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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.

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reminders

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

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AGENCY ABBREVIATIONS USED IN HIGHLIGHTS AND REMINDERS

USDA—AGRICULTURE DEPARTMENT

AMS—Agricultural Marketing Service
ARS—Agricultural Research Service
ASCS—Agricultural Stabilization and Conservation Service
APHIS—Animal and Plant Health Inspection Service
CCC—Commodity Credit Corporation
CEA—Commodity Exchange Authority
EMS—Export Marketing Service
FmHA—Farmers Home Administration
FCIC—Federal Crop Insurance Corporation
FAS—Foreign Agricultural Service
FNS—Food and Nutrition Service
FS—Forest Service
PSA—Packers and Stockyards Administration
REA—Rural Electrification Administration
RTB—Rural Telephone Bank
SCS—Soil Conservation Service

COMMERCE—COMMERCE DEPARTMENT

Census—Census Bureau
DIBA—Domestic and International Business Administration
EDA—Economic Development Administration
MA—Maritime Administration
NBS—National Bureau of Standards
NOAA—National Oceanic and Atmospheric Administration
NTIS—National Technical Information Service
MBE—Minority Business Enterprise Office
Patent—Patent Office
SESA—Social and Economic Statistics Administration
USTS—United States Travel Service

DOD—DEFENSE DEPARTMENT

Air—Air Force Department
Army—Army Department
DIA—Defense Intelligence Agency
DSA—Defense Supply Agency
Engineers—Engineers Corps
Navy—Navy Department

HEW—HEALTH, EDUCATION, AND WELFARE DEPARTMENT

CDC—Disease Control Center
FDA—Food and Drug Administration
HRA—Health Resources Administration
HSA—Health Services Administration
NIH—National Institutes of Health
OE—Education Office
PHS—Public Health Service
SRS—Social and Rehabilitation Service
SSA—Social Security Administration

HUD—HOUSING AND URBAN DEVELOPMENT DEPARTMENT

FDAA—Federal Disaster Assistance Administration
FIA—Federal Insurance Administration
GNMA—Government National Mortgage Association
ILSRO—Interstate Land Sales Registration Office

INTERIOR—INTERIOR DEPARTMENT

BPA—Bonneville Power Administration
BIA—Indian Affairs Bureau
BLM—Land Management Bureau
FWS—Fish and Wildlife Service
GS—Geological Survey
MESA—Mining Enforcement and Safety Administration
Mines—Mines Bureau
NPS—National Park Service
OHA—Hearings and Appeals Office
Oil & Gas—Oil and Gas Office
Reclamation—Reclamation Bureau

JUSTICE—JUSTICE DEPARTMENT

DEA—Drug Enforcement Administration
INS—Immigration and Naturalization Service
LEAA—Law Enforcement Assistance Administration

LABOR—LABOR DEPARTMENT

BLS—Labor Statistics Bureau
ESA—Employment Standards Administration
FCCO—Federal Contract Compliance Office
Manpower—Manpower Administration
OSHA—Occupational Safety and Health Administration
W&H—Wage and Hour Division

STATE—STATE DEPARTMENT

AID—Agency for International Development

DOT—TRANSPORTATION DEPARTMENT

CG—Coast Guard
FAA—Federal Aviation Administration
FHA—Federal Highway Administration
FRA—Federal Railroad Administration
NHTSA—National Highway Traffic Safety Administration
St. Lawrence Seaway—Saint Lawrence Seaway Development Corporation
UMTA—Urban Mass Transportation Administration

TREASURY—TREASURY DEPARTMENT

AT&F—Alcohol, Tobacco and Firearms Bureau
Customs—Customs Service
Comptroller—Comptroller of the Currency
ESO—Economic Stabilization Office (temporary)
FS—Fiscal Service
IRS—Internal Revenue Service

INDEPENDENT AGENCIES

AEC—Atomic Energy Commission
CAB—Civil Aeronautics Board
CASB—Cost Accounting Standards Board
CEQ—Council on Environmental Quality
CITA—Textile Agreements Implementation Committee
CPSC—Consumer Product Safety Commission
CRC—Civil Rights Commission
CSC—Civil Service Commission
EEOC—Equal Employment Opportunity Commission
EPA—Environmental Protection Agency
FCC—Federal Communications Commission
FDIC—Federal Deposit Insurance Corporation
FEA—Federal Energy Administration
FHLBB—Federal Home Loan Bank Board
FPC—Federal Power Commission
FTC—Federal Trade Commission
GSA—General Services Administration
GSA/FMPO—Federal Management Policy Office
GSA/FSS—Federal Supply Service
GSA/PBS—Public Buildings Service
HMRB—Hazardous Materials Regulations Board
ICC—Interstate Commerce Commission
ICP—Interim Compliance Panel
NARS—National Archives and Records Service
NASA—National Aeronautics and Space Administration
NCUA—National Credit Union Administration
OFR—Federal Register Office
OMB—Management and Budget Office
SBA—Small Business Administration
SEC—Securities and Exchange Commission
TVA—Tennessee Valley Authority
USIA—United States Information Agency
VA—Veterans Administration

THE PRESIDENT

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Title 3—The President

PROCLAMATION 4318

National Hunting and Fishing Day, 1974

By the President of the United States of America

A Proclamation

No one has a fuller appreciation and respect for nature than the American sportsman. Hunters and anglers were among the first to warn us of the need to conserve America's fish and wildlife resources, and many of them have played an active, voluntary role in restoring and enriching America's splendid natural heritage.

In recognition of the significant contributions of American hunters and fishermen in enhancing and preserving our environment, and to dramatize the continued need for gun and boat safety, the Congress, by House Joint Resolution 910, 93rd Congress, has requested the President to declare the fourth Saturday of September, 1974, as National Hunting and Fishing Day.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, do hereby designate Saturday, September 28, 1974, as National Hunting and Fishing Day.

I urge all of our citizens to join with outdoor sportsmen in the wise use of our natural resources and in insuring their proper management for the benefit of future generations.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of September, in the year of our Lord nineteen hundred seventy-four and of the Independence of the United States of America, the one hundred ninety-ninth.

Gerald R. Ford

[FR Doc.74-22921 Filed 9-27-74;4:48 p.m.]

PROCLAMATION 4319

Enlarging the Boundaries of the Cabrillo National Monument, California

By the President of the United States of America

A Proclamation

The Cabrillo National Monument in San Diego County, California, was established by Proclamation No. 1255 of October 14, 1913 (38 Stat. 1965), on approximately one-half acre of land that, along with other lands, had originally been set aside for military purposes in 1852. The monument was enlarged by Proclamation No. 3273 of February 2, 1959, and now is situated on approximately eighty and one-half acres of land. The present area of the monument is not adequate for the proper care and management of the historical landmarks and historical objects in the area and it has been determined that approximately fifty-six and six-tenths acres of land should be added to the monument site. That new land is contiguous to the monument site and constitutes a part of the lands set aside but no longer needed for military purposes.

The additional land is essential to the proper care and management of the historical landmarks and historical objects in the area, and it is in the public interest to redefine the boundaries of, and add those contiguous lands to the monument to preserve the historical landmarks and historical objects of the area.

Under section 2 of the act of June 8, 1906 (34 Stat. 225, 16 U.S.C. 431), the President is authorized "to declare by public proclamation

historic landmarks, historic and prehistoric structures, and objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected. The monument, as enlarged by this Proclamation, will be confined to the smallest area compatible with the protection and management of the objects to be protected.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, under and by virtue of the authority vested in me by section 2 of the act of Congress approved June 8, 1906, 34 Stat. 225 (16 U.S.C. 431), do hereby proclaim that, subject to valid existing rights, the lands owned or controlled by the United States within the following described lands are hereby added to and made a part of the Cabrillo National Monument:

PARCEL "B"

Beginning at the southwesterly corner of said United States Naval Submarine Support Facility also being the southeasterly corner of Cabrillo National Monument as shown on Y & D Drawing No. 1112775 on file in the Department of the Navy; thence northerly along the easterly boundary of said land the following courses and distances; North 0°03′24″ East 275.68 feet (record North 0°28′25″ West 275.14 feet); thence North 89°56′36″ West (record South 89°31′35″ West) 100.00 feet; thence North 0°03′24″ East (record North 0°28′25″ West) 275.30 feet; thence East (record North 89°31′35″ East) 100.00 feet; thence North 0°03′24″ East 762.96 feet to a point that is 140.45 feet from the northeast corner of said Cabrillo National Monument, said point being on the arc of a 1235.00-foot-radius curve concave northerly the center of which curve bears North 4°10′54″ East from said point; thence leaving said east line of Cabrillo National Monument easterly along the arc of said curve through a central angle of 23°50′37″ a distance of 513.94 feet to intersection with the hereinafter described mean high tide line;

thence southerly along said mean high tide line the following courses and distances; South 15°18′45″ East 52.45 feet; thence South 0°09′43″ East 184.11 feet; thence South 10°40′25″ East 142.09 feet; thence South 3°24′54″ East 76.10 feet; thence South 5°02′16″ East 236.19 feet; thence South 10°54′05″ East 317.40 feet; thence South 18°24′14″ East 188.84 feet; thence South 5°35′49″ East 232.91 feet; thence South 15°11′11″ East 117.03 feet to intersection with the south line of said Submarine Support Facility which bears North 89°59′37″ East (record North 89°31′35″ East) from the Point of Beginning; thence leaving said mean high tide line South 89°59′37″ West along said South line 723.77 feet to the Point of Beginning, containing 18.92 acres, reserving from the hereinabove described property a parcel of land consisting of 1.60 acres being a right-of-way for road purposes over, along and across a strip of land 40.00 feet wide, 20.00 feet wide on each side of the following described centerline:

Commencing at a point on the easterly prolongation of the north line of the hereinbefore mentioned Cabrillo National Monument that bears South 89°56′36″ East 378.53 feet from the northeast corner of said monument; thence South 12°06′18″ East 105.96 feet to the True Point of Beginning of the herein described centerline, said point being on the arc of a 1235.00-foot-radius curve concave northerly the center of which bears North 14°34′38″ West from said True Point of Beginning; thence continuing South 12°06′18″ East 46.84 feet to the beginning of a tangent 91.35-foot-radius curve concave westerly; thence southerly along the arc of said curve through a central angle of 31°25′40″ a distance of 50.11 feet to the beginning of a tangent 59.49-foot-radius curve concave easterly; thence southerly along the arc of said curve through a central angle of 53°19′25″ a distance of 55.37 feet to the beginning of a tangent 130.00-foot-radius curve concave westerly; thence southerly along the arc of said curve through a central angle of 55°08′06″ a distance of 125.10 feet to a point of compound curvature with a 265.00-foot-radius curve; thence southwesterly along the arc of said curve through a central angle of 15°42′44″ a distance of 72.67 feet to the beginning of a tangent

100.00-foot-radius curve concave easterly; thence southerly along the arc of said curve through a central angle of 42°28′35″ a distance of 74.14 feet to the beginning of a tangent 527.44-foot-radius curve concave westerly; thence southerly along the arc of said curve through a central angle of 17°56′20″ a distance of 165.14 feet; thence tangent to said curve South 12°18′32″ West 107.03 feet to the beginning of a tangent 500.00-foot-radius curve concave northwesterly; thence southwesterly along the arc of said curve through a central angle of 18°03′54″ a distance of 157.65 feet to a point of compound curvature with a 90.00-foot-radius curve concave northwesterly; thence southwesterly along the arc of said curve through a central angle of 40°10′08″ a distance of 63.10 feet to the beginning of a tangent 650.00-foot-radius curve concave southeasterly; thence southwesterly along the arc of said curve through a central angle of 10°38′46″ a distance of 120.78 feet to the beginning of a tangent 103.00-foot-radius curve concave northerly; thence westerly along the arc of said curve through a central angle of 55°43′47″ a distance of 100.18 feet to the beginning of a tangent 35.00-foot-radius curve concave southeasterly; thence westerly, southwesterly and southerly along the arc of said curve through a central angle of 150°30′03″ a distance of 91.94 feet to a point of compound curvature with a 100.00-foot-radius curve concave northeasterly; thence southeasterly along the arc of said curve through a central angle of 32°52′30″ a distance of 57.38 feet; thence tangent to said curve South 67°44′58″ East 116.12 feet to the beginning of a tangent 100.00-foot-radius curve concave southwesterly; thence southeasterly and southerly along the arc of said curve through a central angle of 65°07′30″ a distance of 113.66 feet; thence tangent to said curve South 2°37′28″ East 86.76 feet to the beginning of a tangent 310.00-foot-radius curve concave westerly; thence southerly along the arc of said curve through a central angle of 18°37′46″ a distance of 100.80 feet to the beginning of a tangent 45.00-foot-radius curve concave easterly; thence southerly along the arc of said curve through a central angle of 47°16′43″ a distance of 37.13 feet to a point on the south line of the hereinabove

described property that bears North 89°59′37″ East 198.59 feet from the southwesterly corner thereof.

PARCEL "C"

Commencing at the southeasterly corner of Cabrillo National Monument as described in Presidential Proclamation No. 3273 of the Federal Register of the United States in Volume 24, No. 25, dated February 5, 1959, which said southeasterly corner bears South 76°32′50″ East 761.20 feet from "Old Lighthouse" as shown on said Miscellaneous Map No. 129, the coordinates of which said "Old Lighthouse" are North 185,283.08 and East 1,695,308.57 (California Coordinate Grid System, Zone 6); thence along the boundary of said Cabrillo National Monument the following courses and distances North 89°52′54″ West 630.92 feet (record South 89°31′35″ West 630.37 feet); thence South 18°12′58″ West 8.45 feet (record South 17°40′23″ West 8.47 feet) to the beginning of a tangent 170.00-foot-radius curve concave easterly, thence southerly along the arc of said curve through a central angle of 64°00′00″ a distance of 189.89 feet; thence tangent to said curve South 45°47′02″ East (record South 46°19′37″ East) 137.50; thence South 65°23′10″ West (record South 64°50′35″ West) 75.33 feet to the TRUE POINT OF BEGINNING of the herein described property; thence retracing the previously described five courses to said southeasterly corner of the Cabrillo National Monument; thence leaving said boundary North 89°59′37″ East 723.77 feet to intersection with the hereinafter described mean high tide line; thence southerly along said mean high tide line the following courses and distances; South 9°49′16″ West 91.09 feet; thence South 32°04′12″ West 136.56 feet; thence South 55°30′44″ West 137.21 feet; thence South 42°14′59″ West 236.92 feet; thence South 38°38′57″ West 90.26 feet; thence South 11°46′39″ West 80.90 feet; thence South 3°09′21″ East 168.16 feet; thence South 24°11′43″ East 113.20 feet; thence South 19°28′08″ East 131.55 feet; thence South 13°54′17″ East 125.70 feet; thence South 7°18′41″ West 53.88 feet to intersection with a line that bears South 48°13′47″ East 1305.76 feet from the True Point of Beginning; thence North 48°13′47″ West 1305.76 feet to the True Point of Beginning, containing 17.44 acres, EXCEPTING from the hereinabove described property a parcel of land consisting

of 1.12 acres being a right-of-way for road purposes over, along and across a strip of land 40.00 feet wide, 20.00 feet wide on each side of the following described centerline: Beginning at a point on the North Line of the hereinabove described property that is North 89°59′37″ East 198.59 feet from the hereinbefore mentioned southeasterly corner of Cabrillo National Monument; thence South 31°16′30″ East 12.15 feet to the beginning of a tangent 55.00-foot-radius curve concave southwesterly; thence southerly along the arc of said curve through a central angle of 28°36′30″ a distance of 27.46 feet to a point of compound curvature with a 330.00-foot-radius curve concave westerly; thence southerly along the arc of said curve through a central angle of 20°23′45″ a distance of 117.47 feet to a point of compound curvature with a 75.00-foot-radius curve concave northwesterly; thence southwesterly and westerly along the arc of said curve through a central angle of 69°08′46″ a distance of 90.51 feet; thence tangent to said curve South 86°52′31″ West 108.37 feet to the beginning of a tangent 95.00-foot-radius curve concave northerly; thence westerly along the arc of said curve through a central angle of 32°17′15″ a distance of 53.53 feet to a point of reverse curvature with a 60.00-foot-radius curve concave southerly; thence westerly along the arc of said curve through a central angle of 70°16′58″ a distance of 73.60 feet to a point of compound curvature with a 25.00-foot-radius curve concave easterly; thence southerly along the arc of said curve through a central angle of 61°22′48″ a distance of 26.78 feet to a point of compound curvature with a 175.00-foot-radius curve concave northeasterly; thence southeasterly along the arc of said curve through a central angle of 54°07′46″ a distance of 165.33 feet; thence tangent to said curve South 66°37′46″ East 88.66 feet to the beginning of a tangent 60.00-foot-radius curve concave southwesterly; thence southeasterly along the arc of said curve through a central angle of 49°38′15″ a distance of 51.98 feet to a point of compound curvature with a 90.00-foot-radius curve concave westerly; thence southerly along the arc of said curve through a central angle of 45°28′13″ a distance of 71.42 feet; thence tangent to said curve South 28°28′42″ West 110.68 feet to the beginning of a tangent 400.00-foot-radius curve concave southeasterly; thence southwesterly along the arc of said curve through a central angle of 8°05′11″ a distance of 56.45 feet to a point of compound curvature with a 60.00-foot-radius curve concave easterly; thence southerly along the arc of said curve through a

central angle of 31°49′13″ a distance of 33.32 feet to a point of reverse curvature with a 125.00-foot-radius curve concave northwesterly; thence southwesterly along the arc of said curve through a central angle of 60°35′53″ a distance of 132.20 feet to a point of intersection with the southwesterly line of the hereinbefore described parcel of land that bears South 48°13′47″ East 729.88 feet from the True Point of Beginning thereof.

The sidelines of said easement are to be prolonged or shortened so as to terminate on the North in the North boundary line of the hereinbefore described land and to terminate on the southwest in the southwesterly boundary line of the hereinbefore described land.

PARCEL "D"

Beginning at a Point in the South boundary line of the Cabrillo National Monument as described in Presidential Proclamation No. 3273 of the Federal Register of the United States in Volume 24, No. 25, dated February 5, 1959, which said point bears South 78°47′06″ West 895.86 feet from "Old Lighthouse" as shown on said Miscellaneous Map No. 129, the coordinates of which said "Old Lighthouse" are North 185,283.08 and East 1,695,308.57 (California Coordinate Grid System, Zone 6), said point being on the arc of a 1030.00-foot-radius curve concave southwesterly, the center of which curve bears South 77°34′55″ West from said point, said curve being the easterly right-of-way line of an easement 60.00 feet wide for road purposes as granted to the City of San Diego by deed recorded September 20, 1960, as file/page No. 188998 in Book 1960 of Official Records; thence easterly and southerly along the boundary of said Cabrillo National Monument the following courses and distances; South 89°56′07″ East 563.40 feet; thence South 0°04′00″ West 409.95 feet (record South 0°28′25″ East 410.00 feet); thence South 89°55′50″ East (record North 89°31′35″ East) 278.27 feet; thence North 65°23′10″ East (record North 64°50′35″ East) 37.39 feet; thence leaving said Cabrillo National Monument boundary South 23°35′52″ West 1395.70 feet to a point on the easterly right-of-way line of the hereinabove described 60.00 feet wide easement for road granted to the City of San Diego, which point bears North 87°33′30″ East (record North 87°01′06″ East) radially 30.00 feet from the northeasterly

terminus of a 101.88-foot-radius curve described to said easement; thence South 87°33′30″ West along said radial line 60.00 feet to the westerly right-of-way line of said easement; thence southerly, southwesterly, westerly, northwesterly and northerly along said right-of-way line the following courses and distances; southerly, southwesterly, westerly and northwesterly along the arc of a 71.88-foot-radius curve concave northerly that is concentric with the hereinbefore mentioned 101.88-foot-radius curve through a central angle of 162°48′38″ a distance of 204.25 feet; thence tangent to said curve North 19°37′52″ West 154.68 feet (record North 20°10′16″ West 154.54 feet) to the beginning of a tangent 235.23-foot-radius curve (record 235.00-foot-radius curve) concave easterly; thence northerly along the arc of said curve through a central angle of 37°45′00″ a distance of 154.98 feet; thence tangent to said curve North 18°07′08″ East 100.12 feet (record North 17°34′44″ East 100.02 feet) to the beginning of a tangent 330.20-foot-radius curve (record 330.00-foot-radius curve) concave westerly; thence northerly along the arc of said curve through a central angle of 22°58′46″ (record 22°58′31″) a distance of 132.43 feet; thence tangent to said curve North 4°51′38″ West 1049.96 feet (record North 5°23′47″ West 1050.15 feet) to the beginning of a tangent 1030.00-foot-radius curve, the center of which curve is hereinbefore mentioned as bearing South 77°34′55″ West from the Point of Beginning of this description; thence northerly along the arc of said curve through a central angle of 7°33′27″ a distance of 135.86 feet to the Point of Beginning, containing 20.20 acres.

The withdrawal order of February 26, 1852, is hereby revoked as to the lands described above.

The lands added to the monument by this Proclamation are hereby transferred from the jurisdiction of the Department of the Navy to the jurisdiction of the Department of the Interior, and Proclamation No. 1255 establishing, and Proclamation No. 3273 enlarging, the Cabrillo National Monument are amended accordingly.

Warning is hereby expressly given to all unauthorized persons not to appropriate, injure, destroy, deface, or remove any feature of this monument and not to locate or settle upon any of the lands reserved by this Proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of September, in the year of our Lord nineteen hundred seventy-four, and of the Independence of the United States of America the one hundred ninety-ninth.

