, this practice is used to cheaply obtain makeup water for the pond. The 1977 limitations require retention of gypsum pond water except during times of chronic rainfall.

There currently are plants that can achieve no discharge of gypsum pond water except during periods of heavy rainfall. For the purpose of this regulation, periods of chronic rainfall are defined to be those months in which the amount of precipitation exceeds the amount of evaporation. During such chronic rainfalls there may be discharged an amount of water equal to the difference between the rainfall and the evaporation within the gypsum pond. Drainage area outside the boundaries of the gypsum pond is not to be included in the calculation of the precipitation volume. This discharge from the pond must be treated to the limits specified in the regulation. This degree of treatment is also currently being attained by plants within the industry.

So that a plant need not treat a discharge only at the time of a chronic rainfall, the plant is allowed to gradually release from the gypsum pond the quantity of water attributable to the difference between rainfall and evaporation for that month, on the basis of past records for these parameters. These data may be obtained from the National Climatic Center, National Oceanic and Atmospheric Administration in Asheville, North Carolina, the successor agency to the U.S. Weather Bureau or, if such records are lacking, from the plant's own records.

While it is possible to treat excess precipitation during or in anticipation of chronic rainfall, it is impracticable to treat gypsum pond overflow resulting from catastrophic or near catastrophic rainfall events. Standard engineering practice includes design, construction and operation of treatment ponds with sufficient freeboard to contain a 24 hour, 10 to 50 year rainfall event. In this regulation best practicable control technology currently available specifies retention of a 24 hour, 10 years rainfall event. Best available demonstrated control technology and best available technology economically achievable specify retention of a 24 hour, 25 year rainfall event.

The gypsum ponds contain such hazardous materials as toxic metals and radioactive substances, particularly if Florida phosphate rock is used. It is therefore imperative that discharge from such ponds be prevented as far as it is practicable. This may include direct discharge of storm runoff rather than pumping it into the gypsum pond.

(6) The proposed limitation on ammonia nitrogen in discharges from gypsum ponds permitted during chronic wet weather was criticized as too stringent. It was pointed out that the concentration of nitrogen compounds in existing impoundments can reach several hundred mg/l, that future air emission control systems will increase the level of discharge to these ponds, and that specific treatment for ammonia nitrogen removal is prohibitively expensive. It was

also brought out that in requiring a closed water system for ammonium phosphate operations by 1977, in-process changes would be necessary and that this is not the intent of the Act.

Control of ammonia nitrogen depends on use of the self-contained process for diammonium phosphate currently in use in three plants. Use of this process allows total recirculation of those waste streams containing ammonia nitrogen. Process changes are necessary to achieve a total recirculation system, and as the result of public comment EPA has reconsidered its position and now considers total recirculation for this process as best available technology economically achievable and best available demonstrated control technology rather than best practicable control technology currently available. However, even were this process to be universally adopted, achievement of the proposed effluent limitation would not necessarily ensue because of the extremely high levels of ammonia nitrogen in impoundments from previous discharges.

Since there is no practicable technology available to reduce these ammonia nitrogen levels in the gypsum pond the parameter has been eliminated. All plants will be required to achieve no discharge of ammonia nitrogen (except for discharges attributable to catastrophic rainfall events) as well as all other process waste water pollutants by 1983. No significant adverse environmental effect is expected as the result of deleting the no discharge requirement for this manufacturing operation as a 1977 requirement. The only allowed discharge from gypsum ponds (to which ammonium phosphate wastes are discharged) will be during periods of high rainfall, thereby minimizing environmental effects.

(7) One commenter urged that effluent limitations should be related to the resulting water quality, particularly for those plants located in areas where past discharges have had no measurable effect on water quality. Other commenters considered the proposed limitation on total suspended solids to be too low, considering the normal suspended solids concentrations in many rivers.

The FWPCA provides for two separate regulatory mechanisms, effluent limitations guidelines and water quality standards. The former, including this regulation, are intended to be based upon specified levels of technology and independent of the quality of receiving water in various locations. The data available to EPA indicate that the effluent limitations on discharges of suspended solids are attainable through technology currently in use in the phosphate subcategory.

(8) One commenter suggested that the regulation should prohibit seepage of pond waters to ground waters.

Infiltration of pond water to subsurface waters is not within the scope of the Act and hence cannot be controlled by this regulation. However, the promulgated limitations can be achieved without seepage from treatment ponds, and the Agency does not advocate such seepage for this industry.

(9) A limit for radium-226 was requested, and a minimum pH of 8.0 was suggested to assure a high degree of removal.

Uranium occurs naturally in phosphate rock, especially that from Florida. Radium-226 is a particularly dangerous decay product of uranium. On the basis of the data available, the Agency believes that double lime treatment of gypsum pond water described in the Development Document adequately removes radium-226 to a level below 3.0 picocuries when the pH is maintained above 8.0. In order to insure that this hazardous element does not enter the environment in an uncontrolled manner, the pH range has been changed from 6.0-9.0 to 8.0-9.5. The upper pH limitation was raised because of the difficulty of maintaining pH within one unit range even with automatic equipment.

(10) With respect to the effluent limitations on ammonia in the nitrogen fertilizer subcategories, it was argued that air stripping simply disperses the ammonia to the atmosphere and that the ammonia thus released will eventually reappear in the water cycle.

Air stripping of ammonia is one technology available to meet the effluent limitations. Other alternatives (such as steam stripping or urea hydrolysis) produce no discharge of ammonia to the atmosphere. There are currently no EPA air standards for ammonia and the concentration levels of ammonia resulting from air stripping towers are below the threshold levels of human odor perception.

(11) One commenter complained that separate limitations for each manufacturing element of the nitrogen fertilizer segment (e.g., urea, ammonia, etc.) is impracticable for a complex utilizing a common sewer for all waste water.

While many nitrogen fertilizer plants do produce more than one element, that is not necessarily the case. Moreover, for nitrogen fertilized complexes the best practicable control technology involves segregation of process waste waters from the component parts of the complex and design of treatment systems which are capable of adequately treating the specific waste streams. For example, steam stripping of process waste waters from ammonia manufacturing operations is capable of a definitive level of performance. The Agency believes this level of performance should be specified rather than submerged in a generalized numerical limitation composed of the summation of limitations on wastes from other processes.

(12) Several comments reproved the Agency for not taking into account leaks and spills when establishing the proposed guidelines. Other commenters characterized the treatment technologies described in the Development Document as unproved, "State of the Art" and unreliable.

The effluent limitations required by the best practicable control technology currently available are attainable by control systems now in place in plants in this industry (e.g., double liming and steam stripping) and the promulgated limita-

tions reflect the performance of these systems. The effluent limitations required by the best available technology economically achievable represent either the estimated potential performance of existing technology in place in some plants in the industry (e.g., urea hydrolysis and ion exchange) or the estimated capabilities of treatment technologies which are not now in use by the fertilizer industry, but which have successfully treated waste waters of similar characteristics (e.g., biological nitrification—denitrification).

The Agency does not agree that allowances, in the guidelines themselves, for in-process leaks and spills of product are necessary. Good housekeeping practices, efficient operation and prompt maintenance will minimize waste from leaks and spills. Moreover, the waste water which does occur can be segregated from contaminated streams and recovered for dry disposal or reused in the production process.

(13) It was pointed out that more oil can be expected from urea manufacturing than from ammonia manufacturing because of the use of reciprocating pumps in the former.

The data for oil and grease for both subcategories have been carefully reviewed, and it was recognized that the limits are within the range of questionable reproducibility for the standard method of analysis. The option exists to increase the limit to a point where the analysis would be reliable. However, this would in effect allow more oil and grease to be discharged. It is the judgment of EPA that for this particular category oil and grease limitations should be based instead on water quality criteria.

(14) The use of ion exchange for treatment of ammonium nitrate process waste waters was criticized by representatives of three companies. The technology was termed erratic, dangerous, and expensive. In addition, it was claimed that the costs of installing ion exchange equipment would give urea producers an unfair competitive advantage over ammonium nitrate manufacturers.

After further review EPA agrees that the capital costs may prove to be prohibitive for small or marginal plants. The economic feasibility of ion exchange is also highly dependent on whether the recovered concentrated ammonium nitrate solution is saleable.

Ion exchange is a proven treatment technology for ammonium nitrate wastes. However, questions remain regarding the feasibility and consistency of this treatment technology for this particular application. It is classified as best available technology currently available. Limitations for ammonium nitrate, therefore, have been revised to the average of the best levels currently being achieved by plants not using ion exchange.

(15) One commenter requested that the ammonium nitrate and nitric acid subcategories be combined since the two production operations always accompany each other.

Table 1 of the Development Document shows that there are 12 plants that manufacture either ammonium nitrate or nitric acid but not both. The two operations are physically separate even in complexes and there are substantial differences in the manufacturing processes and process water characteristics.

(16) Several comments were received suggesting that the Agency establish separate limitations in the ammonium nitrate subcategory for those plants which employ prilling towers.

Most ammonium nitrate is prilled. At the time the proposed regulations were developed, the Agency did not have sufficient data to establish limitations for nonprilling ammonium nitrate plants. Hence the proposed limitations were based on plants which do prill their product. Separate limitations based on the Agency's review of additional data are included in the promulgated regulations.

(17) It was argued that manufacturing operations other than ammonia will absorb airborne ammonia in cooling towers located in a nitrogen complex. Furthermore, placing ammonia limits on non-contact cooling water was said to penalize those operations that maximize water recycle, since once-through cooling water will not absorb airborne ammonia. Conversely, it was argued by other commenters that limitations on the amounts of zinc and chromium which may be discharged in recirculated cooling water should be added.

The problem of ammonia absorption in cooling waters is complex in that a standard raw waste load is impossible to calculate because of the variability of air leaks in the process, wind direction and temperature. The Agency proposes to develop guidelines regulating the discharge of noncontact cooling water at a future date. That regulation when promulgated will apply to discharges of noncontact cooling water from point sources in the fertilizer category. However, the limitations now promulgated do apply to non-contact cooling water that is contaminated by process waste water since by definition the former then becomes process waste water.

(18) Apparent typographical errors in the proposed regulation were pointed out.

The errors apparently occurred in typesetting and an errata was published in the FEDERAL REGISTER on January 9, 1974 (39 FR 1454).

(19) A representative of one company complained that nitrogen fertilizer solutions were not covered in the regulation.

Ammonia, urea, ammonium nitrate and nitric acid solutions are covered by this regulation. The Agency considers the prevention of leaks and spillage resulting from making solutions to be one of adequate housekeeping. Hence, the regulation need not and should not contain an additional allowance for pollution from such operations.

(20) Two commenters stated that in view of the changing economy and energy situation the overall cost to benefit ratio must be weighed for the 1983 standards.

While the Act does not require that an explicit "cost/benefit" exercise be under-

taken in establishing the effluent limitations guidelines attainable by the best available control technology economically achievable, it does require that the guidelines are to be revised annually if appropriate. If factors such as those mentioned indicate that a change is necessary the 1983 guidelines can be revised. At present, however, neither the economic impact nor the energy consumption implications of the 1983 standards appear unreasonable.

(21) Four contributors requested that all the data used to formulate the guidelines be divulged.

Summaries of the data used to formulate the standards appear in the Development Document. The raw data may be reviewed at the EPA Information Center as explained in the preamble to the proposed regulation.

(22) A commenter stated that the guidelines should be based on an industry-wide average not just on exemplary plants.

The Agency believes that the language of the Act, and its legislative history, preclude that approach. Congress, in the Agency's view, intended that the best practicable control technology currently available be determined by reference to the average of the best existing performances by plants of various sizes, ages, and unit processes within each industrial category. This average is to be based not on a broad range of plants but on the performance levels attained by exemplary plants within each category or subcategory.

(23) Several commenters questioned the validity of the cost data and economic analysis and stressed that many small and older plants would be closed as the result of the costs of pollution control equipment.

The costs were determined by a contractor highly knowledgeable in the fertilizer industry. Many of the cost arguments concerned very localized problems that cannot be accounted for in a general cost estimate. Many of the objections to costs and adverse economic impact should be settled as the result of assessment of new data submitted to the EPA and the subsequent changes made in the regulation. The effects of these modifications are explained in the economic impact portion of this preamble.

(24) Several commenters also questioned the severity of the standards for the daily maximum. Some commenters claimed that the EPA has declared the existing treatment to be wholly inadequate and has used the average of the best plants which are too few to be representative.

Data from this industry indicate that a factor of two between the 30 day averages and the daily maxima are reasonable for the treatment technologies cited in the Development Document. The additional allowance requested for the daily maxima are based on leaks and spills. This issue is discussed in comment (12).

All of the proposed standards are based on treatment technology currently in place in the industry. Because of the general inadequacy of waste treatment

within the industry, there are only a few plants in some subcategories that were deemed to exhibit exemplary performance. As a result of new data and public comment certain proposed standards have been revised to reflect the performance of the exemplary plants in each subcategory.

(25) There was considerable concern expressed as to effect on production by high energy demanding treatment systems in light of the current energy allocation practices. In particular, it was charged that implementation of the proposed standards will worsen the current fertilizer shortage and will in turn decrease food production.

Studies indicate that the economic impact to this industry will be minimal since ion exchange is no longer required to meet ammonium nitrate limitations. These issues are discussed in the economic impact section of this preamble. The energy increase is less than 2% for application of the best practicable control technology. Alternatives that use less energy do not satisfactorily control pollution.

(26) The Effluent Standards and Water Quality Information Advisory Committee technique of establishing limits was supported by one commenter.

The Committee's proposal is under evaluation as a contribution toward future refinements of guidelines for some industries. The Committee has indicated that its proposed methodology could not be developed in time to be available for the current phase of guideline promulgation, which is proceeding according to a court-ordered schedule. Its present state of development does not provide sufficient evidence to warrant the Agency's delaying issuance of any standard in hopes that an alternative approach might be preferable.

(27) It was suggested that concentrations (mg/l) should be used instead of production-based limitations.

Expressing effluent limitations in mass units related to production (kg of pollutant per kkg of product) rather than in concentrations insures that limitations are not met by the simple expedient of diluting the waste stream. Limitations for the phosphate subcategory were given in concentration units because discharges are related solely to rainfall not production.

(28) It was suggested that only *Standard Methods* be used and not newly determined EPA methods and that the pollutant parameters should be defined according to the method of analysis.

The methods of analysis to be used for quantitative analysis of waste water parameters were promulgated in the *FEDERAL REGISTER* on October 16, 1973, at 40 CFR Part 136. The General Provisions (40 CFR Part 401) have been revised to define all pollutants or pollutant properties by the method of analysis.

(29) It was commented that §§ 418.15, 418.25, 418.35, 418.45 and 418.55 of the proposed regulation can be interpreted as applying to existing sources.

The title to each section as well as the text clearly indicate that the limitations apply only to new sources.

(30) It was pointed out that nitrogen in the form of one species can be naturally converted to another form (e.g. ammonia to nitrite to nitrate) and that the guidelines should take this into account.

This conversion occurs at a slow rate and specific conditions must be met before the reaction can occur. Most of the technologies cited in the Development Document operate continuously, and it is doubtful whether nitrification or other conversion reactions will have the time to occur. For the remaining technologies where ponds are used, the treatment technologies either prevent entry of nitrogen into the pond or treat the alternate forms of nitrogen. An example of the latter are nitrification and denitrification systems.

(31) Concern was expressed regarding fluorine emissions from gypsum ponds.

With proper treatment using lime, fluoride will be precipitated and fluorine emissions to the air will be negligible.

(32) One commenter stated that the regulation should specify that the secondary pollution parameters listed in the Development Document and suggested to be monitored are not subject to limitations.

The regulation specifies those parameters that describe the respective level of treatment technology. Additional parameters may be regulated at the time of permit issuance for a particular plant, if such regulation is necessary to insure water quality. The regulation has been revised to indicate that only those parameters specifically listed are subject to it.

(33) The meaning of no discharge of pollutants was questioned.

No discharge of pollutants means that there should be no measurable quantity of pollutants discharged as determined by the detectable limit of the corresponding analytical method. In cases where no discharge of pollutants is promulgated the standard can be met by total recirculation systems in which no discharge of any water is necessary. Such model treatment and recirculation systems are described in the Development Document.

(34) One commenter stated that the standard for sulfuric acid for the inorganic chemicals category and the fertilizer category should be the same since the same process is used.

The 1977, 1983 and new source limitations for the manufacture of sulfuric acid in the inorganic chemicals category is no discharge of process waste water pollutants. No discharge of process waste water and detection and retention of leaks of process water into the non-contact cooling water has been determined to represent best practicable control technology currently available for the manufacture of sulfuric acid in the fertilizer category. Therefore, no inconsistency exists.

(35) One commenter wanted to know why a total suspended solids limitation

was not proposed for the nitrogen fertilizer subcategories.

The data did not indicate that this parameter was a process waste water pollutant. Hence, no limitation was given.

(36) A commenter stated that the limitations should be used as guidelines and not rigid standards by a Regional Administrator in implementing the NPDES program.

The Act intends that uniform standards be set for each category. In establishing the limitations for the fertilizer category EPA took into account all information it was able to collect, develop and solicit with respect to factors such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs which can affect the industry subcategorization and effluent limits established. If an individual discharger can prove that factors relating to the equipment of facilities involved, the process applied, or other factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines, the Regional Administrator or the State can establish limitations in the NPDES permit more or less stringent than the effluent guidelines limitations.

(b) *Revision of the proposed regulation prior to promulgation.* As a result of public comments and continuing review and evaluation of the proposed regulation by EPA the following changes have been made in the regulation.

(1) Minor adjustments have been made to reflect the fact that an increased number of definitions and analytical methods have been included in 40 CFR Part 401 and are incorporated by reference in this subpart.

(2) Examination of new data submitted during the period of public comment and re-evaluation of existing data has shown that the proposed limits in the phosphate subcategory for total phosphorus, nitrogen, and total suspended nonfilterable solids were too severe. These limits were appropriately re-adjusted in response to comments (1) and (6). The pH limits were also raised in answer to comment (9) in order to insure adequate treatment of radium-226.

(3) For the reasons following comment (17) this regulation will not regulate ammonia in noncontact cooling water. A regulation governing discharge of noncontact cooling water will be promulgated at a later date.

(4) Oil and grease limitations have been excluded in the ammonia subcategory for the reason described in comment (13).

(5) The ammonium nitrate subcategory limitations were modified to reflect the fact that ion exchange is considered to be best demonstrated and best available technologies (comment 14). The levels for best practicable control technology currently available reflect the results of good housekeeping at exemplary plants not using ion exchange.

(6) Separate limits for prilled and non-prilled ammonium nitrate are promulgated for the reasons given in answer to comment (16).

(7) Section 304(b)(1)(B) of the Act provides for "guidelines" to implement the uniform national standards of section 301(b)(1)(A). Thus Congress recognized that some flexibility was necessary in order to take into account the complexity of the industrial world with respect to the practicability of pollution control technology. In conformity with the Congressional intent and in recognition of the possible failure of these regulations to account for all factors bearing on the practicability of control technology, it was concluded that some provision was needed to authorize flexibility in the strict application of the limitations contained in the regulation where required by special circumstances applicable to individual dischargers. Accordingly, a provision allowing flexibility in the application of the limitations representing best practicable control technology currently available has been added to each subpart, to account for special circumstances that may not have been adequately accounted for when these regulations were developed.