Gerald R. Ford

[FR Doc.74-22928 Filed 9-30-74;10:05 am]

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 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1974 issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1974. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

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Title	Price
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2 [Reserved]	
3	3.15
3A 1973 Compilation	2.40
4	1.75
5	3.55
6 (Rev. Feb. 1, 1974)	4.45
7 Parts:	
0–45	4.65
46–51	3.45
52	4.80
53–209	5.10
210–699	4.10
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15	3.90
16 Parts:	
0–149	5.05
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CFR Unit (Rev. as of April 1, 1974):

Title	Price
17	$5.10
18 Parts:	
1–149	3.80
150–end	3.70
19	4.50
20 Parts:	
01–399	1.95
400–end	6.30
21 Parts:	
1–9	1.95
10–129	5.10
130–140	2.40
600–1299	1.75
1300–end	1.55
22	3.90
23	1.80
24	6.10
25	3.60
26 Parts:	
1 (§§ 1.0–1–1.169)	4.85
1 (§§ 1.170–1.300)	3.05
1 (§§ 1.301–1.400)	2.35
1 (§§ 1.401–1.500)	2.90
1 (§§ 1.501–1.640)	3.35
1 (§§ 1.641–1.850)	3.65
1 (§§ 1.851–1.1200)	4.40
1 (§ 1.1201–end)	5.70
2–29	2.70
30–39	2.85
40–169	4.40
170–299	5.90
300–499	2.95
500–599	3.15
600–end	1.40
27	1.30
45 Parts 100–199	3.95

CFR Unit (Rev. as of July 1, 1974):

Title	Price
28	$2.20
29 Parts:	
0–499	4.50
32 Parts:	
1–8	5.95
9–39	4.05
40–399	4.85
400–589	4.10
590–699	1.95
700–799	5.65
800–999	4.40
1000–1399	1.70
1400–1599	3.05
1600–end	1.65
33 Parts:	
1–199	4.85
200–end	3.65
34	1.10
35	3.25
37	1.75
40 Parts:	
0–49	2.20
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19–100	2.60

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CFR Unit (Rev. as of Oct. 1, 1973):

Title	Price
42	$2.85
43 Parts:	
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1000–end	4.20
44 [Reserved]	
45 Parts:	
1–99	$2.15
200–499	2.40
500–end	2.35
46 Parts:	
1–65	4.00
66–145	4.10
146–149	5.80
150–199	4.05
200–end	4.70
47 Parts:	
0–19	3.40
20–69	4.05
70–79	4.35
80–end	4.55
48 [Reserved]	
49 Parts:	
1–99	1.30
100–199	5.60
200–999	4.30
1000–1199	2.50
1200–1299	5.60
1300–end	2.20
50	2.55

Title 7—Agriculture

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

[Walnut Order 934 Docket No. AO–192 A5]

PART 984—WALNUTS GROWN IN CALIFORNIA, OREGON, AND WASHINGTON

Order Amending Order

Findings and determinations. The findings and determinations hereinafter set forth are supplementary, and in addition, to the previous findings and determinations which were made in connection with the issuance of the marketing order and each previously issued amendment thereto. Except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed. (For prior findings and determinations see 13 FR 4344; 19 FR 4214; 20 FR 5387; 22 FR 7885; 22 FR 8775; 27 FR 9094.)

(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674), and the applicable rules of practice and procedure, as amended (7 CFR Part 900; 38 FR 29717), a public hearing was held in San Francisco, CA, on January 15–17, 1974,

on a proposed amendment of the marketing agreement, as amended, and Order No. 984, as amended (7 CFR Part 984), regulating the handling of walnuts grown in California, Oregon, and Washington. On the basis of the evidence adduced at the hearing, and the record thereof, it is found that:

(1) The order, as amended and as hereby further amended, and all the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order, as amended and as hereby further amended, regulates the handling of walnuts grown in California, Oregon, and Washington, in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The order, as amended and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) The order, as amended and as hereby further amended, prescribes, so far as is practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to differences in the production and marketing of walnuts covered thereby; and

(5) All handling of walnuts grown in California, Oregon, and Washington, is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce.

(b) *Additional findings.* It is hereby further found, for the reasons hereinafter set forth, that good cause exists for making the provisions of the amendatory order effective October 1, 1974, and for not postponing the effective time until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553). The 1974–75 marketing year began August 1, 1974, and these provisions should be applicable to as large a portion of the operations during the 1974–75 marketing year as possible and before handlers begin handling 1974 crop walnuts in volume. One such provision revises the quality regulation for inshell walnuts. This regulation should be applied to as much of the new crop as possible to minimize any inequities among handlers or producers due to different quality regulations for different parts of the same year. Moreover, harvest of the 1974 crop is beginning and regulations for the 1974–75 marketing year are scheduled for consideration soon, and such considerations should be governed by the provisions of the amendatory order.

The amendatory changes bring the program in line with industry practices, and improve program operations and procedures, and some will require implementation by rulemaking. Hence, the changes should be instituted on October 1 so as to permit the industry to derive maximum benefit from these improvements, and permit necessary rulemaking to be initiated without delay.

The text of the amendatory order has been made available to all interested persons; accordingly, handlers need no additional time beyond September 30, 1974, to comply with the provisions of the amendatory order. Therefore, all of the provisions of this amendatory order should become effective October 1, 1974.

(c) *Determinations.* It is hereby determined that:

(1) The "Marketing Agreement, as Amended, Regulating the Handling of Walnuts Grown in California, Oregon, and Washington", upon which the aforesaid public hearing was held has been signed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping walnuts covered by the said order, as amended, and as hereby further amended) who, during the period August 1, 1973, through July 31, 1974, handled not less than 50 percent of the volume of such walnuts covered by the said order, as amended, and as hereby further amended, and

(2) The issuance of this amendatory order, amending the aforesaid order, as amended, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of its approval and who during the period August 1, 1973, through July 31, 1974 (which has been deemed to be a representative period), have been engaged within the States of California, Oregon, and Washington, in the production of walnuts for market, such producers having also produced for market at least two-thirds of the volume of such commodity represented in the referendum.

It is therefore ordered, That, on and after the effective date hereof, all handling of walnuts grown in California, Oregon, and Washington shall be in conformity to, and in compliance with, the terms and conditions of the said order, as amended, and as hereby further amended, as follows:

1. Section 984.4 is revised to read as follows:

§ 984.4 Area of production.

"Area of production" means the States of California, Oregon and Washington.

2. Section 984.6 is revised to read as follows:

§ 984.6 Board.

"Board" means the Walnut Marketing Board established pursuant to § 934.35.

3. Paragraph (a) of § 984.11 is revised to read as follows:

§ 984.11 Merchantable walnuts.

(a) *Inshell.* "Merchantable inshell walnuts" means all inshell walnuts meeting the minimum grade and size regulations effective pursuant to § 984.50.

* * * * *

4. Section 984.13 is revised to read as follows:

§ 984.13 To handle.

"To handle" means to sell, consign, transport, or ship (except as a common or contract carrier of walnuts owned by another person), or in any other way to put walnuts, inshell or shelled, in the current of commerce either within the area of production or from such area to any point outside thereof, or for a manufacturer or retailer within the area of production to purchase directly from a grower: Except, that the term "to handle" shall not include (a) sales and deliveries within the area of production by growers to handlers, or (b) the authorized disposition of surplus or substandard walnuts.

5. Section 984.14 is revised to read as follows:

§ 984.14 Handler.

"Handler" means any person who handles inshell or shelled walnuts, categorized as either:

(a) "Cooperative handler" meaning any handler who is a cooperative marketing association of growers; or

(b) "Independent handler" meaning any handler who is not a cooperative marketing association of growers.

6. Section 984.15 is revised to read as follows:

§ 984.15 Pack.

"Pack" means to bleach, clean, grade, or otherwise prepare walnuts for market as inshell walnuts.

§§ 984.16—984.18 [Deleted]

7. Sections 984.16, 984.17 and 984.18 are deleted.

8. Section 984.20 is revised to read as follows:

§ 984.20 Kernelweight.

"Kernelweight" means the determined weight of the kernels in a quantity of walnuts regardless of their quality.

9. Section 984.21 is revised to read as follows:

§ 984.21 Handler carryover.

"Handler carryover" as of any date means all the merchantable walnuts (except those held in satisfaction of a surplus obligation) wherever located, then held by a handler or for his account (whether or not sold), plus (a) the estimated quantity of merchantable inshell walnuts in lots then held by that handler for packing as merchantable inshell walnuts, and (b) the estimated quantity of merchantable shelled walnuts to be produced from shelling stock and unsorted material then held by that handler.

§ 984.22 [Amended]

10. Paragraph (c) of § 984.22 is deleted.

11. Section 984.23 is revised to read as follows:

§ 984.23 Free walnuts.

"Free walnuts" means walnuts which are included in the free percentage established by the Secretary pursuant to § 984.49.

§§ 984.24 and 984.25 [Deleted]

12. Sections 984.24 and 984.25 are deleted.

13. Section 984.26 is revised to read as follows:

§ 984.26 Surplus walnuts.

"Surplus walnuts" means those walnuts which are held to meet a surplus obligation.

§§ 984.27—984.30 [Deleted]

14. Sections 984.27, 984.28, 984.29 and 984.30 are deleted.

15. A new § 984.32 is added to read as follows:

§ 984.32 Withholding factor.

"Withholding factor" means the quotient, expressed as a percentage rounded to the nearest one-tenth, resulting from dividing the surplus percentage by the free percentage and established by the Secretary pursuant to § 984.49.

16. A new § 984.33 is added to read as follows:

§ 984.33 Hold.

"Hold" means to maintain possession or keep control of, in proper storage, at all times, the quantity of walnuts necessary to meet a surplus obligation.

17. Section 984.35 is revised to read as follows:

§ 984.35 Walnut Marketing Board.

(a) A Walnut Marketing Board is hereby established consisting of ten members and one nonvoting delegate, selected by the Secretary, each of whom shall have an alternate nominated and selected in the same way and with the same qualifications as the member or the nonvoting delegate. The members and nonvoting delegate and their alternates shall be selected by the Secretary from nominees submitted by each of the following groups or from other eligible persons belonging to such groups:

(1) Two members to represent cooperative handlers in California;

(2) Two members to represent independent handlers in California;

(3) Two members to represent growers who market their walnuts through cooperative handlers in California;

(4) One member to represent growers who market their walnuts through cooperative handlers or independent handlers in California whichever category of such handlers handled more than 50 percent of the walnuts handled by all handlers during the two marketing years preceding the year in which nominations were made—the member representing growers who market their walnuts through independent handlers shall be nominated at large in the State of California;

(5) One member to represent growers from District 1 who market their walnuts through independent handlers in California, and those who market their walnuts through independent or cooperative handlers in Oregon and Washington;

(6) One member to represent growers from District 2 who market their walnuts through independent handlers; and

(7) One nonvoting delegate to represent independent and cooperative handlers whose plants are located in the States of Oregon and Washington.

(b) The tenth member and alternate shall be selected after the selection of the nine voting members from the groups specified in paragraph (a) of this section and after opportunity for such voting members to nominate the tenth member and alternate. The tenth member and his alternate shall be neither a walnut grower nor a handler.

(c) Grower districts:

(1) *District 1.* District 1 encompasses the States of Oregon and Washington and counties in the State of California that lie north of a line drawn on the south boundaries of San Mateo, Alameda, San Joaquin, Calaveras, and Alpine Counties.

(2) *District 2.* District 2 shall consist of all other walnut producing counties in the State of California south of the boundary line set forth in subparagraph (1) of this paragraph.

(3) The Secretary on the basis of a recommendation of the Board or other information may establish different districts within the area of production.

18. Section 984.36 is revised to read as follows:

§ 984.36 Term of Office.

The term of office of Board members, nonvoting delegate and their alternates shall be for a period of two years ending on June 30 of odd-numbered years, but they shall serve until their respective successors are selected and have qualified.

19. Section 984.37 is revised to read as follows:

§ 984.37 Nominations.

(a) Nominations on behalf of growers who market their walnuts through cooperative handlers in California shall be submitted on a ballot cast by each such handler for its growers. The vote of each such cooperative handler shall be weighted by the quantity of the kernelweight of the merchantable walnuts handled during the preceding marketing year by each such handler. The person receiving the highest number of votes for the cooperative grower position shall be the nominee.

(b) Nominations on behalf of independent growers in Group 4, whenever such group represents independent growers and Groups 5 and 6, shall be submitted after ballot by such growers pursuant to an announcement by press releases of the Board to the news media in the walnut producing areas. Such releases shall provide pertinent voting information, including the names of candidates and the location where ballots may be obtained. Ballots shall be accompanied by full instructions as to their markings and mailing and shall include the names of incumbents who are willing to continue serving on the Board and such other candidates as may be proposed pursuant to methods established by the Board with the approval of the Secretary. Each grower in Group 4, whenever such group represents independent growers, and Groups 5 and 6, regardless of the number and location of his walnut orchard(s) shall be entitled to cast only one ballot in the nomination and each vote shall be given equal weight. If the independent grower has orchard(s) in both grower districts he shall advise the Board of the district in which he desires to vote. The person receiving the highest number of votes for an independent grower position shall be the nominee.

(c) Nominations for all handler members and the nonvoting delegate shall be submitted on ballots mailed by the Board to all handlers in their respective groups. All handlers' votes shall be weighted by the quantity of the kernelweight of merchantable walnuts handled by each handler during the preceding marketing year. Each independent handler in California may vote for the independent handler member nominees and their alternates. However, no independent handler shall have more than one person on the Board either as member or alternate member. The person receiving the highest number of votes for an independent and cooperative handler member position shall be the nominee for that position.

(d) The nine voting members shall nominate one person as member and one person as alternate for the tenth member position. The tenth member and alternate shall be nominated by not less than 6 votes cast by the nine voting members of the Board.

(e) Nominations in the foregoing manner received by the Board shall be reported to the Secretary on or before June 15 of each odd-numbered year, together with a certified summary of the results of the nominations. If the Board fails to report nominations to the Secretary in the manner herein specified by June 15 of each odd-numbered year, the Secretary may select the members without nomination. If nominations for the tenth member are not submitted by August 1 of any such year, the Secretary may select such member without nomination.

(f) The Board, with the approval of the Secretary, may change these nomination procedures should the Board determine that a revision is necessary.

(g) To provide a transition from the membership of the Walnut Control Board to the membership of the Walnut Marketing Board, the members of the Walnut Control Board serving on the effective date of this subpart shall, subject to the limitations described in § 984.38, continue serving on the Walnut Marketing Board until their terms expire June 30, 1975, and the new membership has been selected and qualified. The new grower and handler members and nonvoting delegate shall be nominated, reported to the Secretary by June 15, 1975, and selected by the Secretary to serve on the Walnut Marketing Board for the term of office beginning July 1, 1975.

20. Section 984.38 is revised to read as follows:

§ 984.38 Eligibility.

No person shall be selected or continue to serve as a member, nonvoting delegate, or alternate to represent one of the groups specified in § 984.35(a) (1) through (7), unless he is engaged in the business he is to represent, or represents, either in his own behalf or as an officer or employee of the business unit engaged in such business. Also, each member or alternate member representing growers in District 1 or District 2 shall be a grower, or officer or employee of the group in the district he is to represent.

21. Section 984.39 is revised to read as follows:

§ 984.39 Qualify by acceptance.

Each person selected by the Secretary as a member, nonvoting delegate, or alternate of the Board shall, prior to serving, qualify by filing with the Secretary a written acceptance as soon as practical after being notified of such selection.

22. Section 984.40(a) is revised to read as follows:

§ 984.40 Alternate.

(a) An alternate for a member or an alternate for the nonvoting delegate of the Board shall act in the place and stead of such member or nonvoting delegate as the case may be in his absence or in the vent of his death, removal, resignation, or disqualification, until a successor for his unexpired term has been selected and has qualified.

* * * * *

23. Section 984.41 is revised to read as follows:

§ 984.41 Vacancy.

Any vacancy occasioned by the removal, resignation, disqualification, or death of any member, nonvoting delegate, or alternate, or any need to select a successor through failure of any person selected as a member, nonvoting delegate or alternate to qualify, shall be recognized by the Board causing a nomination to be made by the appropriate group and certifying to the Secretary a new nominee within 60 calendar days.

24. Section 984.42 is revised to read as follows:

§ 984.42 Expenses.

The members, nonvoting delegate and their alternates of the Board shall serve without compensation, but shall be allowed their necessary expenses.

25. Paragraph (c) of § 984.45 is revised to read as follows:

§ 984.45 Procedure.

* * * * *

(c) The Board may vote by mail or telegram upon due notice to all members. When any proposition is to be voted on by either of these methods, one dissenting vote shall prevent its adoption. The Board, with the approval of the Secretary, shall prescribe the minimum number of votes which must be cast when voting is by either of these methods, and any other procedures necessary to carry out the objectives of this paragraph.

26. Section 984.46 is revised to read as follows:

§ 984.46 Research and development.

The Board, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research and development projects, designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of walnuts. The expenses of such projects shall be paid from funds collected pursuant to § 984.69.

27. Section 984.48 is revised to read as follows:

§ 984.48 Marketing estimates and recommendations.

(a) Each marketing year the Board shall hold a meeting, prior to September 20, for the purpose of recommending to the Secretary a marketing policy for such year. Each year such recommendation shall be adopted by the affirmative vote of at least six members of the Board and shall include the following, and where applicable, on a kernelweight basis:

(1) Its estimate of the orchard-run production in the area of production for the marketing year;

(2) Its estimate of the handler carryover on August 1 of inshell and shelled walnuts;

(3) Its estimate of the merchantable and substandard walnuts in the production;

(4) Its estimate of the trade demand for such marketing year for shelled and inshell walnuts, taking into consideration trade carryover, imports, prices, competing nut supplies, and other factors;

(5) Its recommendation for desirable handler carryover of inshell and shelled walnuts on July 31 of each marketing year;

(6) Its recommendation as to the free and surplus percentages to be fixed for walnuts produced in California and Oregon and Washington, but the surplus percentage recommended for walnuts produced in Oregon and Washington shall be one-half of the surplus percentage in California;

(7) Its opinion as to whether grower prices are likely to exceed parity; and

(8) Its recommendation for change, if any, in grade and size regulations.

28. Section 984.49 is revised to read as follows:

§ 984.49 Volume regulation.

(a) *Free and surplus percentages.* Whenever the Secretary finds on the basis of the Board's recommendations or other information that limiting the quantity of walnuts which may be handled during a marketing year would tend to effectuate the declared policy of the act, he shall establish for California a free percentage to prescribe the portion of such walnuts which may be handled in normal markets and a surplus percentage to prescribe the portion that must be withheld from such handling, and similarly for Oregon and Washington except that the surplus percentage shall be one-half that of California.

(b) *Establishment of withholding factors.* The Secretary shall establish withholding factors for California, Oregon and Washington when surplus percentages of other than zero are established.

(c) *Revision of percentages and withholding factors.* Prior to February 15 of the marketing year the Board may recommend that the free percentages be increased, the surplus percentages be decreased, and the withholding factors modified. On the basis of the Board's recommendation or other information the Secretary may establish such revisions and modifications. Upon revision, all surplus obligations theretofore accrued on walnuts handled or declared for handling during such year on the basis of previously effective percentages shall be adjusted accordingly.

§ 984.50 [Amended]

29. Paragraph (a) of § 984.50 is revised by deleting "U.S. No. 3" in the first sentence and substituting "U.S. No. 2" in lieu thereof.

30. Paragraph (d) of § 984.50 is revised to read as follows:

* * * * *

(d) *Additional grade and size regulation.* The Board may recommend to the Secretary additional grade and size regulations in the form of more restrictive minimum standards than those specified in this section. If the Secretary finds on the basis of such recommendation or other information that such additional grade and size regulations would tend to effectuate the declared policy of the act, he shall establish such regulation.

* * * * *

31. Section 984.51 is revised to read as follows:

§ 984.51 Inspection and certification of inshell and shelled walnuts.

(a) Before or upon handling any walnuts or disposing of any surplus walnuts each handler at his own expense shall cause such walnuts to be inspected to determine whether they meet the then applicable grade and size regulations. Such inspections shall be performed by the inspection service designated by the Board with the approval of the Secretary. Handlers shall obtain a certificate for each inspection and cause a copy of each certificate issued by the inspection service to be furnished to the Board. Each certificate shall show the identity of the handler, quantity of walnuts, the date of inspection, and for inshell walnuts the grade and size of such walnuts set forth in the United States Standards for Walnuts (Juglans regia) in the Shell. Certificates covering surplus shelled walnuts for export shall also show the grade, size, and color of such walnuts as set forth in the United States Standards for Shelled Walnuts (Juglans

regia). The Board may prescribe such additional information to be shown on the inspection certificates as it deems necessary for the proper administration of this part.

(b) The weight of merchantable walnuts handled or disposed of as surplus shall be converted to the kernelweight equivalent at 45 percent of their inshell weight. This conversion percentage may be changed by the Board with the approval of the Secretary.

(c) Upon inspection, all merchantable and surplus walnuts shall be identified by seals, stamps, or other means of identification prescribed by the Board and affixed to the container by the handler under the supervision of the Board or of a designated inspector and such identification shall not be altered or removed except as directed by the Board. The Board may, with the approval of the Secretary, establish such other requirements as may be necessary to insure adequate identification of such merchantable and surplus walnuts.

(d) Whenever the Board determines that the length of time in storage or conditions of storage of any lot of merchantable walnuts which has been previously inspected have been or are such as normally to cause deterioration, such lot of walnuts shall be reinspected at the handler's expense and recertified as merchantable prior to shipment.

32. The center heading "Controlled Walnuts" is revised to read "Surplus Walnuts" and § 984.54 is revised to read as follows:

SURPLUS WALNUTS

§ 984.54 Establishment of obligation.

(a) *Surplus obligation.* Whenever free and surplus percentages are in effect for a marketing year, each handler shall withhold from handling the quantity of walnuts equal to the application of the withholding factor to the quantity of kernelweight handled or declared for handling. The quantity of walnuts hereby required to be withheld from handling shall constitute, and may be referred to as, the "surplus obligation" of a handler. The walnuts handled as free walnuts by any handler in accordance with the provisions of the part shall be deemed to be that handler's quota fixed by the Secretary within the meaning of section 8(a)(5) of the act.

(b) *Holding requirements.* Each handler shall at all times hold in his possession or under his control in proper storage the quantity of walnuts necessary to meet his surplus obligation less: (1) Any quantity which was disposed of by him pursuant to § 984.56; and (2) any quantity for which he is otherwise relieved by the Board of responsibility to so hold walnuts.

§ 984.55 [Deleted]

33. Section 984.55 is deleted.

34. Section 984.56 is revised to read as follows:

§ 984.56 Disposition of surplus walnuts.

(a) *Crediting.* The kernelweight of surplus walnuts disposed of in accordance with this section shall be credited against the applicable handler's surplus obligation established pursuant to § 984.54.