(c) *Economic impact.* The changes reflected in the final guidelines have not substantially altered the economic analysis presented in the proposed package with the exception of the ammonium nitrate and the ammonium phosphate segments. The revised guidelines for best practicable control technology in the ammonium nitrate subcategory are no longer based upon the use of ion exchange technology. Specifically, under the proposed best practicable control technology currently available guidelines which required ion exchange it was estimated that 16-24 ammonium nitrate plants, representing 16-23 percent of that segment's production capacity, would be forced to shut down. A revised analysis, based on delaying the requirement for ion exchange in this segment until 1983 and for new sources, shows a substantial decrease in the estimated economic impact. Assuming that the current nitrogenous fertilizer shortage continues at least into 1975, the resultant increased revenues coupled with this lower cost requirement for 1977 will maintain the economic viability of many of the most vulnerable ammonium nitrate plants.

The requirement for total recycle in the ammonium phosphate segment has been eliminated from the best practicable technology standards. As a result there will be a major reduction in projected treatment costs for 1977, and the potential for plant closures will decline. The economic impact analysis of the proposed guidelines indicated that 3-16 ammonium phosphate plants, accounting for 7-39 percent of the segment's capacity, could close as the result of pollution control costs. A preliminary revision of the analysis based on the assumption that total recycle is no longer required indicates the plant closure

estimate is now reduced to approximately 0 to 10 plants, representing 0 to 10 percent of total capacity of ammonium phosphate production. Plant closures would affect an estimated maximum of 200 jobs.

It is predicted that the phosphorus fertilizer segment as a whole faces overcapacity by 1975 due to new plant construction, assuming the export market does not expand significantly beyond projected levels. Potential closures within the industry would likely take place in a period of oversupply, thus mitigating the effect of such closures on fertilizer phosphorus supply. Due to uncertainties in the analysis it is not possible to definitively delineate what portion of ammonium phosphate producers would close as the sole result of the 1977 requirements. However, it is felt that pollution control expenditures is one factor in any plant closure decision.

(d) *Cost-benefit analysis.* The detrimental effects of the constituents of waste waters now discharged by point sources within the basic fertilizer chemicals segment of the fertilizer manufacturing point source category are discussed in Section VI of the report entitled "Development Document for Effluent Limitations Guidelines for the Basic Fertilizer Chemicals Segment of the Fertilizer Manufacturing Point Source Category." It is not feasible to quantify in economic terms, particularly on a national basis, the costs resulting from the discharge of these pollutants to our Nation's waterways. Nevertheless, as indicated in Section VI, the pollutants discharged have substantial and damaging impacts on the quality of water and therefore on its capacity to support healthy populations of wildlife, fish and other aquatic wildlife and on its suitability for industrial, recreation and drinking water supply uses.

The total cost of implementing the effluent limitations guidelines includes the direct capital and operating costs of the pollution control technology employed to achieve compliance and the indirect economic and environmental costs identified in Section VIII and in the supplementary report entitled "Economic Analysis of Proposed Effluent Guidelines for the Fertilizer Industry" (November 1973). Implementing the effluent limitations guidelines will substantially reduce the environmental harm which would otherwise be attributable to the continued discharge of polluted waste waters from existing and newly constructed plants in the fertilizer manufacturing industry. The Agency believes that the benefits of thus reducing the pollutants discharged justify the associated costs which, though substantial in absolute terms, represent a relatively small percentage of the total capital investment in the industry.

(e) *Solid waste control.* Solid waste control must be considered. The waterborne wastes from the fertilizer manufacturing industry may contain a considerable volume of metals in various forms as a part of the suspended solids pollutant. Best practicable control tech-

nology and best available control technology as they are known today, require disposal of the pollutants removed from waste waters in this industry in the form of solid wastes and liquid concentrates. In some cases these are nonhazardous substances requiring only minimal custodial care. However, some constituents may be hazardous and may require special consideration. In order to ensure long term protection of the environment from these hazardous or harmful constituents, special consideration of disposal sites must be made. All landfill sites where such hazardous wastes are disposed should be selected so as to prevent horizontal and vertical migration of these contaminants to ground or surface waters. In cases where geologic conditions may not reasonably ensure this, adequate precautions (e.g., impervious liners) should be taken to ensure long term protection to the environment from hazardous materials. Where appropriate the location of solid hazardous materials disposal sites should be permanently recorded in the appropriate office of the legal jurisdiction in which the site is located.

(f) *Publication of information on processes, procedures, or operating methods which result in the elimination or reduction of the discharge of pollutants.* In conformance with the requirements of section 304(c) of the Act, a manual entitled "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Basic Fertilizer Chemicals Segment of the Fertilizer Manufacturing Point Source Category" is being published and will be available for purchase from the Government Printing Office, Washington, D.C. 20401 for a nominal fee.

(g) *Final rulemaking.* In consideration of the foregoing, 40 CFR Chapter I, Subchapter N, is hereby amended by adding a new Part 418, Fertilizer Manufacturing Point Source Category, to read as set forth below. This final regulation is promulgated as set forth below and shall be effective June 7, 1974.

Dated: March 28, 1974.

RUSSELL E. TRAIN,
Administrator

PART 418—FERTILIZER MANUFACTURING POINT SOURCE CATEGORY

Subpart A—Phosphate Subcategory

Sec.	
418.10	Applicability; description of the phosphate subcategory.
418.11	Specialized definitions.
418.12	Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
418.13	Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
418.14	[Reserved]
418.15	Standards of performance for new sources.
418.16	Pretreatment standards for new sources.

Subpart B—Ammonia Subcategory

- Sec.
418.20 Applicability; description of the ammonia subcategory.
418.21 Specialized definitions.
418.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
418.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
418.24 [Reserved]
418.25 Standards of performance for new sources.
418.26 Pretreatment standards for new sources.

Subpart C—Urea Subcategory

- 418.30 Applicability; description of the urea subcategory.
418.31 Specialized definitions.
418.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
418.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
418.34 [Reserved]
418.35 Standards of performance for new sources.
418.36 Pretreatment standards for new sources.

Subpart D—Ammonium Nitrate Subcategory

- 418.40 Applicability; description of the ammonium nitrate subcategory.
418.41 Specialized definitions.
418.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
418.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
418.44 [Reserved]
418.45 Standards of performance for new sources.
418.46 Pretreatment standards for new sources.

Subpart E—Nitric Acid Subcategory

- 418.50 Applicability; description of the nitric acid subcategory.
418.51 Specialized definitions.
418.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
418.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
418.54 [Reserved]
418.55 Standards of performance for new sources.
418.56 Pretreatment standards for new sources.

AUTHORITY: secs. 301, 304(b) and (c), 307(c) of Federal Water Pollution Control Act, as amended (33 U.S.C. 125, 1311, 1314(b) and (c), 1316(b), 1317(c)); 86 Stat. 816 et seq. Pub. L. 92-500).

Subpart A—Phosphate Subcategory

§ 418.10 Applicability; description of the phosphate subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of sulfuric acid by sulfur burning, wet process phosphoric acid, normal superphosphate, triple superphosphate and ammonium phosphate.

§ 418.11 Specialized definitions.

For the purpose of this subpart:
(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "within the impoundment," for the purpose of calculating the volume of process waste water which may be discharged, shall mean the water surface area of the impoundment at maximum capacity.

§ 418.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategory and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this

subpart after application of the best practicable control technology currently available:

(a) Subject to the provisions of paragraphs (b), (c), and (d) of this section, there shall be no discharge of process waste water pollutants into navigable waters.

(b) A process waste water impoundment which is designed, constructed and operated so as to contain the precipitation from the 10 year, 24 hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration, for the area in which such impoundment is located may discharge that volume of process waste water which is equivalent to the volume of precipitation that falls within the impoundment in excess of that attributable to the 10 year, 24 hour rainfall event, when such event occurs.

(c) During any calendar month there may be discharged from a process waste water impoundment either a volume of process waste water equal to the difference between the precipitation for that month that falls within the impoundment and the evaporation within the impoundment for that month, or, if greater, a volume of process waste water equal to the difference between the mean precipitation for that month that falls within the impoundment and the mean evaporation for that month as established by the National Climatic Center, National Oceanic and Atmospheric Administration, for the area in which such impoundment is located (or as otherwise determined if no monthly data have been established by the National Climatic Center).

(d) Any process waste water discharged pursuant to paragraph (c) of this section shall comply with each of the following requirements:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (mg/l)		
Total phosphorus (as P).....	70	35
Fluoride.....	30	15
TSS.....	50	25
pH.....	Within the range 8.0 to 9.5.	
English units (ppm)		
Total phosphorus (as P).....	70	35
Fluoride.....	30	15
TSS.....	50	25
pH.....	Within the range 8.0 to 9.5.	

§ 418.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) Subject to the provisions of paragraph (b) of this section there shall be no discharge of process waste water pollutants into navigable waters.

(b) A process waste water impoundment which is designed, constructed, and operated so as to contain the precipitation from the 25 year, 24 hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration, for the area in which such impoundment is located may discharge that volume of process waste water which is equivalent to the volume of precipitation that falls within the impoundment in excess of that attributable to the 25 year, 24 hour rainfall event, when such event occurs.

§ 418.14 [Reserved]

§ 418.15 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart:

(a) Subject to the provisions of paragraph (b) of this section, there shall be no discharge of process waste water pollutants into navigable waters.

(b) A process waste water impoundment which is designed, constructed, and operated so as to contain the precipitation from the 25 year, 24 hour rainfall event as established by the National Climatic Center, National Oceanic and Atmospheric Administration, for the area in which such impoundment is located may discharge that volume of process waste water which is equivalent to the volume of precipitation that falls within the impoundment in excess of that attributable to the 25 year, 24 hour rainfall event, when such event occurs.

§ 418.16 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the phosphate subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be as follows: There shall be no discharge of process waste water pollutants.

Subpart B—Ammonia Subcategory

§ 418.20 Applicability; description of the ammonia subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of ammonia.

§ 418.21 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "product" shall mean the anhydrous ammonia content of the compound manufactured.

§ 418.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategorization and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Ammonia (as N)...	0.125	0.0625
pH.....	Within the range 6.0 to 9.0.	
English units (pounds per 1,000 lb of product)		
Ammonia (as N)...	0.125	0.0625
pH.....	Within the range 6.0 to 9.0.	

§ 418.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Ammonia (as N).....	0.05	0.025
pH.....	Within the range 6.0 to 9.0.	
English units (pounds per 1,000 lb of product)		
Ammonia (as N).....	0.05	0.025
pH.....	Within the range 6.0 to 9.0.	

§ 418.24 [Reserved]

§ 418.25 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Ammonia (as N) ...	0.11	0.055
pH.....	Within the range 6.0 to 9.0.	
English units (pounds per 1,000 lb of product)		
Ammonia (as N) ...	0.11	0.055
pH.....	Within the range 6.0 to 9.0.	

§ 418.26 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the ammonia subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 418.25; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its

NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced in stringency for that pollutant.

Subpart C—Urea Subcategory

§ 418.30 Applicability; description of the urea subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of urea.

§ 418.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "product" shall mean the urea content of the compound manufactured.

§ 418.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategory and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limita-

tions, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) The following limitations constitute the maximum permissible discharge for urea manufacturing operations in which urea is not prilled:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Ammonia (as N)---	0.075	0.0375
Organic nitrogen (as N)-----	.125	.0625
pH-----	Within the range 6.0 to 9.0	
English units (pounds per 1,000 of product)		
Ammonia (as N)---	0.075	0.0375
Organic nitrogen (as N)-----	.125	.0625
pH-----	Within the range 6.0 to 9.0	

(b) The following limitations constitute the maximum permissible discharge for urea manufacturing operations in which urea is prilled:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Ammonia (as N)...	0.1	0.05
Organic nitrogen (as N).....	.25	.125
pH.....	Within the range 6.0 to 9.0	
English units (pounds per 1,000 lb of product)		
Ammonia (as N)...	0.1	0.05
Organic nitrogen (as N).....	.25	.125
pH.....	Within the range 6.0 to 9.0	

§ 418.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) The following limitations constitute the maximum permissible discharge for urea manufacturing operations in which urea is not prilled:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Ammonia (as N)-----	0.03	0.015
Organic nitrogen (as N)-----	.05	.025
pH-----	Within the range 6.0 to 9.0	
English units (pounds per 1,000 lb of product)		
Ammonia (as N)-----	0.03	0.015
Organic nitrogen (as N)-----	.05	.025
pH-----	Within the range 6.0 to 9.0	

(b) The following limitations constitute the maximum permissible discharge for urea manufacturing operations in which urea is prilled:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Ammonia (as N) ---		
Organic nitrogen (as N) -----	0.03	0.015
pH -----	.075	.0375
	Within the range 6.0 to 9.0.	
English units (pounds per 1,000 lb of product)		
Ammonia (as N) ---		
Organic nitrogen (as N) -----	0.03	0.015
pH -----	.075	.0375
	Within the range 6.0 to 9.0.	

§ 418.34 [Reserved]

§ 418.35 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

(a) The following limitations constitute the maximum permissible discharge for urea manufacturing operations in which urea is not prilled:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Ammonia (as N)...	0.065	0.0325
Organic nitrogen (as N).....	.075	.0375
pH.....	Within the range 6.0 to 9.0	
English units (pounds per 1,000 lb of product)		
Ammonia (as N)...	0.065	0.0325
Organic nitrogen (as N).....	.075	.0375
pH.....	Within the range 6.0 to 9.0	

(b) The following limitations constitute the maximum permissible discharge for urea manufacturing operations in which urea is prilled:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Ammonia (as N)...	0.065	0.0325
Organic nitrogen (as N).....	.125	.0625
pH.....	Within the range 6.0 to 9.0	
English units (pounds per 1,000 lb of product)		
Ammonia (as N)...	0.065	0.0325
Organic nitrogen (as N).....	.125	.0625
pH.....	Within the range 6.0 to 9.0	

§ 418.36 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the urea subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 418.35; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced in stringency for that pollutant.

Subpart D—Ammonium Nitrate Subcategory

§ 418.40 Applicability; description of the ammonium nitrate subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of ammonium nitrate.

§ 418.41 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

(b) The term "product" shall mean the anhydrous ammonium nitrate content of the compound manufactured.

§ 418.42 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors

(such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategory and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available:

(a) The following limitations constitute the maximum permissible discharge for ammonium nitrate manufacturing operations in which ammonium nitrate is produced as an aqueous solution:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Ammonia (as N)...	0.075	0.0375
Nitrate (as N).....	.1	.05
pH.....	Within the range 6.0 to 9.0	
English units (pounds per 1,000 lb of product)		
Ammonia (as N)...	0.075	0.0375
Nitrate (as N).....	.1	.05
pH.....	Within the range 6.0 to 9.0	

(b) The following limitations constitute the maximum permissible discharge for ammonium nitrate manufacturing operations in which ammonium nitrate is prilled or granulated:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Ammonia (as N)---	0.2	0.1
Nitrate (as N)-----	.22	.11
pH-----	Within the range 6.0 to 9.0.	
English units (pounds per 1,000 lb of product)		
Ammonia (as N)---	0.2	0.1
Nitrate (as N)-----	.22	.11
pH-----	Within the range 6.0 to 9.0.	

§ 418.43 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

(a) The following limitations constitute the maximum permissible discharge for ammonium nitrate manufacturing operations in which ammonium nitrate is produced as an aqueous solution:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Ammonia (as N)---	0.015	0.0075
Nitrate (as N)-----	.025	.0125
pH-----	Within the range 6.0 to 9.0	
English units (pounds per 1,000 lb of product)		
Ammonia (as N)---	0.015	0.0075
Nitrate (as N)-----	.025	.0125
pH-----	Within the range 6.0 to 9.0	

(b) The following limitations constitute the maximum permissible discharge for ammonium nitrate manufacturing operations in which ammonium nitrate is prilled or granulated:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Ammonia (as N)---	0.015	0.0075
Nitrate (as N).....	.025	.0125
pH-----	Within the range 6.0 to 9.0.	
English units (pounds per 1,000 lb of product)		
Ammonia (as N)---	0.015	0.0075
Nitrate (as N).....	.025	.0125
pH-----	Within the range 6.0 to 9.0.	

§ 418.44 [Reserved]

§ 418.45 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

(a) The following limitations constitute the maximum permissible discharge for ammonium nitrate manufacturing operations in which ammonium nitrate is produced as an aqueous solution:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Ammonia (as N)...	0.05	0.025
Nitrate (as N).....	.025	.0125
pH.....	Within the range 6.0 to 9.0	
English units (pounds per 1,000 lb of product)		
Ammonia (as N)...	0.05	0.025
Nitrate (as N).....	.025	.0125
pH.....	Within the range 6.0 to 9.0	

(b) The following limitations constitute the maximum permissible discharge for ammonium nitrate manufacturing operations in which ammonium nitrate is prilled or granulated:

Effluent characteristic	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
Metric units (kilograms per 1,000 kg of product)		
Ammonia (as N)...	0.1	0.05
Nitrate (as N).....	.05	.025
pH.....	Within the range 6.0 to 9.0.	
English units (pounds per 1,000 lb of product)		
Ammonia (as N)...	0.1	0.05
Nitrate (as N).....	.05	.025
pH.....	Within the range 6.0 to 9.0.	

§ 418.46 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the ammonium nitrate subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be the standard of performance for new sources specified in 40 CFR 418.45; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced in stringency for that pollutant.

Subpart E—Nitric Acid Subcategory

§ 418.50 Applicability; description of the nitric acid subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of nitric acid used as an intermediate product for the manufacture of fertilizer products or other intermediate products.

§ 418.51 Specialized definitions.

For the purpose of this subpart: (a) Except as provided below, the general definitions, abbreviations and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 418.52 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.

In establishing the limitations set forth in this section, EPA took into account all information it was able to collect, develop and solicit with respect to factors (such as age and size of plant, raw materials, manufacturing processes, products produced, treatment technology available, energy requirements and costs) which can affect the industry subcategory and effluent levels established. It is, however, possible that data which would affect these limitations have not been available and, as a result, these limitations should be adjusted for certain plants in this industry. An individual discharger or other interested person may submit evidence to the Regional Administrator (or to the State, if the State has the authority to issue NPDES permits) that factors relating to the equipment or facilities involved, the process applied, or other such factors related to such discharger are fundamentally different from the factors considered in the establishment of the guidelines. On the basis of such evidence or other available information, the Regional Administrator (or the State) will make a written finding that such factors are or are not fundamentally different for that facility compared to those specified in the Development Document. If such fundamentally different factors are found to exist, the Regional Administrator or the

State shall establish for the discharger effluent limitations in the NPDES permit either more or less stringent than the limitations established herein, to the extent dictated by such fundamentally different factors. Such limitations must be approved by the Administrator of the Environmental Protection Agency. The Administrator may approve or disapprove such limitations, specify other limitations, or initiate proceedings to revise these regulations.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best practicable control technology currently available: There shall be no discharge of process waste water pollutants into navigable waters.

§ 418.53 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

The following limitations establish the quantity or quality of pollutants or pollutant properties which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable: There shall be no discharge of process waste water pollutants into navigable waters.

§ 418.54 [Reserved]

§ 418.55 Standards of performance for new sources.

The following standards of performance establish the quantity or quality of pollutants or pollutant properties which may be discharged by a new source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants into navigable waters.

§ 418.56 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the nitric acid subcategory, which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters), shall be the standard set forth in 40 CFR Part 128, except that, for the purpose of this section, 40 CFR 128.133 shall be amended to read as follows:

In addition to the prohibitions set forth in 40 CFR 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works shall be as follows: There shall be no discharge of process waste water pollutants.