(b) *Board through agents.* Sale or shipment of merchantable surplus walnuts (1) in export to destinations outside of the United States, Puerto Rico, and the Canal Zone, (2) to Government agencies, or (3) to charitable institutions shall be made only by the Board. The Board shall be obligated to dispose of only such quantities for which it is able to find satisfactory outlets. Any handler may be designated an agent of the Board under such terms and conditions as the Board may specify for such sales or shipments. The Board, with the approval of the Secretary, may designate other outlets which are noncompetitive with normal market outlets for walnuts. The kernelweight of merchantable surplus walnuts disposed of in accordance with this paragraph shall be credited against the applicable handler's surplus obligation: *Provided*, That the "disposition intention" is filed with the Board by August 31 of the succeeding marketing year and shipment from the area of production is completed by the following September 15. Donations of surplus walnuts in the foregoing outlets by handlers as agents of the Board shall also be credited against the applicable handler's surplus obligation. Surplus dispositions shall be made with proper safeguards to prevent such walnuts from thereafter entering the channels of trade in normal markets.

(c) *Pooling during the marketing year.* Surplus walnuts which are accepted for pooling by the Board during the marketing year and disposed of by the Board in eligible surplus pool outlets, shall be credited against the applicable handler's surplus obligation. The Board shall not accept delivery of any surplus walnuts for pooling and disposition prior to making a determination on or before December 15 of any marketing year as to the percentage of a handler's surplus obligation which may be accepted for pooling and disposition prior to February 15 of such year. Pooled walnuts shall be disposed of by the Board upon the best terms and best prices obtainable consistent with the ultimate complete disposition of surplus, subject to the following condition: No surplus walnuts shall be sold in the United States, Puerto Rico, and the Canal Zone, other than to Government agencies or to charitable institutions for charitable purposes or for diversion into walnut oil, poultry or animal feed, or such other uses as the Board finds to be noncompetitive with normal markets and with proper safeguards in each case to prevent such walnuts thereafter entering the channels of trade in such normal markets. The Board may rent and operate or arrange the use of facilities for storage and disposition of surplus walnuts delivered to it.

(d) *Disposition after August 31.* Any surplus walnuts remaining unsold as of August 31, or for which a handler is not relieved by the Board of the responsibility to hold shall be pooled and disposed of by the Board as soon as practicable through the most readily available surplus outlets. Upon demand of the Board, surplus walnuts shall be delivered to the Board f.o.b. handler's warehouse or point of storage, except that the Board shall not make such demand upon a handler with respect to surplus walnuts for which the handler has agreed to undertake disposition pursuant to Board authority.

(e) *Expenses.* Expenses incurred by the Board in receiving, holding, and disposing of pooled surplus walnuts shall be charged against the proceeds of the sales of such surplus walnuts.

(f) *Distribution of proceeds.* Remaining proceeds from the disposition of pooled surplus walnuts shall be distributed pro rata by the Board to each handler in proportion to his contribution thereto, measured in kernelweight, or such other basis as the Board may adopt with the approval of the Secretary.

35. A new § 984.57 is added to read as follows:

§ 984.57 Declaration of privilege.

Any handler may at any time prior to the end of the marketing year satisfy his surplus obligation with respect to a specified quantity of merchantable walnuts which it then owns and has on hand and on which it declares to the Board its intention to handle, by holding a quantity of walnuts sufficient to meet the surplus obligation on the walnuts so declared for handling.

36. A new § 984.58 is added to read as follows:

§ 984.58 Excess surplus credits.

(a) *Transfer of credits.* At any time during a marketing year, upon a handler's written request, the Board shall transfer part or all of the handler's credit for disposition of surplus walnuts in excess of his surplus obligation to any handler designated by the requesting handler. Any such excess surplus credit not transferred by August 1 shall be transferred by the Board upon the handler's written request so long as the Board receives the request no later than September 15. The credit shall be applied to the transferee handler's surplus obligation of the marketing year just ended.

(b) *Post marketing year credits.* Credit earned by a handler from the disposition of surplus walnuts during the period August 1 to September 15 may be (1) applied to the handler's surplus obligation of the preceding marketing year, (2) applied to the handler's surplus obligation during the current marketing year, or (3) transferred to another handler as provided in paragraph (a) of this section and applied to that handler's surplus obligation during the current marketing year.

37. A new § 984.59 is added to read as follows:

§ 984.59 Interhandler transfers.

(a) Within the area of production inshell walnuts may be sold or delivered by one handler to another for packing or shelling and the receiving handler shall comply with the regulations made effective pursuant to this part with respect to such walnuts.

(b) A handler may, for the purpose of meeting his surplus obligation, acquire walnuts from another handler, and any assessments, surplus obligation, and inspection requirements with respect to walnuts so transferred, shall be waived insofar as the seller is concerned. The Board, with the approval of the Secretary, may establish methods and procedures including necessary reports for such transfers.

(c) Except as provided in paragraphs (a) and (b) of this section, whenever transfers of walnuts are made from one handler to another, the first handler thereof shall comply with all of the regulations effective pursuant to this part.

§§ 984.60—984.63 [Deleted]

38. Sections 984.60–984.63 are deleted.

Delete the center heading "Disposition of Controlled Walnuts", and §§ 984.60, 984.61, 984.62, and 984.63.

39. Section 984.66 is revised to read as follows:

§ 984.66 Assistance of Board in meeting surplus obligation.

The Board, on written request, may assist any handler in accounting for his surplus obligation and may aid any handler in acquiring walnuts to meet any deficiency in a handler's surplus obligation, or in accounting for and disposing of surplus walnuts.

§ 984.67 [Amended]

40. Paragraph (a) of § 984.67 is revised by substituting "regulation" in lieu of "regulations" and "Surplus" in lieu of "Control".

41. Section 984.71 is revised to read as follows:

§ 984.71 Reports of handler carryover.

Each handler shall submit to the Board in such form and on such dates as the Board may prescribe, reports showing his carryover of inshell and shelled walnuts.

42. Section 984.73 is revised to read as follows:

§ 984.73 Reports of walnut receipts.

Each handler shall file such reports of his walnut receipts from growers in such form and at such times as may be requested by the Board.

43. Section 984.74 is revised to read as follows:

§ 984.74 Reports of intraproduction area shipments of walnuts.

Any shipment of walnuts between the States of California, Oregon, and Washington for sale or delivery to a handler shall be reported to the Board by the receiving handler, upon receipt, on forms prescribed by the Board, showing the net weight of each shipment and such other information pertinent thereto as the Board may specify.

44. Section 984.76 is revised to read as follows:

§ 984.76 Other reports.

Upon request of the Board made with the approval of the Secretary each handler shall furnish such other reports and information as are needed to enable the Board to perform its duties and exercise its powers under this subpart.

45. Section 984.84 is revised to read as follows:

§ 984.84 Personal liability.

No member, nonvoting delegate, or alternate of the Board, nor any employee or agent thereof shall be held personally responsible either individually or jointly with others, in any way whatsoever, to any handler or any person for errors in judgment, mistakes, or other acts either of commission or omission, as such member, nonvoting delegate, alternate, employee or agent, except for acts of dishonesty.

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

Dated: September 25, 1974, to become effective October 1, 1974.

J. PHIL CAMPBELL,
Under Secretary.

[FR Doc.74-22710 Filed 9-30-74;8:45 am]

Title 10—Energy

CHAPTER I—ATOMIC ENERGY COMMISSION

PART 2—RULES OF PRACTICE

Miscellaneous Amendments

Notice is hereby given of amendments to 10 CFR Part 2 of the Atomic Energy Commission's regulations.

The amendments pertain to the addressing of communications, documents, and pleadings in adjudications subject to Part 2. The amendments reflect changes which have occurred in the organization of the Office of the Secretary of the Commission and provide for the addressing of communications.

Because these amendments relate solely to agency organization, notice of proposed rule making and public procedure thereon are not required by section 553 of Title 5 of the United States Code.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendments of Part 2 of the Commission's regulations are published as a document subject to codification.

§§ 2.701, 2.708, and 2.802 [Amended]

The words "Docketing and Service Section" are substituted for the words "Public Proceedings Branch" where they appear in §§ 2.701(a), 2.708(f) and 2.802.

Effective date: The foregoing amendments become effective on October 1, 1974.

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 USC 2201))

Dated at Washington, D.C. this 26th day of September, 1974.

For the Atomic Energy Commission.

GORDON M. GRANT,
Acting Secretary of the Commission.

[FR Doc.74-22797 Filed 9-30-74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 74-NW-10-AD; Amendment 39-1982]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 727 Series Airplanes

A proposal to amend Part 39 of the Federal Aviation regulations to include an Airworthiness Directive requiring inspection of main landing gear wheel well pressure floors adjacent to the body station 910 floor beam on Boeing 727 series airplanes was published in 39 FR 18663.

Interested persons have been afforded an opportunity to participate in the making of the amendment. The proposal consisted of an initial inspection in accordance with Boeing Service Bulletin 727-53-124 for airplanes with more than 15,000 flights within 800 flights and repetitive inspections thereafter every 1600 flights.

A commentator cited data which show that the repetitive inspection intervals can be greater. Metallurgical laboratory reports were reviewed and the FAA concurs that the proposed repetitive inspection interval may be increased from 1600 flights to 2000 flights. A second comment was that provisions should be made for operation of an airplane with cracks exceeding the limits specified in Boeing Service Bulletin 727-53-124 while unpressurized. The AD now permits unpressurized flights.

A third comment was that the AD should contain terminating action. Terminating action has been developed and is specified in Boeing Service Bulletin 727-53-124, Revision 1, dated September 27, 1974. This terminating action has been incorporated into the AD.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of the Federal Aviation regulations is amended by adding the following new airworthiness directive:

BOEING: Applicable to all Boeing Model 727 series airplanes with 15,000 or more flights, certificated in all categories. Compliance required as indicated.

To detect cracks in the main landing gear wheel well pressure floor adjacent to the floor beam at Station 910, accomplish the following:

(A) Within the next 800 flights, unless accomplished within the last 1200 flights, and at intervals thereafter not to exceed 2000 flights, inspect the pressure floor for cracks in accordance with Boeing Alert Service Bulletin 727-53-124, Revision 1, dated September 27, 1974, or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

(B) If cracks are detected that are within the crack limits specified in Table III of Paragraph III of Boeing Alert Service Bulletin 727-53-124, Revision 1, dated September 27, 1974, or later FAA approved revisions, stop drill the cracks and seal per the Service Bulletin. Within 600 flights thereafter, repair in accordance with Part II of Paragraph III of the Service Bulletin, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

(C) If cracks are detected that exceed the crack limits specified in Table III of Paragraph III of Boeing Alert Service Bulletin 727-53-124, Revision 1, dated September 27, 1974, or later FAA approved revisions, stop drill, seal and install the repair doubler per Part II of Paragraph III of the Service Bulletin or repair in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, before further pressurized flight.

(D) The inspections of Paragraph (A) are to continue in areas not repaired per Paragraphs (B) or (C). Areas repaired by Paragraphs (B) and (C) or Part III.B of Paragraph III of Boeing Alert Service Bulletin 727-53-124, Revision 1, dated September 27, 1974, or later FAA approved revisions, require no further inspections under the provisions of this AD.

(E) Rework of the pressure floors in accordance with Part III of Paragraph III of Boeing Service Bulletin 727-53-124, Revision 1, dated September 27, 1974, or later FAA approved revisions, or modifications approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, constitutes terminating action under the provisions of this AD.

(F) Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA Northwest Region may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

The Manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents may obtain copies upon request to The Boeing Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective November 2, 1974.

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

Issued in Seattle, Washington, September 20, 1974.

J. H. TANNER,
Acting Director,
Northwest Region.

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

[FR Doc.74-22682 Filed 9-30-74;8:45 am]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-875, Amdt. 30]

PART 288—EXEMPTION OF AIR CARRIERS FOR MILITARY TRANSPORTATION

Commercial Fuel Costs; Rate

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., September 26, 1974.

In accordance with established procedures and methodology, the Board having completed its review of commercial fuel prices for foreign and overseas MAC air transportation services as of September 1, 1974, is herein amending the surcharge provisions in Part 288 of its Economic Regulations (14 CFR Part 288) applicable to the rates established for those services.[1]

We have compared fuel price information reported as of September 1, 1974 to the base period fuel costs for the year ended December 31, 1973. Based on the computations set out in Appendices A and B[1a], we will amend the fuel surcharge rates effective September 1, 1974, as follows: The long-range Category B and Category A rate from 11.60 to 11.39 percent, the Pacific interisland short-range Category B rate from 2.59 to 2.52 percent, and the "all other" short-range Category B rate from 4.38 to 4.97 percent.[2]

Under established procedures, the surcharge rates resulting from our monthly review of commercial fuel price changes are made effective as adjusted final rates, retroactive to the first day of the month under review, and also as temporary surcharge rates (subject to final adjustment) for the period beginning the first day of the following month. Accordingly, we find good cause exists to make the within final and temporary rates effective on less than thirty (30) days' notice.

In consideration of the foregoing, the Board hereby amends Part 288 of its Economic Regulations (14 CFR Part 288) as follows:

1. Amend § 288.7(a)(1) by amending the second proviso following the tables and the proviso in paragraph (d) to read as follows:

§ 288.7 Reasonable level of compensation.

* * * * *

(a) * * *

And, provided further, That (i) effective September 1 through September 30, 1974, the total minimum compensation pursuant to the rates specified in subparagraph (1) of this paragraph for (*a*) services performed with regular jet, wide-bodied jet and DC-8F-61-63 aircraft, (*b*) Pacific interisland services performed with B-727 aircraft, and (*c*) other services performed with B-727 aircraft shall be further increased by surcharges of 11.39 percent, 2.52 percent and 4.97 percent, respectively; and, (ii) on and after October 1, 1974, the total minimum rates specified in subparagraph (1) of this paragraph for (*a*) services performed with regular jet, wide-bodied jet and DC-8F-61-63 aircraft, (*b*) Pacific interisland services performed with B-727 aircraft, and (*c*) other services performed with B-727 aircraft shall be further increased by temporary surcharges of 11.39 percent, 2.52 percent and 4.97 percent, respectively, subject to amendment (upward or downward) upon final determination by the Board.[3]

* * * * *

(d) For Category A transportation

(2) * * *

Provided, however, That (i) effective September 1 through September 30, 1974, the total minimum compensation specified in subparagraphs (1) and (2) of this paragraph shall be further increased by a surcharge of 11.39 percent; and, (ii) on and after October 1, 1974, the total minimum compensation specified in subparagraphs (1) and (2) of this paragraph shall be further increased by a temporary surcharge of 11.39 percent, subject to amendment (upward or downward) upon final determination by the Board.

* * * * *

(Secs. 204, 403 and 416 of the Federal Aviation Act of 1958, as amended; 72 Stats. 743, 758 and 771, as amended; (49 U.S.C. 1324, 1373 and 1386))

Adopted: September 26, 1974.

Effective: September 1, 1974.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-22764 Filed 9-30-74;8:45 am]

[1] ER-868, July 31, 1974.

[1a] Filed as part of the original document.

[2] In ER-869, July 31, 1974, the Board indicated that in view of an apparent stabilization of commercial fuel prices, it was considering revising the surcharge procedures to provide for quarterly reviews of price changes and prospective rate adjustments as opposed to the present procedure of monthly retroactive adjustments. Upon further consideration, however, we have decided not to alter the present procedure at this time.

[3] The surcharge provisions for services performed with B-727 aircraft will be applied to all other common-rated aircraft types.

Title 24—Housing and Urban Development

CHAPTER I—OFFICE OF ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT—FEDERAL HOUSING COMMISSIONER [FEDERAL HOUSING ADMINISTRATION], DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—MORTGAGE AND LOAN INSURANCE PROGRAMS UNDER NATIONAL HOUSING ACT

[Docket No. R-74-295]

PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Mobile Home Interest Rate; Increase

The Department of Housing and Urban Development is amending § 201.540(a) to revise the maximum allowable interest rate on mobile home loans insured under this part to a maximum rate of 12 percent.

The Secretary has determined that such change is necessary to meet the mobile home loan market in accordance with his authority contained in 12 U.S.C. 1709-1, as amended by Pub. L. 93-234.

The Secretary has also determined that advance notice and public procedure are unnecessary and that good cause exists for making this amendment effective in less than the 30-day period referred to in 5 U.S.C. 553(d), and that good cause exists for making this amendment effective September 12, 1974.

Accordingly, § 201.540(a) is amended to read as follows:

§ 201.540 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charge which may be directly or indirectly paid to, or collected by, the insured in connection with the loan transaction, shall not exceed 12 percent simple interest per annum. No points or discounts of any kind may be assessed or collected in connection with the loan transaction, except that a one percent origination fee may be collected from the borrower. If assessed, this fee must be included in the finance charge. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

* * * * *

(Sec. 7(d) 79 Stat. 670 (42 U.S.C. 3535(d); sec. 2, 48 Stat. 1246; (12 U.S.C 1703; 12 U.S.C. 1709-1); as amended by Pub. L. 93-234)

Effective date. This amendment is effective September 12, 1974.

SHELDON B. LUBAR,
Assistant Secretary-Commissioner Housing Production Mortgage Credit.

[FR Doc.74-22696 Filed 9-30-74;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER B—GRANTS

[FRL 268-2]

PART 35—STATE AND LOCAL ASSISTANCE

Administration of Construction Grants

On February 11, 1974, final regulations governing the administration of the construction grants program were published in the FEDERAL REGISTER. Those regulations enunciated Environmental Protection Agency policy of delegating to receptive States specified review functions in an effort to eliminate duplication, increase efficiency, and place greater reliance on the capabilities of the States. Experience with certification agreements in several States has indicated that further use is warranted. Certain direct costs associated with review and certification efforts are, under existing regulations, chargeable to the State program grant. However, in order to encourage States to assume greater responsibility for the review and certification of construction grant documents (requirements) and to properly and effectively carry out their duties commensurate with these responsibilities, Federal financial assistance must be increased and, to the extent possible, this assistance needs to be related to the grant review effort involved.

These amendments formalize and make allowable direct costs associated with specified review functions and provide for reimbursing the State—from construction grant allotments—subject to limitations defined by the Administrator.

Accordingly, 40 CFR, Part 35 is amended by revising § 35.912 and adding §§ 35.913, 35.940-1(q) to read as follows:

§ 35.912 Delegation to State agencies.

It is the policy of the Environmental Protection Agency, in the furtherance of its program, to maximize the utilization of staff capabilities of State agencies. Therefore, in the implementation of the construction grant program, optimum use will be made of available State and Federal resources to eliminate unnecessary duplicative reviews of documents required in the processing of construction grant awards. Accordingly, the Regional Administrator may enter into a written agreement, where appropriate, with a State agency to authorize certification by the State agency of the technical and/or administrative adequacy of specifically required documents. Such agreement may provide for the review and certification of all or selected elements of (a) facilities plans (Step 1), (b) plans and specifications (Step 2), (c) operation and maintenance manuals (a requirement for a Step 3 award), and (d) such other elements as the Administrator determines may be appropriately delegated as the program permits and State competency allows. Such agreements will define requirements which States will be expected to fulfill as part of their general responsibilities for the conduct of an effective preaward applicant assistance program—compensation for which shall be the responsibility of the State; and, specific duties with regard to the review of identified documents prerequisite to the receipt of grant awards—costs for which will be chargeable to the grants. Reasonable direct costs incurred by a State in the performance of these review functions are allowable direct costs chargeable to such grants. The Administrator shall provide guidelines on the limitations of effort (performance) for which direct costs shall be allowed and shall establish limitations on the amount of such costs as he may deem appropriate. A certification agreement must provide that an applicant or grantee may request review by the Regional Administrator of an adverse recommendation by a State agency.

§ 35.913 State authority to collect fees from municipalities for certain construction grant activities performed by the State.

Where permitted by State law, States are authorized to charge municipalities fees for State performance of review functions related to construction project activities governed by these regulations. These functions are the review and certification of elements of (a) facility plans (Step 1), (b) plans and specifications (Step 2), (c) operation and maintenance manuals and (d) such other elements as the Administrator determines may be appropriately delegated. The purpose of this authorization is to permit States to be compensated for those review and certification activities which are required to be performed by the States preparatory to the approval of Step 1, Step 2 and Step 3 grants for waste water treatment projects.

(a) Fees will be charged on the basis of a percentage of each Step 1 and Step 2 grant made and of the actual cost of operation and maintenance manuals to municipalities. The amount of the fee will be specified in guidance from the Administrator. In no case will the total amount of fees charged by a State, when aggregated during a given fiscal year period, exceed ½ of one percent of that State's construction grant allotment for that fiscal year.

(b) Additional funds required to cover the amount of the fees chargeable in paragraph (a) of this section will be provided for in the allotment reserve for Step 1 and Step 2 projects as set forth in § 35.915(i).

(c) EPA audits of the States will determine that fees collected under paragraph (a) of this section are (1) used for review and certification of elements of facilities plans, plans and specifications and O&M manuals of projects on which grants were awarded and for no other purposes and (2) based on the reasonable cost of the work performed.

(d) Provisions for adjusting State grant funds allocated pursuant to Section 106 of the Act as a result of the actual and projected collection of fees for activities described above are set forth in § 35.559.

§ 35.940-1 Allowable costs.

* * * * *

(q) State agency review costs pursuant to § 35.912 and § 35.913.

Secs. 109(b), 201-205, 207, 210-212, and 501(a), 502, and 511 of Pub. L. 92-500 (86 Stat. 816; 33 U.S.C. 1251) as amended by Pub. L. 93-243.)

Effective date. These amendments shall become effective October 31, 1974.

JOHN QUARLES,
Acting Administrator.

SEPTEMBER 24, 1974.

[FR Doc. 74-22681 Filed 9-30-748:45 am]

SUBCHAPTER C—AIR PROGRAMS

[FRL 260–6]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval of Compliance Schedules; Alabama

On November 29, 1973 (38 FR 33020), the Administrator proposed the approval of a number of individual compliance schedules submitted by the State of Alabama pursuant to 40 CFR 51.6. These schedules, which are in effect plan revisions, had been adopted by the Alabama Air Pollution Control Commission after notice and public hearing before being submitted for the Agency's approval on February 15, 1973. Each establishes a date by which an individual air pollution source must attain compliance with an emission limitation of the State implementation plan. This date is indicated in the succeeding table under the heading "Final Compliance Date." In many cases the schedule includes incremental steps toward compliance, with specific dates set for achieving those steps. While the table below does not list these interim dates, the actual compliance schedules do.

Copies of the proposed schedules were made available for public inspection at the Agency's Region IV office in Atlanta, Georgia and at the office of the Alabama Division of Air Pollution Control in Montgomery. Written comments were solicited from the public, but no substantive response was received. The State offered a number of corrections, and these have all been incorporated in the listing given below. The State also advised that it had extended the date for final compliance specified for a number of sources in the Administrator's proposal of November 29, 1973. Accordingly, the schedules for the sources in question have been deleted from the table, and will be proposed again in a subsequent publication. In addition, a few schedules have been deleted for administrative reasons.