[FR Doc.74-7726 Filed 4-5-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 418]

FERTILIZER MANUFACTURING POINT SOURCE CATEGORY

Proposal on Application of Effluent Limitations Guidelines for Existing Sources to Pretreatment Standards for Incompatible Pollutants

Notice is hereby given pursuant to sections 301, 304, and 307(b) of the Federal Water Pollution Control Act, as amended (the Act); 33 U.S.C. 1251, 1311, 1314, and 1317(b); 86 Stat. 816 et seq.; Pub. L. 92-500, that the proposed regulation set forth below concerns the application of effluent limitations guidelines for existing sources to pretreatment standards for incompatible pollutants. The proposal will amend 40 CFR Part 418—Fertilizer Manufacturing Point Source Category, establishing for each subcategory therein the extent of application of effluent limitations guidelines to existing sources which discharge to publicly owned treatment works. The regulation is intended to be complementary to the general regulation for pretreatment standards set forth at 40 CFR 128. The general regulation was proposed July 19, 1973 (38 FR 19236), and published in final form on November 8, 1973 (38 FR 30982).

The proposed regulation is also intended to supplement a final regulation being simultaneously promulgated by the Environmental Protection Agency (EPA or Agency) which provides effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources within the phosphate subcategory, the ammonia subcategory, the urea subcategory, the ammonium nitrate subcategory, and the nitric acid subcategory of the fertilizer manufacturing point source category. The latter regulation applies to the portion of a discharge which is directed to the navigable waters. The regulation proposed below applies to users of publicly owned treatment works which fall within the description of the point source category to which the guidelines and standards (40 CFR Part 418) promulgated simultaneously apply. However, the proposed regulation applies to the introduction of incompatible pollutants which are directed into a publicly owned treatment works, rather than to discharges of pollutants to navigable waters.

The general pretreatment standard divides pollutants discharged by users of publicly owned treatment works into two broad categories: "Compatible" and "incompatible." Compatible pollutants are generally not subject to pretreatment standards. (See 40 CFR 128.110 (State or local law) and 40 CFR 128.131 (Prohibited wastes) for requirements which may be applicable to compatible pollutants). Incompatible pollutants are subject to pretreatment standards as provided in 40 CFR 128.133, which provides as follows:

In addition to the prohibitions set forth in § 128.131, the pretreatment standard for

incompatible pollutants introduced into a publicly owned treatment works by a major contributing industry not subject to section 307(c) of the Act shall be, for sources within the corresponding industrial or commercial category, that established by a promulgated effluent limitations guidelines defining best practicable control technology currently available pursuant to sections 301(b) and 304(b) of the Act; *Provided*, That, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutant; *And provided further*, That when the effluent limitations guidelines for each industry is promulgated, a separate provision will be proposed concerning the application of such guidelines to pretreatment.

The regulation proposed below is intended to implement that portion of § 128.133, above, requiring that a separate provision be made stating the application to pretreatment standards of effluent limitations guidelines based upon best practicable control technology currently available.

Questions were raised during the public comment period on the proposed general pretreatment standard (40 CFR Part 128) about the propriety of applying a standard based upon best practicable control technology currently available to all plants subject to pretreatment standards. In general, EPA believes the analysis supporting the effluent limitations guidelines is adequate to make a determination regarding the application of those standards to users of publicly owned treatment works. However, to ensure that those standards are appropriate in all cases, EPA now seeks additional comments focusing upon the application of effluent limitations guidelines to users of publicly owned treatment works.

Sections 418.15, 418.25, 418.35, 418.45, and 418.55 of the proposed regulation for point sources within the phosphate subcategory, the ammonia subcategory, the urea subcategory, the ammonium nitrate subcategory and the nitric acid subcategory respectively (December 7, 1973; 38 FR 33852), contained the proposed pretreatment standards for new sources. The regulation promulgated simultaneously herewith contains §§ 418.16, 418.26, 418.36, 418.46, and 418.56 which state the applicability of standards of performance for purposes of pretreatment standards for new sources.

A preliminary Development Document was made available to the public at approximately the time of publication of the notice of proposed rulemaking and the final Development Document entitled "Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Basic Fertilizer Chemicals Segment of the Fertilizer Manufacturing Point Source Category" is now being published. The economic analysis report entitled "Economic Analysis of Proposed Effluent Guidelines for the Fertilizer Industry." (November 1973) was made available at the time of

proposal. Copies of the preliminary Development Document and economic analysis report will continue to be maintained for inspection and copying during the comment period at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street, SW., Washington, D.C. Copies will also be available for inspection at EPA regional offices and at State water pollution control agency offices. Copies of the Development Document may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C., 20402. Copies of the economic analysis report will be available for purchase through the National Technical Information Service, Springfield, Virginia, 22151.

On June 14, 1973, the Agency published procedures designed to insure that, when certain major standards, regulations, and guidelines are proposed, an explanation of their basis, purpose and environmental effects is made available to the public. (38 FR 15653) The procedures are applicable to major standards, regulations and guidelines which are proposed on or after December 31, 1973, and which either prescribe national standards of environmental quality or require national emission, effluent or performance standards or limitations.

The Agency determined to implement these procedures in order to insure that the public was provided with background information to assist it in commenting on the merits of a proposed action. In brief, the procedures call for the Agency to make public the information available to it delineating the major environmental effects of a proposed action, to discuss the pertinent nonenvironmental factors affecting the decision, and to explain the viable options available to it and the reasons for the options selected.

The procedures contemplate publication of this information in the FEDERAL REGISTER, where this is practicable. They provide, however, that where such publication is impracticable because of the length of these materials, the material may be made available in an alternate format.

The Development Document referred to above contains information available to the Agency concerning the major environmental effects of the regulation proposed below. The information includes: (1) The identification of pollutants present in waste waters resulting from the manufacture of fertilizer, the characteristics of these pollutants, and the degree of pollutant reduction obtainable through implementation of the proposed standard; and (2) the anticipated effects on other aspects of the environment (including air, subsurface waters, and noise) of the treatment technologies available to meet the standard proposed.

The Development Document and the economic analysis report referred to above also contain information available to the Agency regarding the estimated cost and energy consumption implications of those treatment technologies and the potential effects of those costs on the price and production of fertilizer. The two reports exceed, in the aggregate, 100

pages in length and contain a substantial number of charts, diagrams and tables. It is clearly impracticable to publish the material contained in these documents in the FEDERAL REGISTER. To the extent possible, significant aspects of the material have been presented in summary form in the preamble to the proposed regulation containing effluent limitations guidelines, new source performance standards and pretreatment standards for new sources within the fertilizer category (38 FR 33852; December 7, 1973). Additional discussion is contained in the analysis of public comments on the proposed regulation and the Agency's response to those comments. This discussion appears in the preamble to the promulgated regulation (40 CFR Part 418) which currently is being published in the rules and regulations section of the FEDERAL REGISTER.

The options available to the Agency in establishing the level of pollutant reduction obtainable through the best practicable control technology currently available, and the reasons for the particular level of reduction selected are discussed in the documents described above. In applying the effluent limitations guidelines to pretreatment standards for the introduction of incompatible pollutants into municipal systems by existing sources in the fertilizer manufacturing category, the Agency has, essentially, three options. The first is to declare that the guidelines do not apply. The second is to apply the guidelines unchanged. The third is to modify the guidelines to reflect: (1) Differences between direct dischargers and plants utilizing municipal systems which affect the practicability of the latter employing the technology available to achieve the effluent limitations guidelines; or (2) characteristics of the relevant pollutants which require higher levels of reduction (or permit less stringent levels) in order to insure that the pollutants do not interfere with the treatment works or pass through them untreated.

The first option, which would leave the introduction of incompatible pollutants unregulated by a national pretreatment standard, is inappropriate in view of the information available to the Agency concerning the effects of those pollutants in the fertilizer manufacturing category and the available treatment technologies. In general, the Agency believes that treatment levels required of plants utilizing municipal systems should be comparable to those applicable to direct dischargers so that use of such systems does not result in higher levels of ultimate pollutant discharge to the navigable waters or in any unjustified economic advantage.

For the phosphate subcategory the raw process waste water contains significant quantities of total phosphorus and fluorides. In addition, harmful amounts of metals such as cadmium and of radioactive elements such as radium-226 are found in the gypsum pond process waste water.

For the ammonia subcategory the principal waste water constituent is ammonia nitrogen.

For the urea subcategory the raw process waste water contains large quantities of ammonia and organic nitrogen.

For the ammonium nitrate subcategory the principal waste water constituents are ammonia and nitrate nitrogen.

For the nitric acid subcategory nitrate nitrogen is the principal process waste water constituent.

In all of the above subcategories one or more of the listed process waste water pollutants could interfere with the operation of publicly owned treatment works, pass through such works untreated or inadequately treated or otherwise be incompatible with such treatment works. The information available to the Agency does not indicate differences between plants which discharge directly to navigable waters and those which could utilize municipal systems significant enough to warrant varying the effluent limitations guidelines. Accordingly it is the opinion of the EPA that these process waste waters should be treated to the level required by the application of the best practicable control technology currently available before discharge of these materials to publicly owned treatment works. In those cases in which the publicly owned treatment works is committed in its NPDES permit to eliminate a specified percentage of an incompatible pollutant in its process waste waters, the pretreatment standard for users of such works will, except in the case of a standard specifying no discharge of pollutants, be correspondingly reduced.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the EPA Information Center, Environmental Protection Agency, Washington, D.C. 20460, Attention: Mr. Philip B. Wisman. Comments on all aspects of the proposed regulations are solicited. In the event comments are in the nature of criticisms as to the adequacy of data which are available, or which may be relied upon by the Agency, comments should identify and if possible provide any additional data which may be available and should indicate why such data are essential to the development of the regulations. In the event comments address the approach taken by the Agency in establishing pretreatment standards for existing sources, EPA solicits suggestions as to what alternative approach should be taken and why and how this alternative better satisfies the detailed requirements of sections 301, 304, and 307(b) of the Act.

A copy of all public comments will be available for inspection and copying at the EPA Information Center, Room 227, West Tower, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. The EPA information regulations, 40 CFR Part 2, provides that a reasonable fee may be charged for copying.

In consideration of the foregoing, it is

hereby proposed that 40 CFR Part 418 be amended to add §§ 418.14, 418.24, 418.34, 418.44, and 418.54 as set forth below. All comments received by May 8, 1974, will be considered.

Dated: March 28, 1974.

RUSSELL E. TRAIN,
Administrator.

Part 418 is proposed to be amended as follows:

1. Subpart A is amended by adding § 418.14 as follows:

§ 418.14 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR 128.133, the effluent limitations guidelines set forth in 40 CFR 418.12 above shall apply and, subject to the provisions of 40 CFR Part 128 concerning pretreatment, process waste water pollutants from this subcategory may not be introduced into a publicly owned treatment works, except in compliance with such limitations.

2. Subpart B is amended by adding § 418.24 as follows:

§ 418.24 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR 128.133, the effluent limitations guidelines set forth in 40 CFR 418.22 above shall apply and, subject to the provisions of 40 CFR Part 128 concerning pretreatment, process waste water pollutants from this subcategory may not be introduced into a publicly owned treatment works, except in compliance with such limitations.

3. Subpart C is amended by adding § 418.34 as follows:

§ 418.34 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR 128.133, the effluent limitations guidelines set forth in 40 CFR 418.32 above shall apply and, subject to the provisions of 40 CFR Part 128 concerning pretreatment, process waste water pollutants from this subcategory may not be introduced into a publicly owned treatment works, except in compliance with such limitations.

4. Subpart D is amended by adding § 418.44 as follows:

§ 418.44 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR 128.133, the effluent limitations guidelines set forth in 40 CFR 418.42 above shall apply and, subject to the provisions of 40 CFR Part 128 concerning pretreatment, process waste water pollutants from this subcategory may not be introduced into a publicly owned treatment works, except in compliance with such limitations.

PROPOSED RULES

5. Subpart E is amended by adding § 418.54 as follows:

§ 418.54 Pretreatment standards for existing sources.

For the purpose of pretreatment standards for incompatible pollutants established under 40 CFR 128.133, the effluent limitations guidelines set forth in 40 CFR

418.52 above shall apply and, subject to the provisions of 40 CFR Part 128 concerning pretreatment, process waste water pollutants from this subcategory may not be introduced into a publicly owned treatment works, except in compliance with such limitations.

[FR Doc. 74-7724 Filed 4-5-74; 8:45 am]

federal register

MONDAY, APRIL 8, 1974
WASHINGTON, D.C.

Volume 39 ■ Number 68

PART IV



FEDERAL ENERGY OFFICE

■

PROPANE ALLOCATION PROGRAM

Proposed Revisions

FEDERAL ENERGY OFFICE
[10 CFR Part 211]
PROPANE ALLOCATION PROGRAM
Proposed Revisions

The Federal Energy Office hereby gives notice of a proposal to amend Title 10 of the Code of Federal Regulations, Part 211.

The proposed revision would provide a propane allocation program which encompasses on entire calendar year, and integrates the allocation rules for propane more completely into FEO's regulatory framework. In addition, as FEO anticipates a shift from an extreme short supply situation to a situation in the summer months in which the demand for propane is traditionally less, FEO would propose that a more flexible program be initiated to accommodate periods of increased supply. Therefore, the proposed revision of Subpart D (Propane) would provide a program which is more responsive to changing supply/demand situations.

The proposed Subpart D contains several significant modifications of the current propane program which should be noted. The existing propane program which has a base period of October 3, 1972, to April 30, 1973, would be modified to provide quarterly base periods based upon the period April 1, 1972, through March 31, 1973.

The allocation levels provided in § 211.83 would be conformed to the proposed revision of Part 211 for which a notice of proposed rulemaking was published in the FEDERAL REGISTER on March 29, 1974. In essence, these changes would clearly state that the allocation levels of "agricultural production" and "Department of Defense uses" are not subject to an allocation fraction. The allocation levels for industrial and commercial use would be changed to impose a volumetric restraint of 210,000 gallons per year only upon standby volumes. The allocation level for propane dispensing stations in the current § 211.83 would be contained in proposed § 211.85(c).

The proposed revision would also adopt most of rules regarding supplier/purchaser relationships found in § 211.9-13 of the proposed revision of Part 211 published in the FEDERAL REGISTER on March 29, 1974.

The methods of allocation under the proposed program would differ somewhat from those of the present propane program. The current priority/non-priority basis of allocation would be discontinued. The method of allocation under the proposed program would utilize base period volumes for wholesale purchaser-resellers. Wholesale purchaser-consumers and end-users would receive their allocations by reference to the appropriate allocation level for their usage of propane.

The distinction in the present regulations between suppliers and reseller would also be eliminated. However, a new system of rules would be established for pro-

pane suppliers which produce or import part of their available supply. Such suppliers would be defined as "producers" and would be subject to a special set of rules found in proposed § 211.85(d).

Section 211.85(e) would contain a new provision for suppliers which have an allocation fraction greater than one (1.0). This section would require those suppliers with excess supply to increase the allocation level of designated end-users and wholesale purchaser-consumers and then to allocate according to the increased allocation levels.

The present restrictions on release of propane from merchant storage would be discontinued except for those restrictions found in proposed § 211.85(f).

Section 211.85(h) would be added to clarify the fact that propane may be stored during the summer if it is both a normal business practice and the amount to be stressed constitutes a reasonable amount of heating season usage.

The reporting requirements presently found in § 211.86 would be changed to conform to the reporting procedures of proposed Subpart L which was published in the FEDERAL REGISTER on March 29, 1974.

Interested persons are invited to participate in this rulemaking by submitting written data, views or arguments with respect to the proposed regulations set forth in this notice to the Executive Secretariat, Federal Energy Office, Box AG, Washington, D.C. 20461.

Comments should be identified on the outside envelope and on the documents submitted to the Federal Energy Office Executive Secretariat with the designation "Proposed Revision of Subpart D." Fifteen copies should be submitted. All comments received by April 15, 1974, and all other relevant information will be considered by the Federal Energy Office before final action is taken on the proposed regulations.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, E.O. 11748; 38 FR 33575; Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743, Pub. L. 93-28, 87 Stat. 27; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 47, 39 FR 24.)

In consideration of the foregoing it is proposed to amend Subpart D of Part 211, Chapter II, Title 10 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., April 5, 1974.

WILLIAM N. WALKER,
 General Counsel,
 Federal Energy Office.

Subpart D of Part 211 is revised to read as follows:

Subpart D—Propane

- Sec.
 211.81 Scope.
 211.82 Definitions.
 211.83 Allocation levels.
 211.84 Supplier/purchaser relationships.
 211.85 Method of allocation.
 211.86 Producers and reporting requirements.

Subpart D—Propane

§ 211.81 Scope.

(a) This subpart describes the allocation program for propane and propane-butane mixes produced in or imported into the United States. This subpart does not apply to:

- (1) Ethane;
- (2) Sales of bottled propane; and
- (3) Propane in mixtures of light hydrocarbons produced in a refinery and used in that refinery for use other than as a feedstock.

(b) This subpart provides for a State set-aside.

§ 211.82 Definitions.

For purposes of this subpart—
 "Based period" means each calendar quarter during the period April 1, 1972, through March 31, 1973, which corresponds to the present calendar quarter.

"Bottled propane" means propane bottled in cylinders with a capacity of one hundred (100) pounds or less, provided that the cylinders are not manifolded at the time of sale.

"Ethane" means a hydrocarbon whose chemical composition is C₂H₆.

"Merchant storage facility" means any facility which is utilized to store propane for firms other than the owner or operator of such a facility.

"Plant protection fuel" means the use of propane in the minimum volume required to prevent physical harm to the plant facilities or danger to plant personnel. This includes the protection of such material and equipment which would otherwise be damaged, but does not include sufficient quantities of propane required to maintain plant production. Propane may not be considered plant protection fuel if an alternate fuel is available and technically feasible for substitution.

"Producer" means a refiner, an operator of a processing plant, or an importer which imports more than 2,000,000 gallons per year.

"Producer-purchaser" means a producer which purchases or obtains propane from another producer.

"Producer-supplier" means a producer which supplies propane to another producer.

"Process fuel" means propane used to convert a substance from one form to another such as in applications requiring precise temperature controls or precise flame characteristics. Propane may not be considered process fuel if an alternate fuel is available and technically feasible for substitution.

"Propane" means hydrocarbon whose chemical composition is predominantly C₃H₈, including propane (i) in raw mixed streams of natural gas liquids, whether or not further fractionated or processed to recover propane, and (ii) propane-butane mixes.

"Propane-butane mix" means a mix containing ten (10) percent or more propane by weight.

"Standby volumes" means those volumes of propane used by an industry as a temporary substitute for a primary fuel (such as natural gas) in times of shortage or curtailment of the primary fuel.

"Where no substitute for propane is available" means those circumstances in which no alternate fuel is available or in which a firm has historically relied upon propane as its sole fuel source.

§ 211.83 Allocation levels.

(a) *General.* The allocation levels in this paragraph only apply to allocations made by suppliers or producers to wholesale purchaser-consumers and end-users. Except as otherwise provided in this subpart, suppliers shall allocate to all purchasers to which the allocation levels apply in accordance with the provisions of § 211.10. End-users and wholesale purchaser-consumers which are entitled to purchase propane under an allocation level not subject to an allocation fraction shall receive first priority and be supplied sufficient amounts to meet 100 percent of their allocation requirements. End-users and wholesale purchaser-consumers which are entitled to purchase propane under an allocation level subject to reduction by application of an allocation fraction shall receive second priority.

(b) *Allocation levels not subject to an allocation fraction.* One hundred (100) percent of current requirements for the following uses:

- (1) Agricultural production;
- (2) Department of Defense use as specified in § 211.26.