The Administrator has determined that the schedules which remain after these deletions satisfy the requirements of 40 CFR Part 51 pertaining to compliance schedules, and that their approval will not hinder the attainment and maintenance of the national ambient air quality standards. Accordingly, the schedules listed below are hereby approved.

This action is effective October 31, 1974.

(Sec. 110(a) of the Clean Air Act, as amended (42 U.S.C. 1857c–5(a))).

Dated: September 20, 1974.

JOHN QUARLES,
Acting Administrator.

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

Subpart B—Alabama

A new § 52.55 is added as follows:

§ 52.55 Compliance schedules.

(a) The compliance schedules for the sources identified below are approved as meeting the requirements of § 51.15 of this chapter. All regulations cited are air pollution control regulations of the State.

STATE OF ALABAMA

Source	Location	Regulation involved	Date of adoption	Effective	Final compliance date
American Can Co. permit No.:					
(a) 101–0001–W015	Naheola	4.8.2	Feb. 8, 1973	Immediately	May 31, 1975
(b) 101–0001–W016	do	4.8.2	do	do	Do.
(c) 101–0001–W004	do	4.7.2	do	do	Do.
(d) 101–0001–W005	do	4.7.2	do	do	Do.
(e) 101–0001–W007	do	4.7.2	do	do	Feb. 1, 1975
Hood Industries, Division of Masonite Corp. permit No.:					
(a) 101–S005–W001	Melvin	4.8.2	Jan. 10, 1973	do	Dec. 1, 1974
(b) 101–S005–W002	do	4.8.2	do	do	Do.
(c) 101–S005–W003	do	3.3.4	do	do	Do.
Allied Paper, Inc., permit No.:					
(a) 102–0001–W001	Jackson	4.7.2	Feb. 8, 1973	do	Oct. 1, 1974
(b) 102–0001–W002	do	4.7.2	do	do	Do.
(c) 102–0001–W003	do	4.7.2	do	do	July 1, 1974
E. W. Kelley Hardwood Co., permit No.: 102–S005–W002	Whatley	3.3.4	Jan. 10, 1973	do	Jan. 31, 1973
Scotch Lumber Co. permit No.:					
(a) 102–S003–W001	Fulton	3.3.4	do	do	June 30, 1973
(b) 102–S003–W002	do	3.3.4	do	do	Do.
Scotch Plywood Co. permit No.: 102–S006–W001.	do	3.1	do	do	June 1, 1973
Scott Paper Co. permit No.: 103–S003–W001.	Range	3.3.4	do	do	Dec. 1, 1973
Alabama Metallurgical Corp., permit No.: 104–0001–W001.	Selma	4.4.2	Jan. 12, 1973	do	Jan. 1, 1975
Dallas Asphalt, Inc. permit No.: 104–0002–W001.	do	4.4.1	do	do	July 15, 1973
Hammermill Paper Co. permit No.:					
(a) 104–0003–W001	do	4.7.2	Feb. 8, 1973	do	Apr. 30, 1975
(b) 104–0003–W003	do	3.3.7	do	do	Do.
(c) 104–0003–W003	do	4.7.2	do	do	Do.
Gulf States Paper Corp. permit No.:					
(a) 105–0001–W001	Demopolis	4.8.2	do	do	May 31, 1975
(b) 105–0001–W006	do	4.8.2	do	do	Do.
Lone Star Industries, Inc., permit No.:					
(d) 105–0002–W004	do	4.2.1	Jan. 11, 1973	do	June 30, 1973
Claiborne Lime Plant permit No.: 106–0001–W001.	Claiborne	4.4.2	Jan. 24, 1973	do	Oct. 31, 1973
Alabama Electric Corp., Inc., permit No.: 108–0001–W001.	Leroy	4.3.2; 5.1.1	June 18, 1973	do	May 31, 1975
Ciba-Geigy Corp., permit No.: 108–0003–W001.	McIntosh	3.1	Feb. 14, 1973	do	Sept. 23, 1974
Olin Corporation, permit No.: 108–0008–W003.	do	3.1	do	do	June 1, 1973
MacMillian Bloedel, permit No.:					
(b) 109–0001–W003	Pine Hill	4.7.2	Feb. 8, 1973	do	July 1, 1973
(c) 109–0001–W007	do	4.8.2	do	do	May 31, 1975
Union Camp Corporation, permit No.: 203–S001–W001.	Chapman	4.8.2	Jan. 10, 1973	do	Dec. 31, 1974
Southeast Contractors Inc., permit No.: 205–0002–W001.	Millbrook	4.4.1	Jan. 24, 1973	do	Apr. 1, 1973
Lee County Asphalt Co., permit No.: 206–0010–W001.	Opelika	4.4.1	do	do	Dec. 1, 1973
Southern Stone Co., permit No.:					
(a) 206–0002–W001	Auburn	4.2.1; 4.2.2	Jan. 24, 1973	do	Aug. 1, 1973
(b) 206–0002–W002	do	4.2.1; 4.2.2	do	do	Mar. 51, 1974
Sharpe Sand & Concrete Co., Inc., permit No.: 208–0002–W002.	Tuskegee	4.4.1	Dec. 14, 1972	do	Sept. 1, 1973
Capital Veneer Works, Inc., permit No.: 209–S007–W001	do	4.8.2	Jan. 10, 1973	do	Mar. 31, 1973
Deep South Construction Co., Inc., permit No.: 209–0009–W001	Mitylene	4.4.1	Jan. 24, 1973	do	Nov. 1, 1973
Southeast Contractors, Inc., permit No.: 209–0016–W001	Montgomery	4.4.1	do	do	Do.
S&C Material & Paving Co., permit No.: 210–0001–W001	Troy	4.4.1	do	do	Dec. 15, 1973
Sanders Lead Co., permit No.: 210–0005–W001	do	4.4.1	Mar. 30, 1973	do	May 16, 1973
Wayne Poultry Co., permit No.:					
(a) 210–0006–W009	do	4.4.2	Jan. 5, 1973	do	Nov. 30, 1973
(b) 210–0006–W002	do	4.4.2	do	do	Do.
Alabama Kraft Co., permit No.:					
(a) 211–0004–W001	Mahrt	4.8.2	Feb. 8, 1973	do	Apr. 30, 1974
(b) 211–0004–W005	do	4.7.2	do	do	July 1, 1973
Alabama Pipe Co., permit No.:					
(b) 301–0013–W001	Anniston	4.5	Jan. 5, 1973	do	May 15, 1975
(c) 301–0014–W001	do	4.4.1	do	do	Mar. 31, 1974
(d) 301–0014–W002	do	4.4.1	do	do	Do.
(g) 301–0014–W005	do	4.1.1	do	do	Do.
(h) 301–0014–W006	do	4.1.1	do	do	Do.
(i) 301–0014–W007	do	4.4.1	do	do	Aug. 31, 1973
(j) 301–0014–W008	do	4.4.1	do	do	Do.
(k) 301–0014–W009	do	4.4.1	do	do	Dec. 31, 1973
(l) 301–0014–W010	do	4.4.1	do	do	July 31, 1973
(o) 301–0015–W003	do	4.1.1	do	do	Mar. 31, 1974
Anniston Concrete & Asphalt Co. permit No.: 301–0001–W001	Anniston	4.4.1	Jan. 2, 1973	do	Jan. 30, 197

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Source	Location	Regulation involved	Date of adoption	Effective	Final compliance date
Anniston Foundry permit No.:					
(a) 301-0016-W001	do	4.4.1	Jan. 5, 1973	do	May 15, 1975
(b) 301-0016-W002	do	4.4.1	do	do	Do.
(c) 301-0016-W003	do	4.4.1	do	do	Jan. 15, 1975
(d) 301-0016-W004	do	4.4.1	do	do	Jan. 31, 1975
(e) 301-0016-W005	do	4.1.1	do	do	May 15, 1975
(f) 301-0016-W006	do	4.1.1	do	do	Do.
(g) 301-0016-W007	do	4.5.1	do	do	Do.
Donoho Clay Co. permit No.:					
(b) 301-0003-W002	Anniston	4.4.1	Jan. 24, 1973	do	Dec. 31, 1973
Dresser Mfg. Div. Dresser Ind., Inc., permit No.:					
(d) 301-0006-W004	do	4.4.1	Jan. 11, 1973	do	May 1, 1973
(e) 301-0006-W005	do	4.4.1	do	do	Do.
Hodges & Co., Inc., permit No.: 301-0004-W001.	do	4.4.1	Jan. 12, 1973	do	Dec. 1, 1973
Lee Brothers Co. permit No.:					
(b) 301-0005-W002	do	4.4.1	Dec. 29, 1972	do	Jan. 15, 1974
(c) 301-0005-W003	do	4.4.1	Jan. 30, 1973	do	Aug. 1, 1974
(d) 301-0005-W004	do	4.4.1	do	do	Do.
(e) 301-0005-W005	do	4.4.1	do	do	Do.
(f) 301-0005-W006	do	4.4.1	do	do	Do.
(g) 301-0005-W007	do	4.4.1	do	do	Do.
(h) 301-0005-W008	do	4.4.1	do	do	Do.
(i) 301-0005-W009	do	4.4.1	do	do	Do.
(t) 301-0005-W020	do	4.4.1	do	do	Mar. 1, 1973
(u) 301-0005-W021	do	4.4.1	Dec. 29, 1972	do	Jan. 15, 1974
R & J Machinery Co., Inc., permit No.: 301-0018-W001	Anniston	4.5.1	do	do	Aug. 1, 1973
United States Pipe & Foundry Co. permit No.:					
(a) 301-0011-W001	do	4.5.1	Jan. 30, 1973	do	May 1, 1975
(b) 301-0011-W002	do	4.5.1	do	do	Do.
(c) 301-0011-W003	do	4.4.1	do	do	Nov. 1, 1973
(d) 301-0011-W004	do	4.1.1	do	do	June 1, 1973
(e) 301-0011-W005	do	4.4.1	do	do	Mar. 1, 1973
A. J. Broom Lumber Co. permit No.: 306-S004-W001	Kellyton	3.1	do	do	June 29, 1973
Alabama Power Co., permit No.:					
(a) 307-0002-W001	Gadsden	4.3.1; 5.1.1; 5.1.2	June 18, 1973	do	May 31, 1975
(b) 307-0002-W002	do	4.3.1; 5.1.1; 5.1.2	do	do	Do.
Jones Sawmill, Inc., permit No.: 307-S013-W001.	Attalla	3.3.4	Mar. 30, 1793	do	Mar. 30, 1973
Phillips Asphalt, Inc., permit No.: 307-0012-W001.	Gadsden	4.4.1	Jan. 24, 1973	do	Sept. 1, 1973
Republic Steel, permit, No.:					
(a) 307-0008-W004	do	4.1.4	Jan. 22, 1973	do	May 31, 1975
(b) 307-0008-W005	do	4.4.1	do	do	Apr. 1, 1975
(c) 307-0008-W006	do	4.4.1; 7.1	do	do	Dec. 1, 1973
(d) 307-0008-W007	do	4.4.1; 7.1	do	do	Do.
Unexcelled Manufacturing Division, permit No.:					
(a) 307-0009-W001	Attalla	4.5.1; 7.1	Feb. 2, 1973	do	May 1, 1974
Kimberly Clark Corp., permit No.:					
(a) 309-0006-W001	Coosa Pines	4.7.2	Feb. 8, 1973	do	May 31, 1975
(b) 309-0006-W002	do	4.7.2	do	do	Do.
(c) 309-0006-W003	do	4.7.2	do	do	Do.
(d) 309-0006-W004	do	4.7.2	do	do	Do.
(e) 309-0006-W005	do	4.7.2	do	do	Do.
(f) 309-0006-W006	do	4.7.2	do	do	Do.
(g) 309-0006-W011	do	4.8.2	do	do	Jan. 1, 1974
(h) 309-0006-W012	do	4.8.2	do	do	Do.
Lambert Materials Co., Inc., permit No.: 309-0015-W001.	Childersburg	4.4.1	Jan. 26, 1973	do	Oct. 31, 1974
Thompson, Weinman & Co. permit No.:					
(a) 309-0013-W007	Sylacauga	4.4.1	Jun. 18, 1973	do	Dec. 18, 1973
(b) 309-0013-W008	do	4.4.1	Jan. 26, 1973	do	Dec. 31, 1973
(c) 309-0013-W003	do	4.4.1	do	do	Aug. 31, 1973
Foy Lumber Co. Inc. permit No.: 310-S003-W001	Alexander City	3.1	Jan. 10, 1973	do	Mar. 1, 1973
Kirkland Weathers Foundry permit No.: 310-0004-W001.	do	4.5.1;7.1	Feb. 5, 1973	do	May 31, 1975
Lambert Materials Co. permit No.: 310-0008-W001.	Alexander City	4.4.1	Jan. 24, 1973	do	Oct. 31, 1973
Robinson Foundry permit No.: 310-0005-W001.	do	4.5.1; 7.1	Feb. 6, 1973	do	Aug. 1, 1974
Russell Mills, Inc., permit No.:					
(a) 310-0006-W001	do	4.8.2; 5.1.2	do	do	May 1, 1975
(b) 310-0006-W002	do	4.3.2; 5.1.2	do	do	Do.
(c) 310-0006-W003	do	4.3.2; 5.1.2	do	do	Do.
(d) 310-0006-W004	do	4.3.2; 5.1.2	do	do	Do.
Fox Lumber Co., Inc., permit No.: 401-S004-W001.	Centerville	4.8.2	Jan. 10, 1973	do	Feb. 1, 1974
Cheney Lime & Cement Co. permit No.: 402-0002-W001.	Allgood	4.4.2	do	do	July 31, 1973
Newman Lumber Co., Inc., permit No.: 404-S005-W001.	Belk	3.1	Jan. 10, 1973	do	Do.
Alabama Power Co. permit No.:					
(a) 405-0001-W001	Demopolis	4.3.2	June 18, 1973	do	May 31, 1975
(b) 405-0001-W002	do	5.1.1; 5.1.2	do	do	Do.
Centrala Farmers Co-op. permit No.:					
(a) 405-0002-W001	do	4.4.2	Dec. 15, 1972	do	Aug. 31, 1973
(b) 405-0002-W002	do	4.4.2	do	do	Do.
(c) 405-0002-W003	do	4.4.2	do	do	Do.
(d) 405-0002-W004	do	4.4.2	do	do	Do.
Alceville Veneers, Inc. permit No.: 409-S002-W001.	Alceville	3.3.4	Jan. 10, 1973	do	Jan. 1, 1974
Bigbee Asphalt Co., Inc. permit No.: 409-0012-W001.	do	4.4.1	Dec. 14, 1972	do	Dec. 31, 1973

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Source	Location	Regulation involved	Date of adoption	Effective	Final compliance date
Carpenter & Shirley Lumber Co. permit No.: 409-S003-W001	Gordo	3.3.4	Jan. 10, 1973	do	Do.
Floyd Lumber Co., Inc. permit No.: 409-S004-W001.	do	3.3.4	do	do	Oct. 1, 1973
Lewis Bros. Lumber Co., Inc., permit No.:					
(a) 409-S005-W001	Aliceville	3.3.4	do	do	Mar. 15, 1973
(b) 409-S005-W002	do	3.3.4	do	do	Apr. 1974
Pate Lumber Co., Inc., permit No.: 409-S007-W001.	Carrollton	3.3.4	do	do	July 31, 1973
Alabaster Lime Co. permit No.: 411-0017-W001.	Alabaster	4.4.1	Feb. 6, 1973	do	May 15, 1973
Central Alabama Paving & Const. Co., Inc., permit No.: 411-0012-W001	Calera	4.4.1	Dec. 14, 1972	do	Dec. 1, 1973
Cheney Lime & Cement Co. permit No.:					
(b) 411-0019-W002	Landmark	4.4.1	Jan. 31, 1973	do	Feb. 1, 1973
Dunn Const. Co., Inc., permit No.: 411-0013-W001.	Helena	4.4.1	Dec. 14, 1972	do	Dec. 21, 1973
Longview Lime Co. permit No.:					
(c) 411-0002-W003	Saginaw	4.4.1	Dec. 15, 1972	do	May 1, 1973
(d) 411-0002-W004	do	4.4.1	do	do	Do.
(e) 411-0002-W005	do	4.4.1	do	do	Do.
Montevallo Limestone Co. permit No.: 411-0014-W002.	Montevallo	4.2.1; 4.2.2	do	do	July 31, 1973
Railroad Products Group (ABEX) permit No.:					
(a) 411-0003-W006	Calera	4.4.1	Jan. 11, 1973	do	May 1, 1975
(b) 411-0003-W007	do	4.4.1	do	do	Do.
(c) 411-0003-W008	do	4.4.1	do	do	Do.
(d) 411-0003-W009	do	4.4.1	do	do	Do.
(e) 411-0003-W010	do	4.4.1	do	do	Do.
Southern Cement Co. permit No.:					
(a) 411-0004-W001	do	4.4.1	do	do	May 31, 1975
(b) 411-0004-W002	do	4.4.1	do	do	Do.
(c) 411-0004-W003	do	4.4.1	do	do	Feb. 28, 1975
(d) 411-0004-W004	do	4.4.1	do	do	Do.
(e) 411-0004-W005	do	4.4.1	do	do	Do.
(f) 411-0004-W006	do	4.4.1	do	do	Do.
(g) 411-0004-W007	do	4.4.1	do	do	Do.
(h) 411-0004-W008	do	4.4.1	do	do	Do.
(i) 411-0004-W009	do	4.4.1	do	do	Do.
(j) 411-0004-W010	do	4.4.1	do	do	Do.
(k) 411-0004-W011	do	4.4.1	do	do	Do.
(l) 411-0004-W012	do	4.2.1	do	do	Do.
(m) 411-0004-W013	do	4.2.1	do	do	Do.
Southern Electric Generating Co. permit No.:					
(a) 411-0005-W002	Wilsonville	4.3.1; 5.1.1; 5.1.2	June 18, 1973	do	Do.
(b) 411-0005-W003	do	4.3.1; 5.1.1; 5.1.2	do	do	Do.
(c) 411-0005-W004	do	4.3.1; 5.1.1; 5.1.2	do	do	Do.
(d) 411-0005-W005	do	4.3.1; 5.1.1; 5.1.2	do	do	Do.
U.S. Gypsum Co. (Allied Prod. Co.) permit No.:					
(a) 411-0008-W001	Montevallo	4.2.1; 4.2.2	Jan. 24, 1973	do	Do.
(d) 411-000-W004	do	4.4.1	do	do	Do.
(e) 411-000-W005	do	4.2.1; 4.2.2	do	do	Do.
The Central Foundry Co. permit No.:					
(a) 413-0001-W001	Holt	4.4.1	Jan. 16, 1973	do	May 1, 1975
(b) 413-0001-W002	do	4.4.1	do	do	Do.
(c) 413-0001-W003	do	4.4.1	do	do	Oct. 1, 1974
(d) 413-0001-W004	do	4.4.1	do	do	Do.
(e) 413-0001-W005	do	4.4.1	do	do	Do.
(f) 413-0001-W006	do	4.4.1	do	do	Aug. 1, 1974
(g) 413-0001-W007	do	4.4.1	do	do	Do.
(h) 413-0001-W008	do	4.4.1	do	do	Do.
(i) 413-0001-W009	do	4.4.1	do	do	Do.
(j) 413-0001-W010	do	4.5.1	do	do	May 1, 1975
(k) 413-0001-W011	do	4.5.1	do	do	Do.
(l) 413-0001-W012	do	4.5.1	do	do	Aug. 1, 1974
(m) 413-0001-W013	do	4.4.1	do	do	Jan. 1, 1975
(n) 413-0001-W014	do	4.4.1	do	do	Do.
(o) 413-0001-W015	do	4.4.1	do	do	Do.
(p) 413-0001-W016	do	4.4.1	do	do	Do.
(q) 413-0001-W017	do	4.4.1	do	do	Do.
(r) 413-0001-W018	do	4.4.1	do	do	Do.
(s) 413-0001-W019	do	4.4.1	do	do	Do.
(t) 413-0001-W020	do	4.4.1	do	do	Do.
(u) 413-0001-W021	do	4.4.1	do	do	Do.
Empire Coke Co. permit No.: 413-0006-W003.	do	4.4.1	Jan. 12, 1973	do	Nov. 1, 1974
Gulf States Paper Corp. permit No.:					
(a) 413-0003-W001	Tuscaloosa	4.7.2	Feb. 8, 1973	do	May 31, 1975
(b) 413-0003-W002	do	4.7.2	do	do	Do.
(c) 413-0003-W006	do	4.3.2	do	do	Do.
Reichold Chemicals, Inc. permit No.:					
(a) 413-0004-W001	do	4.3.1; 5.1.1	Dec. 28, 1972	do	Jan. 1, 1974
(b) 413-0004-W002	do	4.3.1; 5.1.1	do	do	Do.
(c) 413-0004-W003	do	4.3.1; 5.1.1	do	do	Do.
(d) 413-0004-W004	do	4.4.1	do	do	Aug. 1, 1973
(e) 413-0004-W005	do	4.4.1	do	do	Do.
(f) 413-0004-W006	do	4.4.1	do	do	Do.
Tuscaloosa Premix Asphalt Co., Inc. permit No.: 413-0009-W001.	Northport	4.4.1	Jan. 31, 1973	do	July 1, 1973
Warrior Asphalt permit No.: 413-0005-W001.	Tuscaloosa	4.4.1	Feb. 5, 1973	do	May 30, 1973
W. T. Ratcliff Co. Inc., permit No.: 413-0010-W001.	do	4.4.1	Jun. 25, 1973	do	Dec. 10, 1973

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Source	Location	Regulation involved	Date of adoption	Effective	Final compliance date
Alabama Power Co., Gorgas Elec. Generating Plant, permit No.:					
(a) 414-0001-W004	Parrish	4.3.1; 5.1.1; 5.1.2	June 18, 1973	do	May 31, 1975
(b) 414-0001-W005	do	4.3.1; 5.1.1; 5.1.2	do	do	Do.
J. M. McMillian Sawmill, Inc., permit No.: 501-S006-W001.	Stockton	3.3.4	Jan. 10, 1973	do	Mar. 1, 1973
Radcliff Materials, Inc., permit No.: 501-0005-W001.	Loxley	4.4.1	Jan. 24, 1973	do	Dec. 31, 1973
Container Corp. of America, permit No.:					
(a) 502-0001-W001	Brewton	4.7.2	Feb. 28, 1973	do	Aug. 15, 1974
(c) 502-0001-W004	do	4.7.2	do	do	Mar. 1, 1974
Swift Lumber Co. permit No.: 502-S003-W001.	Atmore	3.1	Jan. 10, 1973	do	July 18, 1973
T. R. Miller Mill Co., Inc., permit No.: 502-S002-W002.	Brewton	4.8.2	Feb. 14, 1973	do	July 1, 1974
A. P. Green Refractories, Co., permit No.:					
(a) 601-0002-W001	Eufaula	4.4.1	Dec. 15, 1972	do	Jan. 31, 1975
(b) 601-0002-W002	do	4.4.1	do	do	Do.
Eufaula Bauxite Co., permit No.: 601-0009-W001.	Richards Cross-Roads.	4.4.1	Dec. 14, 1972	do	Apr. 15, 1973
Southland Materials & Paving, permit No. 602-0003-W001.	Elba	4.4.1	Feb. 12, 1973	do	Dec. 31, 1973
Alabama Electric Cooperative, Inc., permit No.:					
(a) 603-0001-W001	Gantt	4.3.2; 5.1.1	June 18, 1973	do	Apr. 1, 1975
(b) 603-0001-W002	do	4.3.2; 5.1.1	do	do	Do.
(c) 603-0001-W003	do	4.3.2; 5.1.1	do	do	May 31, 1975
Wiregrass Construction Co., permit No.: 603-0004-W001.	Red level	4.4.1	Jan. 31, 1973	do	June 1, 1973
Charles Manufacturing Co., permit No.: 607-S003-W001.	Dothan	3.3.4	Feb. 14, 1973	do	Oct. 31, 1973
Swift Agricultural Co., permit No.:					
(a) 607-0007-W001	do	4.4.1	Feb. 9, 1973	do	Jun. 8, 1973
(b) 607-0007-W002	do	4.4.1	do	do	Jan. 18, 1975
Ballew & Roberts Paving Co., Inc. permit No.: 701-0018-W001.	Tuscumbia	4.4.1	Dec. 15, 1972	do	May 1, 1973
Ford Motor Co., permit No.:					
(a) 701-0003-W017	Sheffield	4.4.1	Feb. 1, 1973	do	June 30, 1974
(b) 701-0003-W018	do	4.2.1	do	do	Do.
King Stove & Range Co., permit No.: 701-0004-W003.	do	4.5.1	Jan. 30, 1973	do	Mar. 15, 1975
Reynolds Metals Co., permit No.:					
(a) 701-0006-W001	do	4.4.1	do	do	Dec. 31, 1974
(b) 701-0006-W002	do	4.4.1	do	do	Dec. 1, 1973
(c) 701-0006-W003	do	4.4.1	do	do	Dec. 31, 1974
(d) 701-0007-W001	do	4.4.1	do	do	Sept. 21, 1974
(e) 701-0007-W002	do	4.4.1	do	do	Do.
(f) 701-0007-W003	do	4.4.1	do	do	Do.
(g) 701-0007-W004	do	4.4.1	do	do	Nov. 30, 1974
(h) 701-0008-W001	do	4.4.1	Feb. 2, 1973	do	Dec. 31, 1974
(i) 701-0008-W002	do	4.10.2	do	do	May 31, 1975
(j) 701-0008-W003	do	4.10.2	do	do	Do.
(k) 701-0008-W004	do	4.10.2	do	do	Do.
(m) 701-0008-W006	do	4.10.2	do	do	Do.
(n) 701-0008-W007	do	4.10.2	do	do	Do.
(o) 701-0008-W008	do	4.10.2	do	do	Do.
(p) 701-0008-W009	do	4.10.2	do	do	Do.
(q) 701-0008-W011	do	4.4.1	do	do	Sept. 30, 1974
(r) 701-0008-W012	do	4.4.1	do	do	Do.
(s) 701-0008-W013	do	4.4.1	do	do	Do.
Southern Stone Co. permit No.:					
(a) 701-0014-W001	Cherokee	4.2.1; 4.2.2	Jan. 24, 1973	Cherokee	July 1, 1973
(b) 701-0014-W002	do	4.2.1; 4.2.2	do	do	Do.
(c) 701-0014-W003	do	4.2.1; 4.2.2	do	do	Do.
(d) 701-0014-W004	do	4.2.1; 4.2.2	do	do	Do.
(e) 701-0014-W005	do	4.2.1; 4.2.2	do	do	Do.
(f) 701-0014-W006	do	4.2.1; 4.2.2	do	do	Do.
(g) 701-0014-W007	do	4.2.1; 4.2.2	do	do	Do.
Southern Stone Co. permit No.:					
(a) 701-0016-W001	Margerum	4.4.1	do	do	Dec. 31, 1973
(b) 701-0016-W002	do	4.2.1; 4.2.2	do	do	Feb. 1, 1975
USS Agri-Chemicals permit No.:					
(a) 701-0013-W001	Cherokee	3.2	Jan. 11, 1973	do	May 31, 1975
(b) 701-0013-W002	do	4.4.1	do	do	Sept. 1, 1974
Vulcan Materials Co. permit No.:					
(a) 701-0017-W001	Tuscumbia	4.2.1; 4.2.2	Dec. 15, 1972	do	July 1, 1974
(b) 701-0017-W002	do	4.2.1; 4.2.2	do	do	Do.
(c) 701-0017-W003	do	4.2.1; 4.2.2	do	do	Do.
U.S. Reduction Co. permit No.:					
(a) 704-0001-W001	Russellville	4.4.1	Dec. 20, 1972	do	Aug. 15, 1973
(b) 704-0001-W002	do	4.4.1	do	do	Oct. 30, 1973
(c) 704-0001-W003	do	4.4.1	do	do	Aug. 31, 1974
(d) 704-0001-W004	do	4.4.1	do	do	Do.
(e) 704-0001-W005	do	4.4.1	do	do	Do.
Vulcan Materials Co. S.E. Div., permit No.:					
(a) 704-0002-W003	do	4.2.1; 4.2.2	Dec. 15, 1972	do	Jan. 1, 1974
(b) 704-0002-W004	do	4.2.1; 4.2.2	do	do	Do.
(c) 704-0002-W005	do	4.2.1; 4.2.2	do	do	Do.
Burgreen Contracting Co., Inc., permit No.: 705-0011-W001.	Scottsboro	4.4.1	Feb. 12, 1973	do	Dec. 31, 1973
Revere Copper & Brass permit No.:					
(a) 705-0004-W002	do	4.4.1	Feb. 14, 1973	do	Sept. 1, 1973
(b) 705-0004-W012	do	3.1	do	do	Aug. 30, 1973
(c) 705-0012-W008	do	3.1	do	do	Aug. 19, 1973

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Source	Location	Regulation involved	Date of adoption	Effective	Final compliance date
Tennessee Alloys Corp. permit No.:					
(a) 705-0007-W001	Bridgeport	4.4.1	Dec. 27, 1972	do	Feb. 28, 1975
(b) 705-0007-W002	do	4.4.1	do	do	Do.
(c) 705-0007-W003	do	4.4.1	do	do	Do.
Vulcan Materials Co., S.E. Div., permit No.:					
(a) 705-0005-W001	Scottsboro	4.2.1; 4.2.2	Dec. 15, 1972	do	July 1, 1974
(b) 705-0005-W002	do	4.2.1; 4.2.2	do	do	Aug. 1, 1974
(c) 705-0005-W003	do	4.2.1; 4.2.2	do	do	Do.
Martin Stove & Range Co., permit No.:					
(a) 706-0003-W001	do	4.5.1	Jan. 30, 1973	do	Feb. 28, 1975
(b) 706-0003-W002	do	4.5.1	do	do	Do.
Burgreen Construction Co. permit No.: 707-0002-W001.	Moulton	4.4.2	Jan. 12, 1973	do	Dec. 31, 1973
John Blue Co. permit No.:					
(a) 709-0011-W001	Huntsville	4.5.1; 7.1	Feb. 6, 1973	do	Sept. 15, 1974
(b) 709-0011-W002	do	4.5.1; 7.1	do	do	Do.
Alabama Oak Flooring Co. permit No.:					
(a) 710-S001-W001	Guin	4.8.2	Jan. 10, 1973	do	July 31, 1973
(b) 710-S001-W002	do	3.3.4	do	do	Do.
(c) 710-S001-W003	do	3.1	do	do	Do.
Gold Kist, Inc., permit No.: 711-0004-W010.	do	4.4.2	Dec. 29, 1972	do	Do.
Amoco Chemicals Corp., permit No.:					
(a) 712-0002-W003	Decatur	4.4.1	Feb. 2, 1973	do	Mar. 1, 1974
(b) 712-0002-W004	do	4.4.1	do	do	Do.
(d) 712-0002-W012	do	4.4.1	do	do	Dec. 31, 1974
(f) 712-0002-W020	do	4.4.1	do	do	Do.
(g) 712-0002-W022	do	4.4.1	do	do	Do.
Fruehauf Corp., permit No.:					
(a) 712-0005-W001	do	4.4.1	Dec. 29, 1972	do	Aug. 1, 1974
(b) 712-0005-W002	do	4.4.1	do	do	Sept. 1, 1974
(c) 712-0005-W003	do	4.4.1	do	do	Mar. 15, 1975
(d) 712-0005-W004	do	4.4.1	do	do	Feb. 1, 1975
(e) 712-0005-W005	do	4.4.1	do	do	Dec. 15, 1974
(f) 712-0005-W006	do	4.4.1	do	do	Nov. 1, 1974
(g) 712-0005-W007	do	4.4.1	do	do	Sept. 15, 1974
(h) 712-0005-W008	do	3.1	do	do	Dec. 1, 1972
G & W Asphalt Co., Inc., permit No.: 712-0008-W001.	Lacon	4.4.1	do	do	June 30, 1974
Holland & Woodard Stone Co., Inc., permit No.: 712-0017-W001.	Decatur	4.2.1; 4.2.2	do	do	July 7, 1973
Trinity Quarries Inc., permit No.:					
(a) 712-0012-W001	Trinity	4.2.1; 4.2.2	do	do	June 30, 1973
(b) 712-0012-W002	do	4.2.1; 4.2.2	do	do	Do.
(c) 712-0012-W003	do	4.2.1; 4.2.2	do	do	Do.
Trinity Quarries Inc., permit No.:					
(a) 712-0015-W001	Priceville	4.2.1; 4.2.2	Dec. 15, 1972	do	Do.
(b) 712-0015-W002	do	4.2.1; 4.2.2	do	do	Do.
(c) 712-0015-W003	do	4.2.1; 4.2.2	do	do	Do.
Trinity Quarries., Inc., permit No.: 712-0019-W001.	Trinity	4.2.1; 4.2.2	do	do	June 30, 1974
Wolverine Tube Division permit No.:					
(a) 712-0016-W003	Decatur	4.4.1	Jan. 5, 1973	do	Apr. 30, 1974
(b) 712-0016-W004	do	4.4.1	do	do	Do.
(c) 712-0016-W005	do	4.4.1	do	do	Do.
(d) 712-0016-W006	do	4.4.1	do	do	Do.
C. W. Knight & Sons Lumber Co., permit No.: 713-S005-W001.	Haleyville	3.1	Jan. 10, 1973	do	July 1, 1973

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Allied Chemical Corp. permit No.:					
(a) 407-0015-2101	Birmingham	6.4	Jan. 17, 1973	do	Mar. 31, 1974
(b) 407-0015-2102	do	6.4	do	do	Jan. 31, 1974
(c) 407-0015-2103	do	6.4	do	do	Feb. 28, 1975
Alpha Portland Cement Co. permit No.:					
(a) 407-0020-2201	do	6.2	do	do	July 1, 1973
(b) 407-0020-2502	do	6.1; 6.4	do	do	Do.
American Cast Iron Pipe Co. permit No.:					
(a) 407-0030-2101	do	6.1; 6.4	do	do	Dec. 31, 1974
(b) 407-0030-2102	do	6.1; 6.4	do	do	Do.
(c) 407-0030-2103	do	6.1; 6.4	do	do	Do.
(d) 407-0030-2104	do	6.1; 6.4	do	do	Do.
(e) 407-0030-2105	do	6.1; 6.4	do	do	Do.
(f) 407-0030-2106	do	6.1; 6.4	do	do	Do.
(w) 407-0030-2128	do	6.1; 6.4; 9.1	do	do	July 31, 1973
(x) 407-0030-3503	do	6.4	do	do	Feb. 1, 1973
Anderson Electric Corp. permit No.:					
(a) 407-0021-2101	Leeds	6.4	do	do	Mar. 1, 1975
(b) 407-0021-2102	do	6.4	do	do	Jan. 1, 1975
(c) 407-0021-2103	do	6.4	do	do	Dec. 1, 1974
(d) 407-0021-2104	do	6.4	do	do	Do.
(e) 407-0021-2105	do	6.4	do	do	Do.
(f) 407-0021-2106	do	6.4	do	do	Do.
Belcher Lumber Co. permit No.: 407-0050-2301.	do	6.1; 6.8	Jan. 17, 1973	do	June 30, 1973
Birmingham Stove and Range permit No.:					
(a) 407-0060-2501	do	6.4	do	do	Apr. 1, 1973
Bituminous Paving Materials Co. permit No.: 407-0061-2501.	do	6.1; 6.4	do	do	July 1, 1974
Buchanan Lumber Co. permit No.:					
(a) 407-0065-2201	Birmingham	6.1; 6.4	Jan. 17, 1973	do	Dec. 31, 1974

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Source	Location	Regulation involved	Date of adoption	Effective	Final compliance date
W. J. Bullock, Inc., permit No.:					
(e) 407-0068-2105	Fairfield	6.4	do	do	Aug. 1, 1974
(g) 407-0068-2107	do	6.4	do	do	July 31, 1974
(h) 407-0068-2108	do	6.1; 6.4	do	do	Do.
(i) 407-0068-2109	do	6.1; 6.4	do	do	Do.
(j) 407-0068-2110	do	6.1; 6.4	do	do	Do.
(k) 407-0068-2111	do	6.1; 6.4	do	do	Do.
(l) 407-0068-2112	do	6.1; 6.4	do	do	Do.
(m) 407-0068-2113	do	6.1; 6.4	do	do	Do.
(n) 407-0068-2114	do	6.1; 6.4	do	do	Do.
(o) 407-0068-2115	do	6.1; 6.4	do	do	Do.
(p) 407-0068-2116	do	6.1; 6.4	do	do	Do.
(q) 407-0068-2117	do	6.1; 6.4	do	do	Do.
(r) 407-0068-2118	do	6.1; 6.4	May 16, 1973	do	Oct. 30, 1974
Cleveland Electric Co. permit No.: 407-0077-2101.	Birmingham	6.1; 6.4	Jan. 17, 1973	do	July 31, 1973
Clow Corp. permit No.:					
(a) 407-0070-2101	do	6.1; 6.4	do	do	Jan. 1, 1975
(b) 407-0070-2102	do	6.1; 6.4	do	do	Sept. 1, 1974
(c) 407-0070-2103	do	6.1; 6.4	do	do	Jan. 1, 1975
(d) 407-0070-2501	do	6.1; 6.4; 9.1	do	do	May 31, 1975
Crane Foundry Co. permit No.: 407-110-2101	do	6.1; 6.5; 9.1	do	do	Oct. 31, 1974
Dolcito Quarry Co. permit No.:					
(a) 407-0119-2503	Tarrant	6.1; 6.4	May 16, 1973	do	June 15, 1973
(b) 407-0119-2504	do	6.1; 6.4	do	do	Do.
(c) 407-0119-3501	do	6.1; 6.4	Jan 17, 1973	do	Apr. 15, 1973
(d) 407-0119-3502	do	6.1; 6.4	May 16, 1973	do	June 15, 1973
Dunn Construction Co. permit No.: 407-0125-2501	Birmingham	6.1; 6.4	Jan. 17, 1973	do	Oct. 26, 1973
East Birmingham Bronze Foundry, Inc. permit No.: 407-0117-2102.	do	6.1; 6.4	do	do	Dec. 31, 1974
E. I. DuPont de Nemours & Co., Inc., permit No.: 407-0120-2201.	Watson	5.1	do	do	Oct. 31, 1973
Gldwell Speciailties Foundry Co. permit No.: 407-0138-2101.	Birmingham	6.1; 6.5; 9.1	do	do	Nov. 15, 1974
Goslin-Birmingham, Inc., permit No.:					
(b) 407-0139-2102	do	6.1; 6.4	do	do	Oct. 31, 1973
Grayson Lumber Co. permit No.: 407-0141-2201.	do	6.1; 6.4	do	do	Jan. 1, 1974
Harbison-Walker Refractories Co. permit No: 407-0320-2501.	Bessemer	6.1; 6.4	do	do	Apr. 30, 1973
Hayes International Corp. permit No.:					
(a) 407-0150-2301	Birmingham	6.3	do	do	Oct. 15, 1973
(b) 407-0150-2302	do	6.3	do	do	Do.
(c) 407-1050-2303	do	6.3	do	do	Do.
(d) 407-0150-2304	do	6.3	do	do	Do.
(e) 407-0150-2305	do	6.3	do	do	Do.
(f) 407-0150-2306	do	6.3	do	do	Do.
Hercules, Inc., permit No.:					
(a) 407-0160-2101	Bessemer	10.2	do	do	Mar. 1, 1975
(b) 407-0160-2201	do	5.1	do	do	Feb. 1, 1973
Jefferson Foundry Co. permit No.:					
(a) 407-0180-2101	Birmingham	6.1; 6.5; 9.1	do	do	Dec. 1, 1974
(b) 407-0180-2102	do	6.4	do	do	Nov. 1, 1974
Jefferson Foundry Co. permit No.:					
(a) 407-0181-2101	do	6.1; 6.4	do	do	June 30, 1973
(b) 407-0181-2102	do	6.1; 6.5; 9.1	do	do	Dec. 1, 1974
Jones Foundry permit No: 407-0190-2101.	Bessemer	6.1; 6.4; 9.1	do	do	Jan. 1, 1975
Lawler Machine & Foundry Co. permit No.: 407-0200-2101.	Birmingham	6.1; 6.5; 9.1	do	do	Dec. 31, 1974
Martin Marietta Cement permit No.:					
(a) 407-0215-2101	do	6.1	May 16, 1973	do	Do.
(b) 407-0215-2102	do	6.2	do	do	Do.
McWane Cast Iron Pipe Co. permit No.:					
(c) 407-0220-2501	do	6.1; 6.4; 9.1	Jan. 17, 1973	do	June 1, 1975
Miller Foundry Co. permit No.: 407-0225-2101.	Lovick	6.1; 6.5; 9.1	do	do	Oct. 30, 1974
National Metals, Inc., permit No.: 407-0490-2101.	Leeds	6.1; 6.4	do	do	Dec. 1, 1974
Republic Steel Corp. permit No.: 407-0240-2101.	Birmingham	1.13	do	do	July 1, 1974
Southeast Contractors, Inc., permit No: 407-0250-2501.	Bessemer	6.1; 6.4	May 16, 1973	do	Nov. 1, 1973
Southern Electric Steel Co. permit No.: 407-0260-2102	Birmingham	6.1; 6.4	Jan. 17, 1973	do	Dec. 31, 1973
Stockton Valve & Fitting Co. permit No.:					
(a) 407-0270-2101	do	6.4	do	do	Jan. 2, 1975
(b) 407-0270-2102	do	6.4	do	do	Oct. 1, 1974
(c) 407-0270-2103	do	6.4	do	do	Do.
(d) 407-0270-2104	do	6.4	do	do	Do.
(e) 407-0270-2105	do	6.4	do	do	Do.
(f) 407-0270-2106	do	6.4	do	do	Do.
(g) 407-0270-2107	do	6.4	do	do	Do.
(h) 407-0270-2108	do	6.4	do	do	Do.
(i) 407-0270-2109	do	6.4	do	do	Nov. 1, 1974
(j) 407-0270-2110	do	6.4	do	do	Do.
(k) 407-0270-2111	do	6.4	do	do	Do.
(l) 407-0270-2112	do	6.4	do	do	Do.
(m) 407-0270-2201	do	5.1	do	do	Mar. 1, 1973
(n) 407-0270-2501	do	6.1; 6.4; 9.1	do	do	Jan. 2, 1975
(o) 407-0270-2502	do	6.4	do	do	June 1, 1973
Thomas Foundries, Inc., permit No.:					
(a) 407-0285-2101	do	6.1; 6.4	do	do	Dec. 31, 1973
(b) 407-0285-2102	do	6.4	do	do	Do.
(c) 407-0285-2104	do	6.1	May 16, 1973	do	Sept. 1, 1973
United Chair Co. permit No.: 407-0291-2201.	Leeds	6.1	Jan. 17, 1973	do	June 30, 1974