(c) *Allocation levels subject to an allocation fraction.* (1) One hundred (100) percent of current requirements (as reduced by the application of an allocation fraction) for the following uses:

- (i) Emergency services;
- (ii) Energy production;
- (iii) Sanitation services;
- (iv) Telecommunications services;
- (v) Passenger transportation services;
- (vi) Medical and nursing buildings;
- (vii) Aviation ground support vehicles and equipment;
- (viii) Start-up, testing and flame stability of electrical utility plants.

(2) Ninety-five (95) percent of base period use for all residential use.

(3) Ninety (90) percent of base period use for the following uses:

- (i) Commercial use. The maximum volume which may be obtained for this use, however, is 210,000 gallons per year.
- (ii) Industrial use where no substitute for propane is available. The maximum volume which may be obtained for standby volumes, however, is 210,000 gallons per year or 90 percent of base period volume, whichever is less.

(iii) Transportation services other than passenger transportation services or aviation ground support vehicles, for vehicles equipped to use propane as of December 27, 1973.

(iv) Petrochemical and petrochemical precursor production; and

(v) Schools.

(d) *Gas utilities.* The use of propane for peak shaving by gas utilities is limited to the volumes of propane equal to

those amounts contracted for, held in storage by, or purchased for delivery during the base period, regardless of whether those volumes were used during the period. Propane shall not be used for peak shaving as long as the gas utility continues service during such peak shaving usage to interruptible industrial customers (other than for process fuel, plant protection fuel, or raw material) or to any customer who can use an alternate fuel other than natural gas. An adjustment to base period volume may be obtained pursuant to § 211.13.

§ 211.84 Supplier/purchaser relationships.

Supplier/purchaser relationships shall be as set forth in § 211.9-13, unless otherwise specified in this subpart.

§ 211.85 Method of allocation.

(a) Except as specifically otherwise provided in this subpart, the allocation of propane shall be as specified in § 211.10. Provisions to adjust a wholesale purchaser's base period volume are specified in § 211.13. New wholesale purchasers and end-users are subject to the requirements of § 211.12.

(b) The initial State set-aside level for propane is three (3) percent of a prime supplier's estimated portion of its total supply for that month which will be sold into the State's distribution system for consumption within the state. Section 211.17 shall control the distribution of propane from the state set-aside.

(c) Notwithstanding the provisions of § 211.10, dispensing stations and other wholesale purchaser-resellers which sell only bottled propane to end-users shall be entitled to receive a volume of propane equal to one hundred (100) percent of the volume necessary to supply the current requirements of all end-users purchasing from them, as reduced by application of their supplier's allocation fraction. The maximum volume in excess of base period volume which may be obtained pursuant to this paragraph may not exceed 15,000 gallons per year. Increases in volume necessary to supply the current requirements of all end-users shall be certified by the dispensing station or other wholesale purchaser-reseller to its supplier in the same manner as provided for end-users and wholesale purchaser-consumers entitled to an allocation level of 100 percent of current requirements under § 211.13(d).

(d) Notwithstanding the provisions of § 211.9-13, producers shall allocate their allocable supply in the following manner:

(1) A firm which operates both in the capacity of a producer and in the capacity of a wholesale purchaser-reseller shall only be considered as a producer for purposes of this subpart.

(2) In calculating an allocation fraction, a producer shall comply with the provisions of § 211.10(b) except that the supply obligation of a producer-supplier shall also include the amounts of the adjusted base period volumes of producer-purchasers which purchased from it during the base period. If a producer-purchaser also supplies wholesale pur-

chaser-resellers which have certified amounts of propane to be for ultimate use under an allocation level not subject to an allocation fraction that producer-purchaser may not recertify such amounts to the producer-supplier which supplies it nor may such amounts be excluded from the calculation of the supply obligation of that wholesale purchaser's producer-supplier.

(3) Each producer-supplier shall first allocate to each producer-purchaser which purchased propane from that producer-supplier during the base period a volume of propane equal to the product of the producer-supplier's allocation fraction multiplied times that producer-purchaser's base period use.

(4) Each producer shall secondly allocate from its total supply of propane to wholesale purchasers or end-users in accordance with the provisions of § 211.10 (c).

(5) A wholesale purchaser-reseller which receives a certification of allocation requirements not subject to an allocation fraction may recertify those amounts to a producer in the same manner as such amounts may be recertified to a supplier pursuant to 211.12(d).

(e) Notwithstanding any other provision of § 211.9-13, suppliers or producers with an allocation fraction greater than one (1.0) shall allocate their allocable supply in the following manner:

(1) If the allocation fraction of a supplier or producer exceeds one (1.0), the supplier or producer shall make allocations based on an allocation fraction of one (1.0), and shall separately report by certified mail to the National FEO and the appropriate Regional FEO the volume of surplus product available. The National FEO may direct that the product be distributed among other suppliers or producers or be sold to designated wholesale purchasers or end-users.

(2) If the reporting supplier or producer is not notified to the contrary by the National FEO within fifteen (15) days after filing with the National FEO, it shall distribute its excess supplies in accordance with the following increases in allocation levels:

(i) Residential, school and other transportation uses shall be increased to 100 percent of current requirements.

(ii) Industrial use shall be increased to 110 percent of base period volumes for use as a primary fuel, plant protection fuel or process fuel.

(iii) Industrial standby use shall be increased to 100 percent of base period for space heating and other uses.

(iv) Petrochemical and petrochemical precursor production use shall be increased to 110 percent of base period volume.

The supplier or producer shall supply each of its purchasers in accordance with these increased allocation levels until its allocation fraction again equals one (1.0) in accordance with the provisions of § 211.10(c) as modified by paragraph (d) of this section.

(3) If the supplier or producer again reaches an allocation fraction of one (1.0) after supplying all the increased

allocation requirements specified above, it shall again report to the National and Regional FEO. If the reporting supplier is not notified to the contrary by the National FEO within fifteen (15) days after filing, it may distribute the excess volume at its discretion.

(f) Operators of merchant storage facilities shall not release for shipment to gas utilities any quantity of propane which, when taken together with other amounts of propane supplied to that utility for that allocation quarter, exceeds its quantity of propane which may be supplied under the allocation level for utilities in § 212.83(d).

(g) Suppliers or producers with two or more distribution subsystems or regions independent of one another may calculate separate allocation fractions for each such area provided that the supplier or primary producer notifies the FEO by certified mail of the use of multiple allocation fractions and fully justifies such practices at least fifteen days prior to distributing any suppliers

pursuant to multiple allocation fractions. The FEO may disallow the use of multiple allocation fractions to the extent that it determines that such a practice contravenes the intent of this part.

(h) Producers, suppliers and wholesale purchasers shall be permitted to accumulate an inventory of propane during the summer in quantities which are normal and reasonable for heating season usage in accordance with its normal business practices.

(i) Propane used as a feedstock in Synthetic Natural Gas plants shall be allocated in accordance with the appropriate sections of Subpart K of this Part.

§ 211.86 Producers and Reporting Requirements.

(a) All owners of merchant storage facilities (or operators thereof) with a capacity in excess of 500,000 gallons which store propane shall report to the Administrator, FEO, the total volume, locations, and ownership of propane in storage in-

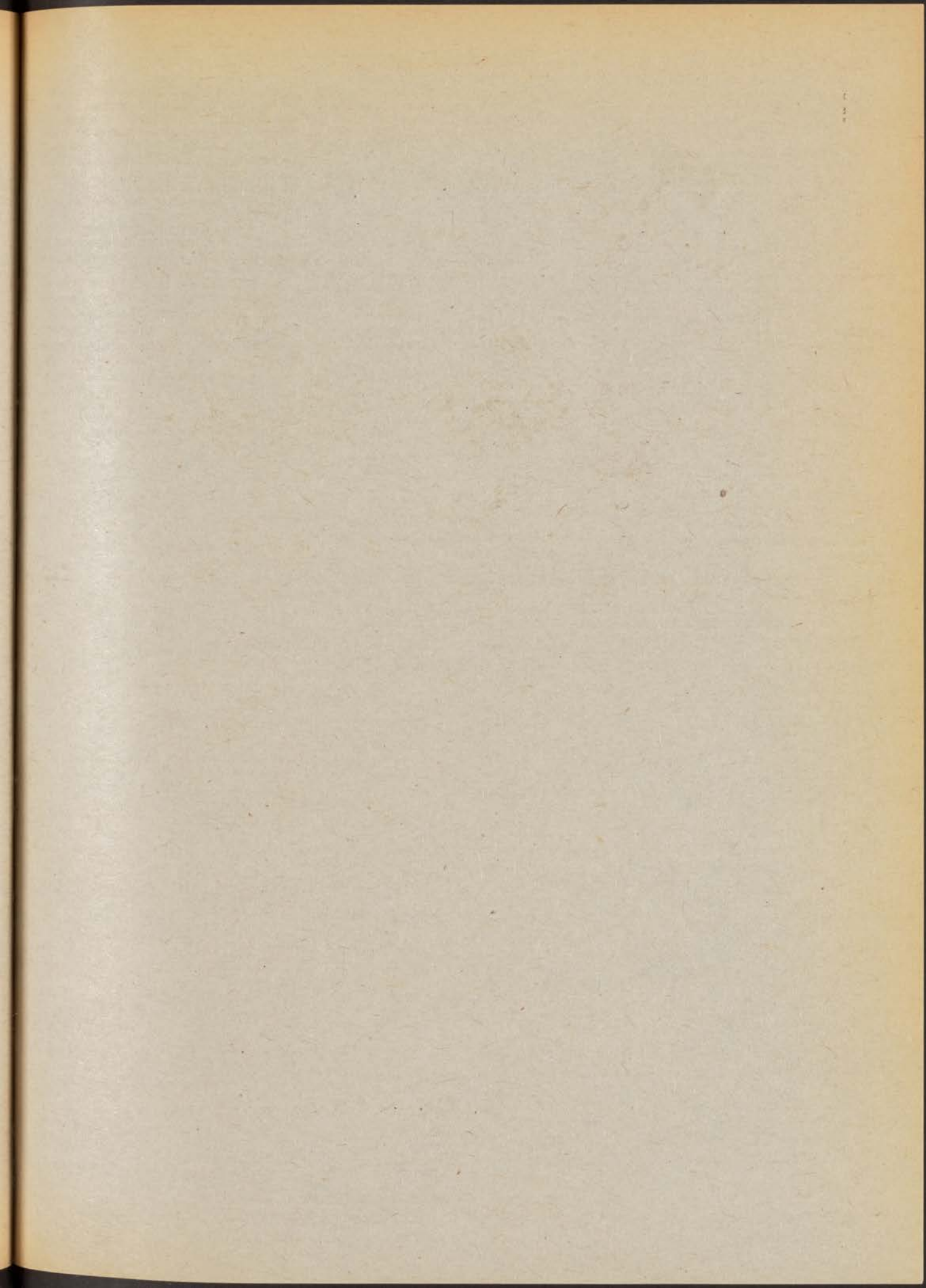
cluding that owned by the storage owner or operator or affiliated companies, and that held in transit. If it is not possible to report each separate account of "in transit" storage, then the total volume shall be reported. This same information shall be reported as of the end of each month on form FEO 103 P and filed within fifteen (15) days after the close of that month.