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Source	Location	Regulation involved	Date of adoption	Effective	Final compliance date
Universal Atlas Cement Div., U.S. Steel Corp. permit No.: 407-0290-2501.	do	6.1	do	do	May 31, 1975
U.S. Pipe & Foundry Co. permit No.:					
(a) 407-0340-2102	Bessemer	6.1	do	do	July 15, 1974
(b) 407-0340-2104	do	6.4; 6.1; 9.1	do	do	Do.
(c) 407-0340-2105	do	6.4	do	do	Do.
U.S. Pipe & Foundry Co. permit No.:					
(a) 407-0350-2103	Birmingham	6.1	do	do	Jan. 1, 1975
(b) 407-0350-2104	do	6.1; 6.4	do	do	May 1, 1975
(c) 407-0350-2105	do	6.1; 6.4	do	do	Do.
(d) 407-0350-2106	do	6.1; 6.4	do	do	Do.
(e) 407-0350-2107	do	6.1; 6.4	do	do	Do.
(f) 407-0350-2108	do	6.1; 6.4	do	do	Do.
(g) 407-0350-2109	do	6.1; 6.4	do	do	Do.
(h) 407-0350-2110	do	6.1; 6.4	do	do	Do.
(i) 407-0350-2111	do	6.1; 6.4	do	do	Do.
(j) 407-0350-2112	do	6.1; 6.4	do	do	Do.
(k) 407-0350-2113	do	6.1; 6.4	do	do	Do.
(l) 407-0350-2114	do	6.1; 6.4	do	do	Do.
(m) 407-0350-2201	do	5.2	do	do	July 1, 1974
(n) 407-0350-2202	do	5.2	do	do	Do.
(p) 407-0350-2302	do	6.3	do	do	Nov. 1, 1974
(s) 407-0350-2305	do	6.3	do	do	Do.
(t) 407-0350-2306	do	6.3	do	do	Do.
(u) 407-0350-2307	do	6.3	do	do	Oct. 1, 1973
(v) 407-0350-2308	do	6.3	do	do	Do.
(w) 407-0350-2309	do	6.3	do	do	Do.
U.S. Pipe & Foundry Co., permit No.:					
(a) 407-0360-2103	do	6.1; 6.4	do	do	Jan. 15, 1974
(b) 407-0360-2105	do	6.1; 6.4; 9.1	do	do	Do.
(c) 407-0360-2106	do	6.1; 6.4; 9.1	do	do	Do.
(d) 407-0360-2107	do	6.1	May 16, 1973	do	Sept. 15, 1973
U.S. Steel Corp., permit No.:					
(j) 407-0370-2111	Fairfield	8.1	Jan. 17, 1973	do	Do.
(k) 407-0370-2113	do	8.1	do	do	Do.
(l) 407-0370-2114	do	8.1	do	do	Do.
(m) 407-0370-2117	do	8.2	do	do	Nov. 15, 1974
(n) 407-0370-2118	do	8.1	do	do	Do.
(o) 407-0370-2201	do	5.1	do	do	Dec. 15, 1973
(p) 407-0370-2204	do	5.2	do	do	Do.
(q) 407-0370-2301	do	6.1; 6.4; 7.1	do	do	Aug. 15, 1974
(r) 407-0370-2302	do	6.1; 6.4; 7.1	do	do	Do.
(s) 407-0370-2303	do	6.1; 6.4; 7.1	do	do	Do.
(t) 407-0370-2304	do	6.1; 6.4; 7.1	do	do	Do.
(u) 407-0370-2305	do	6.1; 6.4; 7.1	do	do	June 1, 1973
(v) 407-0370-2306	do	6.1; 6.4; 7.1	do	do	Do.
(w) 407-0370-2307	do	6.1; 6.4; 7.1	do	do	Do.
(x) 407-0370-2308	do	6.1; 6.4; 7.1	do	do	Do.
(y) 407-0370-2309	do	6.1; 6.4; 7.1	do	do	Do.
(z) 407-0370-3204	do	5.2	do	do	Feb. 15, 1974
U.S. Steel Corp. permit No.:					
(a) 407-0380-2203	Ensley	5.2	do	do	Dec. 15, 1973
(b) 407-0380-2301	do	6.1; 6.3	do	do	Feb. 15, 1975
(c) 407-0380-2302	do	6.1; 6.3	do	do	Do.
(d) 407-0380-2303	do	6.1; 6.3	Jan. 17, 1973	do	Do.
(e) 407-0380-2304	do	6.1; 6.3	do	do	Do.
(f) 407-0380-2305	do	6.1; 6.3	do	do	Do.
(g) 407-0380-2306	do	6.1; 6.3	do	do	Do.
(h) 407-0380-2307	do	6.1; 6.3	do	do	Do.
(i) 407-0380-2308	do	6.1; 6.3	do	do	Do.
(j) 407-0280-2309	do	6.1; 6.3	do	do	Do.
(k) 407-0380-2310	do	6.1; 6.3	do	do	Do.
(l) 407-0380-2311	do	6.1; 6.3	do	do	Do.
(m) 407-0380-2312	do	6.1; 6.3	do	do	Do.
(n) 407-0380-2313	do	6.1; 6.3	do	do	Do.
(o) 407-0380-2314	do	6.1; 6.3	do	do	Do.
(p) 407-0380-2315	do	6.1; 6.3	do	do	Do.
(q) 407-0380-2316	do	6.1; 6.3	do	do	Do.
(r) 407-0380-2317	do	6.1; 6.3	do	do	Do.
U.S. Steel Corp. permit No.:					
(a) 407-0390-2101	Bessemer	8.1	do	do	Sept. 15, 1973
(b) 407-0390-2501	do	6.1; 6.3	do	do	May 28, 1975
(c) 407-0390-2502	do	6.1; 6.3	do	do	Do.
(d) 407-0390-2503	do	6.1; 6.3	do	do	Do.
(e) 407-0390-2504	do	6.1; 6.3	do	do	Do.
Vulcan Foundry Co. permit No.:					
(a) 407-0422-2101	Birmingham	6.1; 6.4; 9.1	do	do	July 31, 1974
(b) 407-0422-2102	do	6.1	May 16, 1973	do	Do.
Vulcan Materials Co. S.E. Div. permit No.:					
(a) 407-0410-2102	Parkwood	6.1; 6.4	Jan. 17, 1973	do	Mar. 1, 1974
(b) 407-0410-2104	do	6.1; 6.4	do	do	July 1, 1973
(d) 407-0410-2503	do	6.1; 6.4	do	do	Do.
(e) 407-0410-2504	do	6.1; 6.4	do	do	Sept. 1, 1974
Vulcan Materials Co. S.E. Div. permit No.:					
(a) 407-0420-2102	Wylam	6.1; 6.4	do	do	July 1, 1973
(d) 407-0420-2502	do	6.1; 6.4	do	do	Nov. 1, 1973
Vulcan Materials Co. S.E. Div. permit No.: 407-0425-2101.	Fairfield	6.2	do	do	Oct. 1, 1974
Warren Bros. Co. permit No.: 407-0429-2501.	Birmingham	6.1; 6.4	do	do	Apr. 1, 1973
Woodward Iron Co. permit No.: 407-0440-2101.	Woodward	6.1; 6.4	do	do	Dec. 1, 1974

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Source	Location	Regulation involved	Date of adoption	Effective	Final compliance date
		MOBILE COUNTY			
Airco Alloys & Carbide, permit No.:					
(a) 503-8001-0001	Mobile	6.4.1	Feb. 2, 1973	do	Sept. 1, 1974
(b) 503-8001-0002	do	6.4.1	do	do	Do.
Alabama Power Co., permit No.:					
(a) 503-1001-0001	Bucks	6.4.1; 7.1.1	June 8, 1973	do	May 31, 1975
(b) 503-1001-0002	do	6.4.1; 7.1.1	do	do	Do.
(c) 503-1001-0003	do	6.4.1; 7.1.1	do	do	Do.
(d) 503-1001-0004	do	6.4.1; 7.1.1	do	do	Do.
Alcoa permit No.:					
(a) 503-8003-0005	Mobile	6.4.1	Feb. 2, 1973	do	May 31, 1975
(b) 503-8003-0006	do	6.4.1	do	do	Do.
(c) 503-8003-0007	do	6.4.1	do	do	Do.
(d) 503-8003-0008	do	6.4.1	do	do	Do.
(e) 503-8003-0009	do	6.4.1	do	do	Do.
(f) 503-8003-0010	do	6.4.1	do	do	Do.
(g) 503-8003-0011	do	6.4.1	do	do	Do.
(h) 503-8003-0014	do	6.4.1	do	do	Mar. 31, 1974
American Oil Co. permit No.: 503-3007-8401	do	8.1	Dec. 1, 1972	do	Dec. 31, 1972
Chevron Asphalt Co. permit No.:					
(a) 503-4002-8408	do	8.1.1	Feb. 2, 1973	do	Oct. 1, 1974
(b) 503-4002-8410	do	8.1.1	do	do	Do.
(c) 503-4002-8435	do	8.1.1	do	do	Do.
(d) 503-4002-8436	do	8.1.1	do	do	Do.
(e) 503-4002-8446	do	8.1.1	Feb. 2, 1973	do	Do.
GAF Corp., permit No.:					
(a) 503-8004-0012	Mobile	6.4.1	Feb. 2, 1973	do	Apr. 1, 1973
(b) 503-8004-0013	do	6.4.1	do	do	Do.
Gulf Lumber Co., permit No.:					
(a) 503-2003-0003	do	6.3.1	Dec. 15, 1972	do	June 30, 1973
(b) 503-2003-0009	do	6.3.1	do	do	Do.
Gulfport Creosoting Co., permit No.: 503-2004-0001.	do	6.3.1	do	do	June 1, 1973
Ideal Cement Co., permit No.:					
(a) 503-8005-0001	do	6.4.1	Feb. 2, 1973	do	Mar. 1, 1975
(b) 503-8005-0002	do	6.4.1	do	do	Do.
(c) 503-8005-0003	do	6.4.1	do	do	Do.
(d) 503-8005-0004	do	6.4.1	do	do	Do.
(e) 503-8005-0005	do	6.4.1	do	do	Do.
(f) 503-8005-0007	do	6.4.1	Jan. 19, 1973	do	Mar. 1, 1974
(g) 503-8005-0401	do	5.1	do	do	Dec. 1, 1973
International Paper Co., permit No.:					
(a) 503-2005-0001	do	6.6.2; 7.4.2	Feb. 2, 1973	do	June 15, 1974
(b) 503-2005-0002	do	6.6.2; 7.4.2	do	do	Do.
(c) 503-2005-0003	do	6.6.2	do	do	Dec. 31, 1973
(d) 503-2005-0004	do	6.6.2	do	do	Do.
(e) 503-2005-0005	do	6.6.2	do	do	July 1, 1973
(f) 503-2005-0006	do	6.6.2; 7.4.2	do	do	Do.
(g) 503-2005-0007	do	6.6.2; 7.4.2	do	do	Do.
(h) 503-2005-0008	do	6.6.2; 7.4.2	do	do	Do.
(i) 503-2005-0401	do	5.1	Jan. 19, 1973	do	June 30, 1973
McGuire Oil Co., permit No.:					
(a) 503-3018-8701	do	8.1	Dec. 1, 1972	do	Jan. 1, 1973
(b) 503-3018-8702	do	8.1	do	do	Do.
(c) 503-3018-8703	do	8.1	do	do	Do.
(d) 503-3018-8704	do	8.1	do	do	Do.
(e) 503-3018-8705	do	8.1	do	do	Do.
(f) 503-3018-8706	do	8.1	do	do	Do.
Mobile Paint Mfg. Co., permit No.: 503-5006-0001.	do	8.6.1	Dec. 15, 1972	do	May 15, 1973
Mobile River Sawmill permit No.: 503-2011-0401	Saraland	5.3.5	Feb. 2, 1972	do	Dec. 1, 1973
Oil Service Co. permit No.:					
(a) 503-3021-0001	Mobile	7.1.1	Dec. 15, 1972	do	June 1, 1973
(b) 503-3021-0002	do	7.1.1	do	do	Do.
Pride Terminals, Inc., permit No.:					
(a) 503-3022-8401	do	8.1.1	do	do	Dec. 31, 1973
(b) 503-3022-8402	do	8.1.1	do	do	Do.
(c) 503-3022-8403	do	8.1.1	do	do	Do.
(d) 503-3022-8404	do	8.1.1	do	do	Do.
(e) 503-3022-8405	do	8.1.1	do	do	Do.
(f) 503-3022-8406	do	8.1.1	do	do	Do.
Radcliff Materials, Inc., permit No.: 503-8007-0004	do	6.4.1	do	do	Oct. 1, 1973
W. T. Ratliff Co., Inc., permit No.: 503-8008-0001	do	6.4.1	do	do	Aug. 1, 1973
Shell Oil Co. permit No.:					
(a) 503-3023-8401	do	8.1.1	do	do	Jan. 1, 1974
(b) 503-3023-8402	do	8.1.1	do	do	Do.
Standard Oil Co. permit No.:					
(a) 503-3029-8401	do	8.1.1	do	do	Sept. 30, 1973
(b) 503-3029-8402	do	8.1.1	do	do	Do.
(c) 503-3029-8404	do	8.1.1	do	do	Do.
(d) 503-3029-8405	do	8.1.1	do	do	Do.
(e) 503-3029-8406	do	8.1.1	do	do	Do.
(f) 503-3029-8407	do	8.1.1	do	do	Do.
Stauffer Chemical Co., permit No.:					
(a) 503-50009-0003	Axis	7.3.1	Feb. 2, 1973	do	May 31, 1975
(b) 503-50009-0005	do	7.2	June 8, 1973	do	Do.
Texaco, Inc., permit No.:					
(a) 503-3025-8420	Mobile	8.1.1	Dec. 15, 1972	do	Apr. 1, 1974
(b) 503-3025-8421	do	8.1.1	do	do	Do.
(c) 503-3025-8422	do	8.1.1	do	do	Do.
Triangle Refineries, permit No.:					
(a) 503-3026-8405	do	8.1.1	do	do	Nov. 1, 1973
(b) 503-3026-8406	do	8.1.1	do	do	Do.
(c) 503-3026-8407	do	8.1.1	do	do	Do.
(d) 503-3026-8408	do	8.1.1	do	do	Do.
Triangle Refineries, permit No.: 503-3027-8405.	do	8.1.1	Feb. 2, 1973	do	Apr. 15, 1973

STATE OF ALABAMA—Continued

Source	Location	Regulation involved	Date of adoption	Effective	Final compliance date
Union Carbide Corp., permit No.:					
(a) 503-8010-0001	Chickasaw	6.4.1	do	do	July 31, 1974
(b) 503-8010-0005	do	6.4.1	do	do	Do.
(c) 503-8010-0006	do	6.4.1	do	do	Do.
(d) 503-8010-0007	do	6.4.1	do	do	Do.
(e) 503-8010-0008	do	6.4.1	do	do	Do.
(f) 503-8010-0009	do	6.4.1	do	do	Do.
(g) 503-8010-0010	do	6.4.1	do	do	Do.
(h) 503-8010-0011	do	6.4.1	do	do	Do.
(i) 503-8010-0012	do	6.4.1	do	do	Do.
(j) 503-8010-0013	do	6.4.1	do	do	Do.
(k) 503-8010-0014	do	6.4.1	do	do	Do.
(l) 503-8010-0015	do	6.4.1	do	do	Do.
(m) 503-8010-0016	do	6.4.1	do	do	Do.
(n) 503-8010-0017	do	6.4.1	do	do	Do.

[FR Doc.74-22307 Filed 9-30-74;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-11025, IC-8514, File No. S7-516]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Confirmation Requirements for the Sale of Redeemable Registered Investment Company Securities to Certain Persons

On March 15, 1974 the Securities and Exchange Commission announced in Securities Exchange Act Release No. 10681 and Investment Company Act Release No. 8275 (published in the FEDERAL REGISTER for March 28, 1974 (39 FR 11441)) that it had under consideration the adoption of an amendment to Rule 15c1-4 (17 CFR 240.15c1-4) under the Securities Exchange Act of 1934 ("Act") (15 U.S.C. 78a et seq.) which would ease the confirmation requirements with respect to certain purchases of securities issued by any open-end investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.). The Commission has considered the comments and views of all interested persons concerning this proposal and has determined to adopt the amendment to Rule 15c1-4 in the revised form set forth below. The amendment to Rule 15c1-4 is adopted pursuant to sections 15(c)(1) and 23(a) of the Act (15 U.S.C. 78o, 78w).

Rule 15c1-4 presently requires brokers and dealers to give or send to their customers written confirmations of securities transactions effected with or for the account of such customers at or before the completion of each such transaction. Representatives of the mutual fund industry first brought to the Commission's attention the need for an amendment to Rule 15c1-4 to make it economically more feasible for registered open-end investment companies to sell shares to participants in group plans and tax qualified pension plans which might involve small and frequent purchases. The need for this amendment is especially important in view of the recently enacted Employee Retirement Income Security Act of 1974, which permits the use of mutual funds as investment media for certain tax qualified individual and group pension plans.

As proposed, the amendment to Rule 15c1-4 would have exempted principal underwriters for registered open-end investment companies from the immediate confirmation requirements of the rule with respect to the purchase of shares of registered open-end investment companies if such purchases were made pursuant to certain tax qualified individual and group pension plans, employer-sponsored group plans or non-employer-sponsored group plans. With respect to tax qualified group plans and other employer-sponsored group plans, principal underwriters would have been permitted, under the proposed amendment, to give or send confirmations within 90 days after the purchase of investment company shares; with respect to tax qualified individual pension plans and non-employer-sponsored group plans, principal underwriters would have been permitted to give or send confirmations to customers within 30 days of the purchase. The proposed amendment would have also permitted persons designated under any group plan to accumulate investment company shares purchase payments for a period of not longer than 30 days before remitting such payments to principal underwriters for the purchase of investment company shares. Employees and other persons designated as common remitters for group plans would have also been permitted to receive the delayed confirmations in bulk for distribution to participants in their groups.

After reviewing the comments received and further considering the entire matter of confirmations for purchases of investment company shares, the Commission has decided to adopt the amendment to Rule 15c1-4 with certain revisions as discussed below.

Application to all broker-dealers. As proposed, the amendment to Rule 15c1-4 would have exempted from the immediate confirmation requirements of the rule only those broker-dealers which are principal underwriters for registered open-end investment companies. In many instances, however, investment company shares are purchased by investors through dealers which do not serve as principal underwriters for the investment company whose shares are being purchased. Since these dealers may in fact be primarily responsible for the delivery of confirmations in connection with these purchases, the Commission has revised the proposed amendment so that the exemption granted pursuant thereto will be available to all broker-dealers in connection with the purchase of shares of certain registered investment companies. However, the immediate confirmation requirements of the prior rule, which has now been designated paragraph (a), shall continue to apply to all redemptions and repurchases of investment company securities.

Application to unit investment trusts. The amendment to Rule 15c1-4 as originally proposed would have exempted from the immediate confirmation requirements only the purchase of shares issued by registered open-end investment companies. The Commission recognizes, however, that registered unit investment trusts also issue redeemable securities on a continuous basis and are, therefore, similarly situation with respect to the burdens imposed by the present immediate confirmation requirements. Accordingly, the proposed amendment has been revised to cover purchases of securities issued by registered unit investment trusts as well as by registered open-end investment companies.

Tax qualified individual retirement and pension plans. As revised, the amendment to Rule 15c1-4 permits the substitution of written quarterly account statements for immediate confirmations with respect to purchases of shares of registered investment companies pursuant to tax qualified individual retirement and pension plans if certain conditions are met. Subparagraph (b)(1) of the amendment requires that the written quarterly statement set forth certain specified information concerning the customer's transactions in investment company securities and that such statement be given or sent to the customer within five business days after the end of each quarterly period in which the customer has purchased shares of the investment company. In this context, a "purchase" includes the automatic reinvestment of dividends and capital gains distributions in securities of the investment company. Subparagraph (b)(3) of the amendment further requires as a condition for the availability of this exemption from the immediate confirmation provisions that payment for the purchase of shares of the investment company must be made directly to, or must be made payable to, the investment company or its principal underwriter, custodian, trustee or other designated agent.

Finally, subparagraphs (b)(5) and (6) set forth additional conditions pertaining to disclosures in and delivery of prospectuses of registered investment companies which intend to use a quarterly statement procedure in lieu of immediate confirmations. As discussed below, the direct payment requirement of subparagraph (b)(3) and the prospectus disclosure and delivery requirements of subparagraphs

(b)(5) and (b)(6) also apply to purchases made pursuant to group plans.

Group plans: definition. Subparagraph (b)(7) of the amended rule defines the term "group plan" for purposes of the amendment to include any plan for the purchase of securities issued by a registered open-end investment company or unit investment trust involving two or more purchasers and contemplating periodic purchases of such securities by each member of the group through a person designated by the group for the collection and remittance of amounts for such purpose. Such group plans need not be sponsored by an employer for the benefit of employees or qualified under the Internal Revenue Code. Further, in certain instances, two or more customers may establish tax qualified individual plans with essentially similar provisions for the purchase of shares of the same investment company. If these customers designate the same person, such as an employer, to collect, accumulate and remit their payments for the purchase of shares of the investment company, these plans should be considered to be a group plan for purposes of paragraph (b). Paragraph (b) does not apply, however, to any group plan which provides that the plan itself, or a trustee for the plan, is the shareholder of record of the securities of the investment company purchased by the members of the group.

Group plans: conditions and requirements. Subparagraph (b)(2) permits the substitution of quarterly statements for immediate confirmations with respect to purchases of securities issued by registered investment companies pursuant to group plans if the following conditions are met. Subparagraph (b)(2)(i) provides that the terms of the plan require that the investment company or its agent receive group participant payments as soon as practicable, but in no event more than 35 days after the receipt of such payments by the person designated by the group to collect and remit such payments to the investment company or its agent. The 35-day period is designed to permit designated persons to accumulate purchase payments on a monthly basis and to afford ample time for remittance of such accumulated payments to the investment company.

Broker-dealers, including investment company principal underwriters, are expected to make every reasonable and appropriate effort to assure that payments are received from group plan designated persons in a timely fashion and in accordance with the terms of the plan. Further, in the event that the terms of the plan provide for a remittance period of more than 35 days, the provisions of paragraph (b) shall not be available. In this regard, however, the staff has previously not objected to certain group plans for the purchase of securities issued by registered investment companies which provide for accumulation of funds for up to 90 days by an employer or other common remitter (other than a broker-dealer) for the purpose of accumulating funds to meet an investment company's minimum purchase payment requirements. This staff position will be unaffected by the amended Rule, although quarterly statements in lieu of immediate confirmations may not be used in such instances.

Subparagraph (b)(2)(ii) requires the broker or dealer or its agent to give or send to the group designated person a receipt for payments made by the designated person for the purchase of investment company securities at or before the completion of each transaction. Subparagraph (b)(2)(iii) requires that each customer in a group plan receive the quarterly account statement after the end of each quarterly period during which such customer was a member of the group plan. If, however, a member of the group plan does not purchase securities of the investment company for two consecutive quarterly periods (other than through the automatic reinvestment of dividends or capital gains distributions), the broker or dealer or its agent shall not be required to give or send such customer a quarterly statement for subsequent quarterly periods, provided that the customer receives written notification of this fact. At such time as the customer again makes a payment for the purchase of investment company securities, the broker or dealer or its agent may elect to give or send quarterly statements in lieu of immediate confirmations.

The direct payment requirement of subparagraph (b)(3) requires that payments made to a designated person by a member of a group must be made payable to the registered investment company or its designated agent unless such payments are made by means of a payroll deduction arrangement in which an employer or a labor union is the designated person. With respect to delivery of the quarterly statements to group plan members, subparagraph (b)(4) permits such statements to be given or sent to a person designated by the group for distribution to the members of the group. In this regard, broker-dealers and their agents should obtain reasonable assurances that the quarterly statements are being promptly distributed to group plan participants. Finally, as noted above, the provisions of subparagraphs (b)(5) and (6) also apply to group plans.

Prospectus disclosure and delivery requirements. If it is intended that an investment company's securities will be sold with a quarterly statement system, subparagraph (b)(5) of the revised amendment requires disclosure of this intention in the investment company's prospectus. At or before the completion of a purchase transaction, the broker or dealer, or an agent of the broker-dealer, is required by subparagraph (b)(6) of the revised amendment to deliver a prospectus complying with the provisions of section 10 of the Securities Act of 1933 to the customer,[1] or, in the case of group plans, to deliver to the group designated person a sufficient number of such prospectuses so that the designated person can distribute a prospectus to each member of the group. This provision is not intended to require the delivery of a prospectus to customers at or before the completion of each purchase transaction; it is only required that the customer have received the most current investment company prospectus at some time at or prior to the completion of each purchase transaction.

Section 11(d)(2). Section 11(d)(2) of the Act [15 U.S.C. 78k] prohibits any person who transacts business as both a broker and dealer from effecting a transaction through the use use of the mails or interstate facilities unless he discloses to his customer in writing at or before the completion of a transaction whether he is acting as a dealer for his own account or as a broker for any other party to the transaction. Although a broker-dealer may rely upon the new quarterly statement procedure permitted by the amended Rule 15c1-4, in most instances section 11(d)(2) would still require him to deliver a written notice at or before the completion of a purchase. In the case of investment companies making use of the quarterly statement for purchases, however, the confirmation requirements of section 11(d)(2) will be considered to be satisfied by a broker-dealer if the investment company's prospectus discloses the manner in which the company's shares are sold.

Other matters. The Commission emphasizes that the substitution of quarterly statements for immediate confirmations is only optional. If an investment company or its principal underwriter or contract dealers wish to continue to use immediate confirmations with respect to some customers, they may still do so. Nor would this rule preclude oral confirmations on a more current basis if so desired by the broker-dealer and the customer.

As noted earlier, new paragraph (b) of Rule 15c1-4 is not available for transactions involving the redemption or repurchase of investment company shares. These transactions continue to be governed by the immediate confirmation requirements of paragraph (a) of the Rule. However, if a quarterly account statement is otherwise required to be sent to a shareholder, the statement must include information relating to all transactions in the shareholder's account during the quarterly period, including redemptions and repurchases.

It should also be noted that paragraph (b) does not require that the quarterly periods be based on calendar quarters. A quarterly period may cover any three-month period provided that every four consecutive quarterly periods encompass twelve months.

Some group pension and profit-sharing plans qualified under the Code may be operated through a trustee who is the shareholder of record. Participants in such plans are beneficial owners of the assets held. Pursuant to paragraph (a) of 15c1-4, only the trustee, or the plan itself, as shareholder of record is required to receive a confirmation. As noted above, subparagraph (b)(7) of the revised amendment has defined the term "group plan" to require that the plan

[1] [15 U.S.C. 77j]

contemplate periodic purchases of redeemable investment company securities by each member of the group. It is intended that this requirement will make clear that plans in which a trustee or the plan itself is the shareholder of record are not "group plans" within the meaning of subparagraph (b)(7) and that the revised amendment will, therefore, avoid the unintended result of requiring a broker-dealer to deliver a statement to plan participants in addition to the plan trustee at the end of each quarterly period in which a purchase is made for the plan account.

While the revised amended rule eases the confirmation requirements for certain types of purchases of securities of registered open-end investment companies and registered unit investment trusts, it does not extend such relief to all purchases of such securities or to other investment media, such as common stock systematic accumulation plans administered by retail brokerage firms. The Commission intends, however, to continue studying the various policy issues and technical problems relating to a further relaxation of the rule in these other areas.

Commission action. The Securities and Exchange Commission, pursuant to authority granted to it by sections 15(c)(1) and 23(a) of the Securities Exchange Act of 1934, hereby amends Part 240 of Chapter II of Title 17 of the Code of Federal Regulations by amending § 240.15c1–4. The present provisions of § 240.15c1–4 will be redesignated as paragraph (a) and the amendment will be added thereafter as paragraph (b) and, as amended, is as follows:

§ 240.15c1–4 Confirmation of transactions.

(a) The term "manipulative, deceptive, or other fraudulent device or contrivance," as used in section 15(c)(1) of the act, is hereby defined to include any act of any broker or dealer designed to effect with or for the account of a customer any transaction in, or to induce the purchase or sale by such customer of, any security (other than U.S. Tax Savings Notes, U.S. Defense Savings Stamps, or U.S. Defense Savings Bonds, Series E, F and G) unless such broker or dealer, at or before the completion of each such transaction, gives or sends to such customer written notification disclosing (1) whether he is acting as a broker for such customer, as a dealer for his own account, as a broker for some other person, or as a broker for both such customer and some other person; and (2) in any case in which he is acting as a broker for such customer or for such customer and some other person, either the name of the person from whom the security was purchased or to whom it was sold for such customer and the date and time when such transaction took place or the fact that such information will be furnished upon the request of such customer, and the source and amount of any commission or other remuneration received or to be received by him in connection with the transaction.

(b) Notwithstanding paragraph (a) of this section, any broker or dealer may effect with or for the account of any customer the purchase of securities issued by any open-end investment company or unit investment trust registered under the Investment Company Act of 1940 without giving or sending to such customer at or before the completion of each such transaction for the purchase of such securities a written notification as required by paragraph (a) of this section, provided that:

(1) Such securities are purchased by the customer pursuant to an individual retirement or pension plan qualified under the Internal Revenue Code, and the broker or dealer, or an agent of the broker or dealer, gives or sends to the customer within five business days after the end of each quarterly period in which such customer has purchased securities issued by such registered investment company, a written statement setting forth the following information relating to such customer's transactions in securities of the registered investment company: all purchases, redemptions, sales, dividends and distributions effected during such quarterly period; the dates of each such transaction; the number of shares issued to, redeemed or sold by such customer in each such transaction; the amount of sales load or commission, if any, paid for each such transaction; and the total number of shares owned by such customer, and the total net asset value of such shares, at the end of such quarterly period; or

(2) Such securities are purchased by the customer pursuant to a group plan for the purchase of securities of such registered investment company, and

(i) The terms of the plan provide for remittance of the amounts paid by the customer pursuant to such group plan so that they are received by the registered investment company or its agent as soon as practicable but in no event more than 35 days after the receipt of such amounts by a person designated by the group to collect and remit such amounts to the registered investment company or an agent of the registered investment company;

(ii) The broker or dealer, or an agent of the broker or dealer, gives or sends to the person designated by the group a written notification of the receipt of payment at or before the completion of each transaction for the purchase of securities of the registered investment company; and

(iii) The broker or dealer, or an agent of the broker or dealer, gives or sends to such customer a written statement as required by subparagraph (1) hereinabove within five business days after the end of each quarterly period in which such customer was a member of the group plan, except that the broker or dealer shall not be required to give or send such written statement to the customer if (A) the customer has not purchased securities of the registered investment company pursuant to the group plan for two consecutive quarterly periods, other than through the automatic reinvestment of dividends or capital gains distributions, and (B) the broker or dealer, or an agent of the broker or dealer, gives or sends a written notification to the customer that the customer will not receive such written statements after the expiration of such two consecutive quarterly periods; and

(3) Payment by a customer who does not participate in any group plan, or by the person designated by the group of which a customer is a member ("designated person"), for the purchase of securities of the registered investment company is made directly to, or is made payable to, the registered investment company or the principal underwriter, custodian, trustee or other designated agent of the registered investment company ("designated agent"); *Provided, however*, That in any group plan in which payment is collected by a designated person from the customer other than by means of a payroll deduction arrangement under which such designated person is either an employer of the customer or a labor union in which such customer is a member, such customer shall make payment payable to the registered investment company or its designated agent;

(4) If such securities are purchased pursuant to a group plan, the written statement referred to in subparagraphs (1) and (2) hereinabove shall be deemed to have been given or sent to the customer if such statement is given or sent to a person designated by the group for distribution to the customer;

(5) The intention to give or send to the customer the written statement referred to in subparagraphs (1) or (2) of this paragraph in lieu of the written notification required by paragraph (a) of this section, is disclosed in the prospectus given to such customer pursuant to section 5 of the Securities Act of 1933;

(6) At or before the completion of the transaction for the purchase of shares issued by the registered investment company, the broker or dealer, or an agent of the broker or dealer, delivers a prospectus which complies with section 10 of the Securities Act of 1933 to such customer or, with respect to group plans, delivers prospectuses so complying to a person designated by the group of which such customer is a member for distribution to the members of the group; and

(7) For purposes of this paragraph (b), the term "group plan" shall mean any plan for the purchase of securities issued by a registered open-end investment company or unit investment trust involving two or more purchasers and contemplating periodic purchases of such securities by each member of the group through a person designated by the group for the collection and remittance of amounts for such purpose.

(Secs. 15(c)(1), 23(a); 48 Stat. 895, 901, as amended 49 Stat. 1377; (15 U.S.C. 78o(c)(1), 78w(a)))

Since the amendment to Rule 15c1–4 is substantive in nature and relieves a restriction, the rule, as amended, shall be-

come effective forthwith as permitted by 5 U.S.C. 553(d)(1).

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

SEPTEMBER 24, 1974.

[FR Doc.74-22770 Filed 9-30-74;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER D—DRUGS FOR HUMAN USE

BENZYLPENICILLOYL-POLYLYSINE

The Commissioner of Food and Drugs has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act, as amended, with respect to approval of the antibiotic drug benzylpenicilloyl-polylysine.

The Commissioner concludes that data supplied by the manufacturer concerning the subject antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling, and that the regulations should be amended to provide for certification of this drug.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner (21 CFR 2.120), Chapter I of Title 21, Code of Federal Regulations is amended as follows:

PART 431—CERTIFICATION OF ANTIBIOTIC DRUGS

1. In § 431.53(b)(1) by alphabetically adding three new items to the fee schedule, as follows:

§ 431.53 Fees.

* * * * *

(b) * * *

(1) * * *

Test:	*Chargeable fee per test*
* * *	* * *
Benzylpenicilloyl content	37
* * *	* * *
Lysine content	225
* * *	* * *
Penicillenate and penamaldate content	23
* * *	* * *

* * * * *

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

2. In § 436.33(b) by alphabetically inserting a new item in the table as follows:

§ 436.33 Safety test.

* * * * *

(b) * * *

Antibiotic drug	Diluent (diluent number as listed in § 436.31)	Test dose: Concentration in units or milligrams of activity per milliliter	Test dose: Volume in milliliters to be administered to each mouse	Route of administration as described in paragraph (c) of this section
*	*	*	*	*
Benzylpenicilloylpolylysine injection	(1)	4	0.5	Intravenous.
*	*	*	*	*

* * * * * * *

PART 440—PENICILLIN ANTIBIOTIC DRUGS

3. In Subpart A by adding a new § 440.10 as follows:

§ 440.10 Benzylpenicilloyl-polylysine concentrate.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Benzylpenicilloyl-polylysine concentrate is a pale yellow to dark yellow aqueous solution of benzylpenicilloyl ϵ substituted poly-L-lysine. It contains one or more suitable and harmless buffers. It is so purified that:

(i) It contains not less than 50 percent and not more than 70 percent benzylpenicilloyl substitution on the polylysine.

(ii) The benzylpenicilloyl concentration is not less than $1.25\times10^{-3}M$ and not more than $2.0\times10^{-3}M$.

(iii) The penamaldate concentration is not more than $6.0\times10^{-4}M$.

(iv) The penicillenate concentration is not more than $2.0\times10^{-4}M$.

(v) Its pH is not less than 6.5 and not more than 8.5.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for percent benzylpenicilloyl substitution, benzylpenicilloyl content, penamaldate content, penicillenate content, and pH.

(ii) Samples required: 2 vials, each containing not less than 5 milliliters.

(b) *Tests and methods of assay*—(1) *Percent benzylpenicilloyl substitution*—(i) *Lysine content*—(*a*) *Equipment.* Amino acid analyzer capable of:

(*1*) Separating the hydrolysis products of benzylpenicilloyl polylysine into discrete components by means of an ion-exchange column.

(*2*) Mixing the separated amino acid components with a ninhydrin reagent and promoting the reaction in a coil at elevated temperatures.

(*3*) Quantitating the ninhydrin positive materials by means of a suitable colorimeter and recorder.

(*b*) Reagents.—(*1*) Citrate buffer: Dissolve and dilute 19.69 grams of sodium citrate dihydrate, 16.5 milliliters of hydrochloric acid, 0.1 milliliter of pentachlorophenol, 5 milliliters of thiodiglycol in 900 milliliters of distilled water; adjust to a pH of 2.2 and dilute to 1 liter with distilled water.

(*2*) Calibration mixture: Dissolve and dilute equal molar amounts of ammonia, and the L form of lysine in the citrate buffer to result in final concentrations of 2.5×10^{-4} *M* for each.

(*c*) *Preparation of standard and sample solutions* (1) *Standard solution (standard lipine solution* (2.5×10^{-4} M)). Transfer an accurately weighed portion of 54.8 milligrams of lysine dihydrochloride to a 100-milliliter volumetric flask. Dissolve and dilute to mark with citrate buffer. Make an accurate tenfold dilution of this solution with citrate buffer. The resulting standard solution is 2.5×10^{-4} *M* with respect to lysine.

(2) *Sample solution.* Dilute 1 milliliter of the benzylpenicilloyl-polylysine concentrate to 10 milliliters with distilled water. Mix 1 milliliter of the diluted solution with 1.5 milliliters of 6.0*N* hydrochloric acid and seal in an ampule under nitrogen. Hydrolyze the solution for 22 hours at 110° C. Transfer the contents of the ampule quantitatively into a 50-milliliter round bottom flask and dry by rotary evaporation. Wash the contents and evaporate to dryness three times using 5-milliliter portions of distilled water. Dissolve the hydrolysate in 10 milliliters of citrate buffer.

(*d*) *Procedure.* Standardize the procedure for use of the amino acid analyzer with the calibration mixture. Apply 0.5 milliliter of the lysine standard solution to the amino acid analyzer and determine the area of the lysine peak. Apply 0.5 milliliter of the sample solution to the amino acid analyzer and determine the area of the lysine peak.

(*e*) *Calculations.* Calculate the lysine content by the following formula:

$$\text{Molar concentration of lysine in the benzylpenicilloyl-polylysine concentrate} = \frac{A \times 2.5}{B \times C}$$

where:

A = The area of the lysine peak of the sample solution.

B = The area of the lysine peak of the standard solution.

C = The percent purity of the lysine dihydrochloride.

(ii) *Benzylpenicilloyl content*—(a) *Reagents.* (1) Mercuric chloride solution: Dissolve 35 milligrams of mercuric chloride in 500 milliliters of distilled water.

(2) Saline phosphate buffer, pH 7.6: Dissolve 9 grams of sodium chloride and 1.38 grams monobasic sodium phosphate in 900 milliliters of distilled water, adjust to pH 7.6 and dilute to 1 liter with distilled water.

(b) *Preparation of sample solution.* Transfer 1 milliliter of the benzylpenicilloyl-polylysine concentrate into a 500-milliliter volumetric flask and dilute to volume with saline phosphate buffer, pH 7.6.

(c) *Procedure.* Transfer 3 milliliters of the sample solution into a spectrophotometric cell. Using a suitable spectrophotometer and the saline phosphate buffer, pH 7.6, as a blank, determine the initial absorbance at 282 nanometers. Thereafter, react the diluted benzylpenicilloyl-polylysine solution with 0.02-milliliter portions of the meruric chlorine solution. Determine the absorbance at 282 nanometers at 1 and 3 minutes after each addition of mercuric chloride solution. The increased absorbance at 282 nanometers is used in calculating the benzylpenicillolyl content by means of the following formula:

$$\text{Molar benzylpenicilloyl content} = \frac{(A_1 - A_2) \times 500}{22{,}325}$$

where:

A_1 = The highest absorbance at 282 nanometers

A_2 = The initial absorbance at 282 nanometers

22,325 = The molar absorptivity of the penamaldate formed by the reaction of the benzylpenicilloyl moiety with the mercuric chloride at a pH of 7.6.

$$\text{Percent benzylpenicilloyl substitution} = \frac{\text{Molar benzylpenicilloyl content} \times 100}{\text{Molar lysine content}}$$

(2) *Penicillenate and penamaldate content.* Dilute 1 milliliter of the benzylpenicilloyl-polylysine concentrate to 50 milliliters with saline phosphate buffer, pH 7.6. Using a suitable spectrophotometer and the saline phosphate buffer, pH 7.6, as a blank, determine the absorbance at 322 and 282 nanometers. Calculate the penicillenate content by the following formula:

$$\text{Molar penicillenate content} = \frac{\text{Absorbance at 322 nanometers} \times 50}{26{,}600}$$

where:

26,600 = Molar absorptivity of the penicillenate moiety at 322 nanometers at a pH of 7.6

Calculate the penamaldate content by the following formula:

$$\text{Molar penamaldate content} = \frac{\text{Absorbance at 282 nanometers} \times 50}{22{,}325}$$

where:

22,325 = Molar absorptivity of the penamaldate moiety at 282 nanometers at a pH of 7.6.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using the undiluted sample.

4. In Subpart C by adding a new § 440.210 as follows:

§ 440.210 Benzylpenicilloyl-polylysine injection.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Benzylpenicilloyl-polylysine injection is an aqueous solution of benzylpenicilloyl-polylysine. It contains one or more suitable and harmless buffers. Its benzylpenicilloyl content must be not more than $7.0 \times 10^{-5}M$ and not less than $6.4 \times 10^{-5}M$ for the issuance of a certificate for each batch. It is sterile. It is nonpyrogenic. It passes the safety test. Its pH is not less than 6.5 and not more than 8.5. The benzylpenicilloyl-polylysine concentrate used conforms to the standards prescribed by § 440.10(a)(1).

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(a) The benzylpenicilloyl-polylysine concentrate used in making the batch for percent benzylpenicilloyl substitution, benzylpenicilloyl content, penamaldate content, penicillenate content, and pH.

(b) The batch for benzylpenicilloyl content, sterility, pyrogens, safety, and pH.

(ii) Samples required:

(a) The benzylpenicilloyl-polylysine concentrate used in making the batch: 2 vials, each containing not less than 5 milliliters.

(b) The batch:

(1) For all tests except sterility: A minimum of 60 immediate containers.

(2) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Benzylpenicilloyl content.* Proceed as directed in § 440.10(b)(1)(ii) except in lieu of § 440.10(b)(1)(ii)(b) prepare the sample solution as follows: Pool contents of 16 immediate containers. Dilute a 3.0-milliliter aliquot to 10 milliliters with saline phosphate buffer, pH 7.6.

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(a) of this chapter, preparing the sample solution as follows: Pool the contents of at least 8 vials to obtain a minimum of 1.5 milliliters of the original preparation. Dilute the 1.5 milliliters to 50 milliliters with diluent 2.

(4) *Safety.* Proceed as directed in § 436.33 of this chapter, preparing the sample solution as follows: Pool the contents of at least 8 vials to obtain a minimum of 1.5 milliliters of the original preparation. Dilute the 1.5 milliliters to 50 milliliters with diluent 4.

(5) *pH.* Proceed as directed in § 436.202 of this chapter, using the undiluted solution.

Since the conditions prerequisite to providing for certification of subject antibiotic drug have been complied with and since the matter is noncontroversial in nature, notice and public procedures and delayed effective date are not prerequisites to this promulgation.

Effective date. This order shall be effective October 1, 1974.

(Sec. 507, 59 Stat. 463, as amended; (21 U.S.C. 357))

Dated: September 25, 1974.

MARY A. MCENIRY,
Assistant to the Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.74-22610 Filed 9-30-74;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

PART 630—PRECONSTRUCTION PROCEDURES

Federal-Aid Highway Projects

A Federal Highway Administration (FHWA) directive, Policy and Procedure Memorandum (PPM) 21-7, has for many years set forth the policies and procedures applicable to the agreement between FHWA and a State highway agency which is required by statute for each Federal-aid highway project.

PPM21-7 has been revised for addition to the Federal-Aid Highway Program Manual as Volume 6, Chapter 3, Section 1, Subsection 1. Those portions of the Manual addition which impose duties on recipients in order to receive Federal aid are hereby published.

The matters affected related to benefits or contracts within the purview of 5 U.S.C. 553(a)(2), thus general notice of proposed rulemaking is not required. The regulations will become effective on November 1, 1974.

Issued on September 23, 1974.

NORBERT T. TIEMANN,
Federal Highway Administrator.

Subpart C—Project Agreements

AUTHORITY: (23 U.S.C. 110, 121(c), 315); 49 CFR 1.48(b)(35).

Subpart C—Project Agreements

§ 630.301 Purpose.

The purpose of the regulations in this subpart is to prescribe the form and procedures for the preparation and execution of the project agreement required by 23 U.S.C. 110(a) for Federal-aid projects, except for forest highway projects pursuant to 23 U.S.C. 204, and for nonhighway public mass transit projects pursuant to 23 U.S.C. 103(e)(4), 142(a)(2), and 142(c).

§ 630.302 Definitions.

(a) The term "bond issue project" means a project authorized pursuant to 23 U.S.C. 122.

(b) The term "calendar day" means each day shown on the calendar but, if another definition is set forth in the State contract specifications, that definition will apply.

(c) The term "certification acceptance project" means a project which is constructed under the terms of a State Certification as authorized by 23 U.S.C. 117 and 23 CFR Part 640.

(d) The term "contract time" means the number of workdays or calendar days specified in a contract for completion of the contract work. The term includes authorized time extensions.

(e) The term "Division Engineer" means the chief Federal Highway Administration (FHWA) officer assigned to conduct FHWA business in a particular State, the District of Columbia, or the Commonwealth of Puerto Rico.

(f) The term "Federal-aid highway project" means a project, other than an HP&R project, funded in whole or in part, with sums apportioned pursuant to Title 23, United States Code and section 203(d) of the Highway Safety Act of 1973.

(g) The term "highway planning and research project" (HP&R) means a project funded pursuant to 23 U.S.C. 307(c) and 104(f).

(h) The term "liquidated damages" means the daily amount set forth in the contract to be deducted from the contract price to cover additional daily engineering costs incurred by a State highway agency because of the contractor's failure to complete the contract work within the number of calendar days or workdays specified. The term may also mean the total of all daily amounts deducted under the terms of a particular contract.

(i) The term "State highway agency" has the same meaning as that given for "State highway department" in 23 U.S.C. 101.

(j) The word "workday" means a calendar day during which construction operations could proceed for a major part of a shift, normally excluding Saturdays, Sundays, and State-recognized legal holidays.

§ 630.303 Policy.