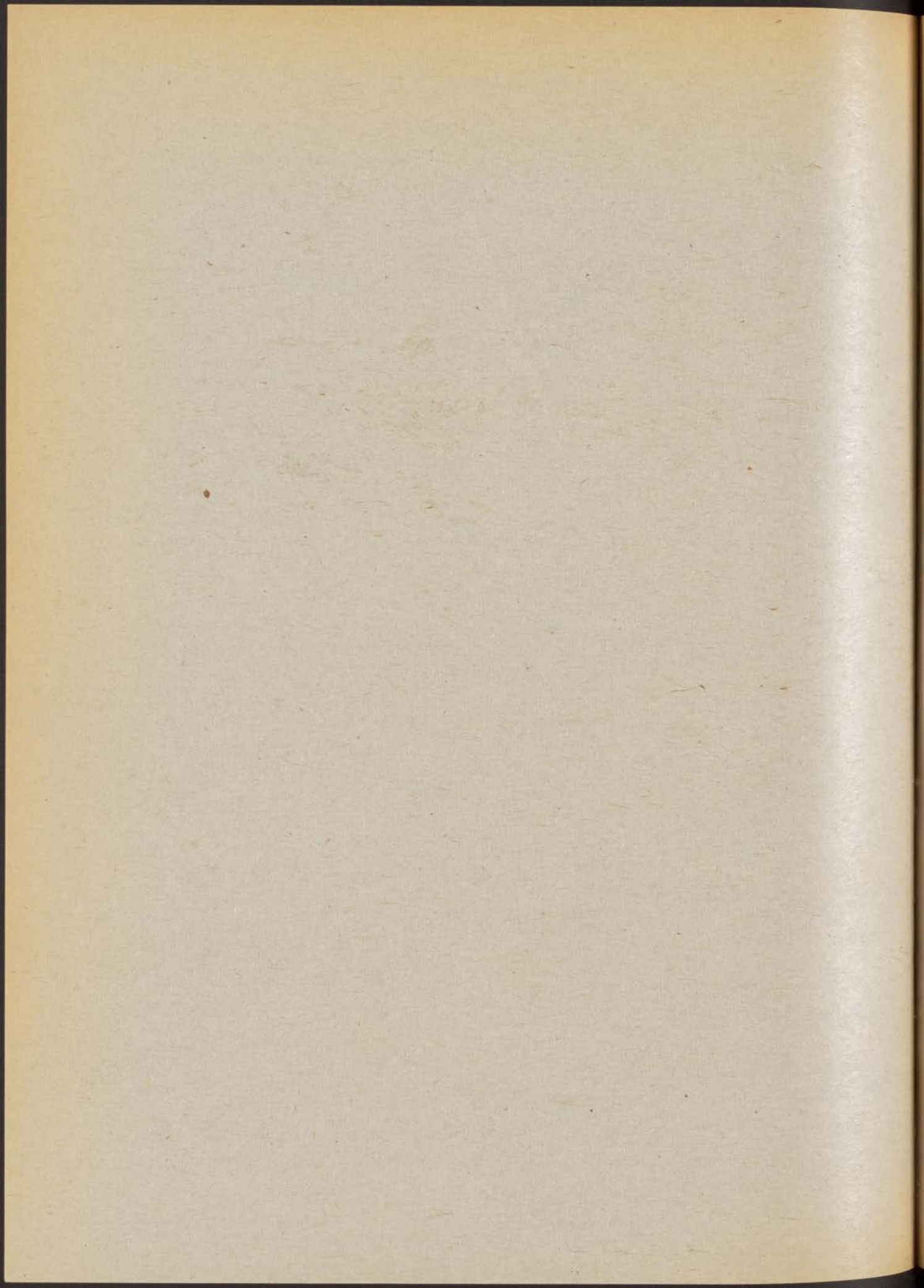
(b) All matters pertaining to the allocation of propane shall be addressed to the appropriate State office or regional FEO office as specified in § 205.13.

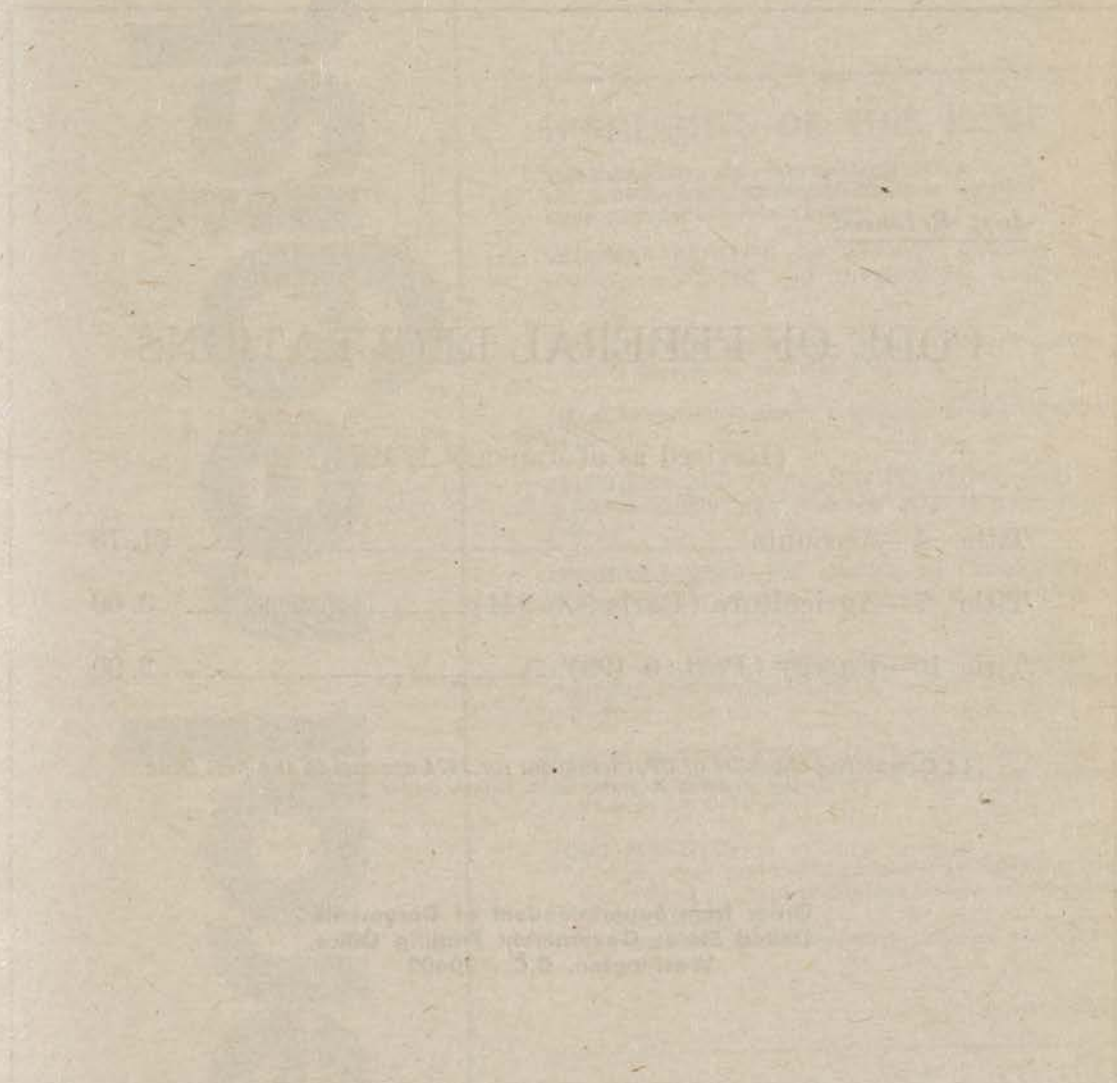
(c) The general reporting and record-keeping requirements contained in subpart L of this Part apply to this subpart.

(d) A hardship application may be submitted to the appropriate State office as provided in § 211.17 for undue hardship to any wholesale purchaser or end-user resulting from the provisions of this subpart.

[FR Doc. 74-8210 Filed 4-5-74; 12:20 pm]







Just Released

CODE OF FEDERAL REGULATIONS

(Revised as of January 1, 1974)

Title 4—Accounts	\$1.75
Title 7—Agriculture (Parts 900-944)	3.60
Title 10—Energy (Parts 0-199)	3.90

[A Cumulative checklist of CFR issuances for 1974 appears in the first issue of the Federal Register each month under Title 1]

Order from Superintendent of Documents,
United States Government Printing Office,
Washington, D.C. 20402