(a) The State highway agency shall prepare a project agreement for each Federal-aid highway, and highway planning and research project eligible for Federal-aid funding. An original agreement shall be prepared on FHWA Form PR–2 (Appendix A), and amendments to or modification of such original agreement shall be prepared on FHWA Form PR–2A (Appendix B). Agreements for projects under the National Cooperative Highway Research Program (NCHRP) shall be prepared on FHWA Form PR–2.1 (Appendix C).

(b) Project agreements, and modifications of and amendments thereto, shall evidence acceptance by the State highway agency of:

(1) Conditions to payment of Federal funds as prescribed by Federal statutes and regulations; and

(2) The amount of Federal funds obligated.

§ 630.304 Preparation of agreement.

(a) The purposes of the Form PR–2 are:

(1) To cover the various types of projects and kinds of work to be undertaken;

(2) To indicate the effective date governing reimbursement of the Federal share of eligible items of cost;

(3) To show the total amount of Federal funds obligated and under agreement for the project; and

(4) To set forth any special provisions relating to the project.

(b) Except for NCHRP projects (which shall be executed in the FHWA Washington Headquarters Office), the Division Engineer, pursuant to his delegated authority, shall, on behalf of FHWA, execute the project agreement or modification or amendment thereof, when he is satisfied that the agreement or modification or amendment thereof, is properly prepared and not at variance with any statutory or regulatory requirement pursuant to Federal laws.

(c) The Form PR–2 shall be utilized as follows:

(1) All information normally required for proper preparation of Form PR–2 can be placed on the first page of the form. All signatures will appear on that page in the spaces provided. Separate project agreements will be prepared for each successive improvement or independent class of work subject to Federal funding that is not to be performed contemporaneously with other work, between the same termini.

(2) Pages 2 and 3 of Form PR–2 contain special provisions to apply to agreements for individual projects. The special provisions which apply to a particular project will be governed by the project identification determined in accordance with Vol. 6, Chap. 3, section 2 of the Federal-Aid Highway Program Manual. Those special provisions applicable to a particular project become automatically incorporated in the project agreement by means of such project identification.

(3) Space is provided on page 4 of Form PR–2 for listing additional provisions applicable to a particular project. If necessary, attachments to Form PR–2 may be made. This space will also be utilized as follows:

(i) When Federal funds are to participate in the cost of constructing a toll facility, to reference the agreement required by 23 U.S.C. 129;

(ii) When a Federal agency is to undertake a Federal-aid project, to reference the agreement between the State and such Federal agency required by 23 U.S.C. 132, and to set forth the amount of the State deposit or payment to such Federal agency.

(iii) When a State is to undertake federally financed or assisted work on public lands highways (23 U.S.C. 209) or defense access highways (23 U.S.C. 210), to reference the applicable section of Title 23, United States Code.

(iv) When there is an agreement between the State and a local unit of Government with provisions for parking regulations and traffic control.

(4) For HP&R project, no entry will be made in the space labeled "COUNTY." For all other projects, the county or counties in which the project is located will be shown.

(5) The space labeled "PROJECT TERMINI" is for identifying the location of projects by termini, such as "three miles east of Excell to four miles west of Clark." The U.S., State, or county route number, if any, shall be shown, or indication given that the project is located on a county or local road. Engineering stations may not be used. Special Highway Planning and Research Projects shall be identified in this space by project type (National Pooled Fund Studies (NPFS)) or (Intra-Regional Cooperative Studies (IRCS)) and title of the study.

(6) The spaces under the heading "EFFECTIVE DATE OF AUTHORIZATION" will be utilized to show the date subsequent to which any item of cost set forth in the spaces specifically labeled under the heading "PROJECT CLASSIFICATION OR CLASS OF WORK" is eligible for Federal participation.

(7) The space labeled "OTHER" under the heading "PROJECT CLASSIFICATION OR CLASS OF WORK" will be used to set forth a project classification or class of work not specifically labeled in the spaces immediately above "OTHER."

(8) In the spaces labeled "APPROXIMATE LENGTH (Miles)" the length of preliminary engineering and construction work will be shown to the nearest tenth of a mile.

(9) In the space labeled "ESTIMATED TOTAL COST OF PROJECT" the sum of the estimated costs for all project classifications or classes of work set forth above in the agreement as applicable to the particular project will be entered. For construction work, the amount entered will be based on the contract price plus contingencies and/or the force account estimates approved by the Division Engineer.

(10) In the space labeled "FEDERAL FUNDS" the sum of the Federal funds for all project classifications or classes of work as applicable to the particular project will be entered. For bond issue projects and projects to be constructed in advance of apportionments pursuant to 23 U.S.C. 115, the amount entered will be based on an estimate of Federal funds to be subsequently apportioned. Any portion of a project being retained in a "programmed only" status shall not be included in a project agreement.

(d) Three copies of the agreement will be executed by the proper officer of the State highway agency and forwarded to the Division Engineer for review and execution. The Division Engineer will retain the original agreement as part of the project status records. One executed copy will be returned to the State highway agency. The third copy will be sent to the Washington Office and, when required by the regional office, a conformed copy will be sent to that office.

(e) HP&R agreements will be prepared and executed when the State has been authorized to proceed with the HP&R work program in whole or in part. If the agreement covers only a part of the work program, it shall be amended at the time or times when the State is authorized to proceed with the remaining part or parts. Agreements for Special Highway Planning and Research projects will be prepared and executed separately from the annual HP&R agreements.

§ 630.305 Agreement provisions regarding overruns in contract time.

(a) Assessment of liquidated damages will be by means of deductions, at a specified rate per calendar day or workday for each day of overrun in contract time, from payments otherwise due for performance in accordance with the contract terms.

(b) The Federal Highway Administration has established, based upon its estimate of average construction engineering costs to the State, a schedule of deductions for each day of overrun in contract time. That schedule follows:

SCHEDULE OF DEDUCTIONS FOR EACH DAY OF OVERRUN IN CONTRACT TIME

Original contract amount (or the engineer's estimate of the total construction cost)	Daily charge	
	Calendar day	Work day
0 to $25,000	$30	$42
$25,000 to $50,000	50	70
$50,000 to $100,000	75	105
$100,000 to $500,000	100	140
$500,000 to $1,000,000	150	210
$1,000,000 to $2,000,000	200	280
$2,000,000 plus	300	420

A State may establish, based upon construction engineering costs applicable to projects in that State, a schedule of liquidated damages in greater or lesser amounts than prescribed in the schedule set forth above. If a schedule for lesser amounts is established, it may be used in lieu of the schedule set forth above, if the State furnishes the Division Engineer with facts which convince him that the lesser schedule is sufficient to cover average daily construction engineering costs on State Federal-aid highway contracts of similar scope of work and in the applicable contract amount. If a schedule for greater amounts is established by a State, that schedule shall be used in lieu of the schedule set forth above.

(c) When there has been an overrun in contract time, the following principles apply to determine the reduction in the amount of the State cost of a project that is eligible for Federal-aid reimbursement:

(1) Where construction engineering is claimed as a participating item on the basis of actual expenses incurred, the State's total construction engineering costs for the total contract construction work eligible for Federal reimbursement shall be reduced, rather than the State's pro rata share thereof, by the appropriate amounts in the schedule of deductions set forth above for each calendar day or workday as the case may be, of overrun in contract time. Furthermore, the total contract construction amount eligible for Federal participation is to be reduced by the amount the calculated deduction exceeds construction engineering costs.

(2) Where the State is being reimbursed for construction engineering on the basis of an approved percentage of the participating construction cost, or where construction engineering is not claimed as a participating item, the total contract construction amount that would be eligible for Federal participation shall be reduced by the appropriate amount in the schedule of deductions set forth above for each calendar day or workday, as the case may be, of overrun in contract time.

§ 630.306 Modification of original agreement.

(a) Form PR–2A (Appendix B) shall be used for all amendments to or modifications of the original project agreement. Ordinarily, such modification will be needed only to increase the amount of Federal funds to cover approved changes. At the final voucher stage where modification is necessary only to provide for normal overruns or underruns of previously estimated costs, no additional support is required. The final voucher will be sufficient for that purpose.

(b) If the modification is for the purpose of revising the estimated total cost of the project and the applicable Federal funds to cover changed conditions not provided for by change orders approved by the Division Engineer, the reasons therefor shall be set forth in the space headed "Other revisions."

Effective date. These regulations will become effective on November 1, 1974.

Appendix A

TO BE COMPLETED BY FHWA MONTHLY TRANSACTION NO.	U. S. DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION **FEDERAL-AID PROJECT AGREEMENT**	STATE COUNTY PROJECT NO.

The State, through its Highway Agency, having complied, or hereby agreeing to comply, with the applicable terms and conditions set forth in (1) Title 23, U.S. Code, Highways, (2) the Regulations issued pursuant thereto and, (3) the policies and procedures promulgated by the Federal Highway Administrator relative to the above designated project, and the Federal Highway Administration having authorized certain work to proceed as evidenced by the date entered opposite the specific item of work, Federal funds are obligated for the project not to exceed the amount shown herein, the balance of the estimated total cost being an obligation of the State. Such obligation of Federal funds extends only to project costs incurred by the State after the Federal Highway Administration authorization to proceed with the project involving such costs.

PROJECT TERMINI

PROJECT CLASSIFICATION OR PHASE OF WORK	EFFECTIVE DATE OF AUTHORIZATION	APPROXIMATE LENGTH (Miles)
HIGHWAY PLANNING AND RESEARCH (HP & R)		
PRELIMINARY ENGINEERING		
RIGHTS-OF-WAY		
CONSTRUCTION		
OTHER (Specify)		

FUNDS	
ESTIMATED TOTAL COST OF PROJECT	FEDERAL FUNDS
$	$

The State further stipulates that as a condition to payment of the Federal funds obligated, it accepts and will comply with the applicable provisions set forth on the reverse hereof.

(Official name of Highway Agency)

By _____

(Title)

By _____

(Title)

By _____

(Title)

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

By _____
(Division Engineer)

Date executed by Division Engineer _____

Form PR-2 (Rev. 9-74) PREVIOUS EDITIONS ARE OBSOLETE

AGREEMENT PROVISIONS

1. *Responsibility for work.* a. Except for projects constructed under Certification Acceptance procedures, the State highway agency will perform the work, or cause it to be performed, in compliance with the approved plans and specifications or project proposal which, by reference, are made a part hereof.

b. With regard to projects performed under Certification Acceptance procedures, the State highway agency will perform the work, or cause it to be performed, in accordance with the terms of its approved Certification, or exceptions thereto as may have been approved by the Federal Highway Administration.

2. *Highway Planning and Research (HP&R) Project.* The State highway agency will (a) conduct or cause to be conducted, under its direct control, engineering and economic investigations of projects for future construction, together with highway research necessary in connection therewith, pursuant to the work program approved by the Federal Highway Administration and (b) prepare reports suitable for publication of the result of such investigations and research, but no report will be published without the prior approval of the Federal Highway Administration.

3. *Project for advance acquisition of rights-of-way.* In the event that actual construction of a road on this right-of-way is not undertaken by the close of the tenth fiscal year following the fiscal year in which this agreement is executed, the State highway agency will repay to the Federal Highway Administration the sum or sums of Federal funds paid to the highway agency under the terms of this agreement.

4. *Preliminary engineering project for preparation of right-of-way plans or for preparation of construction plans, specifications and estimates.* In the event that right-of-way acquisition for, or actual construction of the road for which this preliminary engineering is undertaken is not started by the close of the fifth fiscal year following the fiscal year in which this agreement is executed, the State highway agency will repay to the Federal Highway Administration the sum or sums of Federal funds paid to the highway agency under the terms of this agreement.

5. *Interstate system project.* (a) The State highway agency will not add or permit to be added, without the prior approval of the Federal Highway Administration any points of access to, or exit from, the project in addition to those approved in the plans and specifications for the project. (b) The State Highway agency will not permit automotive service stations, or other commercial establishments for serving motor vehicle users, to be constructed or located on the right-of-way of the interstate system. (c) The State highway agency will not after June 30, 1968, permit the construction of any portion of the Interstate Route on which this project is located, including spurs and loops, as a toll road without the written concurrence of the Secretary of Transportation or his officially designated representative. The term 'toll roads' does not include toll bridges or toll tunnels.

6. *Project for construction in advance of apportionment.* (a) This project authorized pursuant to 23 U.S.C. 115 as amended, will be subject to all procedures and requirements, and conform to the standards applicable to projects on the system on which located, financed with the aid of Federal funds. (b) No obligation of previously apportioned Federal funds is created by this agreement, its purpose and intent being to provide that, upon application by the State highway agency, and approval thereof by the Federal Highway Administration, any Federal-aid funds of the class designated by the project number prefix, apportioned to the State under 23 U.S.C. 104 subsequent to the date of this agreement, may be used to reimburse the State for the Federal share of the cost of work done on the project.

7. *Stage construction.* The State highway agency agrees that all stages of construction necessary to provide the initially planned complete facility, within the limits of his project, will conform to at least the minimum values set by approved AASHTO design standards applicable to this class of highways, even though such additional work is financed without Federal-aid participation.

8. *Bond issue project.* Construction, inspection and maintenance of the project will be accomplished in the same manner as for regular Federal-aid projects. No present or immediate obligation is created by this Agreement against Federal funds, its purpose and intent being to provide aid to the State, as authorized by 23 U.S.C. 122, for retiring maturities of the principal indebtedness of the bonds referred to below. When the State requests Federal reimbursement to aid in the retirement of such bonds, the request will be supported by the appropriate certification required by 23 CFR Part 140, Subpart F, and Volume 1, Chapter 4, Section 8 of the Federal-Aid Highway Program Manual or the alternative State procedure set forth in the State's Certificate, and payment of the authorized Federal share will be made from appropriate funds available. If in any year there is no unobligated balance of any apportioned Federal funds available from which payments hereunder may be made, there will be no obligation on the part of the Federal Government on account of bond maturities for that year. Funds available to the highway agency for this project are the proceeds of bonds issued by the governmental unit indicated on the attached tabulation, pursuant to the authority and in the amounts by date of issue and beginning date of maturities set forth therein.

9. Special highway planning and research project. The State Highway agency hereby authorizes the Federal Highway Administration to charge the State's pro rata share of costs incurred against funds apportioned to the State under 23 U.S.C. 301(c), as amended. In the event a project is financed with both Federal-aid funds and State matching funds, the State agrees to advance to the Federal Highway Administration the State matching funds for its share of the estimated cost. For a National Pooled Fund study, the State hereby assigns its responsibility for the work to the Federal Highway Administration. For an Intra-Regional Cooperative Study, the State hereby assigns its responsibility for the work to the lead State for the study.

10. Parking regulation and traffic control. The State highway agency will not permit any changes to be made in the provisions for parking regulations and traffic control as contained in the agreement between the State and the local unit of Government referred to in the paragraph on "Additional Provisions," without the prior approval of the Federal Highway Administration, unless the State determines, and the Division Engineer concurs, that the local unit of Government has a functioning traffic engineering unit with the demonstrated ability to apply and maintain sound traffic operations and control.

11. Signing and marking. The State highway agency will not install, or permit to be installed, any signs, signals, or markings not in conformance with the standards approved by the Federal Highway Administrator pursuant to 23 U.S.C. 109(d) or the State's Certificate as applicable.

12. Maintenance. The State highway agency will maintain, or by formal agreement with appropriate officials of a county or municipal government cause to be maintained, the project covered by this agreement.

13. Liquidated damages. The State highway agency agrees that on Federal-aid highway construction projects not under Certification Acceptance the provisions of 23 CFR Part 630, Subpart C and Volume 6, Chapter 3, Section 1 of the Federal-Aid Highway Program Manual, as supplemented, relative to the basis of Federal participation in the project cost shall be applicable in the event the contractor fails to complete the contract within the contract time.

NONDISCRIMINATION PROVISION

14. The State highway agency hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the rules and regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance or guarantee, the following equal opportunity clause:

"During the performance of this contract, the contractor agrees as follows:

a. The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the State highway agency setting forth the provisions of this nondiscrimination clause.

b. The contractor will, in all solicitations of advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

c. The contractor will send to each labor union representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the State highway agency advising the said labor union or workers' representative of the contractor's commitments under this section II–2 and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

e. The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the Federal Highway Administration and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

f. In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or Federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

g. The contractor will include the provisions of this Section II–2 in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the State highway agency or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however,* that in the event a contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the Administration, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The State highway agency further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The State highway agency also agrees:

(1) To assist and cooperate actively with the Federal Highway Administration and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor.

(2) To furnish the Federal Highway Administration and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the Federal Highway Administration in the discharge of its primary responsibility for securing compliance.

(3) To refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order.

(4) To carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the Federal Highway Administration or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order.

In addition, the State highway agency agrees that if it fails or refuses to comply with these undertakings, the Federal Highway Administration may take any or all of the following actions:

(a) Cancel, terminate, or suspend this agreement in whole or in part;

(b) Refrain from extending any further assistance to the State highway agency under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the State highway agency; and

(c) Refer the case to the Department of Justice for appropriate legal proceedings.

ADDITIONAL PROVISIONS

Appendix B

TO BE COMPLETED BY FHWA MONTHLY TRANSACTION NUMBER	U.S. DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION	STATE
PROJECT REPORT NUMBER	MODIFICATION OF FEDERAL-AID PROJECT AGREEMENT	COUNTY
MODIFICATION NUMBER		PROJECT NUMBER

The Project Agreement for the above-referenced project entered into between the undersigned parties and executed by the Division Engineer on _____ 19 _____ is hereby modified as follows

	Former amount	Revised amount
Estimated total cost of project	$_____	$_____
Federal funds	$_____	$_____
Other revisions		

This modification is made for the following reasons

All other terms and conditions of the Project Agreement will remain in full force and effect

This modification is effective as of the ____ day of _____, 19 _____

_____
(Official name of Highway Agency)

By _____

_____
(Title)

By _____

_____
(Title)

By _____

_____
(Title)

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

By _____
(Division Engineer)

Form PR-2A
(Rev. 9-74)

Existing stocks of Form PR-2A (Rev. 5-71) will be used

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID PROJECT AGREEMENT
(National Cooperative Highway Research Program)

1. STATE Appendix C

2. PROJECT NUMBER

SECTION I—AGREEMENT PROVISIONS

In conformance with arrangements for financing the National Cooperative Highway Research Program, hereinafter referred to as the "NCHRP," pursuant to the Memorandum Agreement effective June 29, 1965, as amended, between the Federal Highway Administration, hereinafter referred to as "FHWA," the American Association of State Highway and Transportation Officials, hereinafter referred to as "AASHTO," and the National Academy of Sciences, hereinafter referred to as the "Academy": the State formally consents to providing the funds stated in this agreement as its contribution towards financing expenditures incurred in conducting the NCHRP in accordance with the Memorandum Agreement.

In accordance with the action taken by AASHTO requesting the Academy, through its Transportation Research Board to administer the NCHRP, the State authorizes FHWA to charge the State's pro rata share of the costs incurred against the funds stated in this agreement.

It is understood that FHWA will make payments to the Academy for the State's share of the cost of the program pursuant to the State-Academy Agreement for the current fiscal year and the Fiscal Agreement entered into between the FHWA on July 1, 1962.

In the event the State's contribution towards the cost of the NCHRP is to be financed with both Federal-aid funds and State-matching funds, the State agrees to advance the FHWA the State-matching funds for its share of the estimated cost

SECTION II—FUNDS

3. ESTIMATED TOTAL COST OF PROJECT	4. FEDERAL FUNDS	5. EFFECTIVE DATE OF AUTHORIZATION

SECTION III—AGREEMENT AND SIGNATURES

The State through its Highway Agency and the Federal Highway Administration agree to the above provisions.

(Official Name of the Highway Agency)

BY _____

(Title)

BY _____

(Title)

BY _____

(Title)

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

BY _____

(Title)

Date Executed

Form PR 2 1 Previous edition is obsolete
Rev 9-74

[FR Doc.74-22589 Filed 9-30-74;8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7326]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Life Insurance Companies

This document contains amendments to the Income Tax Regulations (26 CFR Part 1) in order to conform such regulations to sections 805(d), 812(e), and 815 (d) of the Internal Revenue Code of 1954 to the Act of September 2, 1964 (Pub. L. 88-571, 78 Stat. 857). This Treasury decision merely adds the statutory provisions to the regulations and makes minor clarifying changes to the regulations.

Amendment to the regulations. In view of the foregoing, such regulations are amended as follows:

PARAGRAPH 1. Section 1.805 is amended by revising section 805(d) and by revising the historical note to read as follows:

§ 1.805 Statutory provisions; life insurance companies; policy and other contract liability requirements.

Sec. 805. Policy and other contract liability *requirements.* * * *

(d) *Pension plan reserves*—(1) *Pension plan reserves defined.* * * *

(D) Purchased to provide retirement annuities for its employees by an organization which (as of the contracts were purchased) was an organization described in section 501 (c)(3) which was exempt from tax under section 501(a) or was an organization exempt from tax under section 101(6) of the Internal Revenue Code of 1939 or the corresponding provisions of prior revenue laws, or purchased to provide retirement annuities for employees described in section 403(b)(1)(A)(ii) by an employer which is a State, a political subdivision of a State, or an agency or instrumentality of any one or more of the foregoing.

* * * * *

[Sec. 805 as amended by sec. 2, Life Insurance Company Tax Act of 1955 (70 Stat. 43); sec. 2, Life Insurance Company Income Tax Act 1959 (73 Stat. 118); sec. 7, Self-Employed Individuals Tax Retirement Act 1962 (76 Stat. 828); sec. 907(a), Tax Reform Act 1969 (83 Stat. 715); sec. 5, Act of September 2, 1964 (Pub. L. 88-571, 78 Stat. 857)]

PAR. 2. Paragraph (b)(4) of § 1.805-7 is amended to read as follows:

§ 1.805-7 Pension plan reserves.

* * * * *

(b) *Pension plan reserves defined.* * * *

(4) Purchased to provide retirement annuities;

(i) For its employees by an organization which (as of the time the contracts were purchased) was an organization described in section 501(c)(3) which was exempt from tax under section 501(a) or was an organization exempt from tax under section 101(6) of the Internal Revenue Code of 1939 or the corresponding provisions of prior revenue laws, or

(ii) For taxable years beginning after December 31, 1963, for employees described in section 403(b)(1)(A)(ii) by an employer which is a State, a political subdivision of a State, or an agency or instrumentality of any one or more of the foregoing.

The definition of pension plan reserves described in paragraph (b)(4)(i) of this section includes only life insurance reserves held under contracts purchased by those organizations described in section 501(c)(3) and exempt from tax under section 501(a), and does not include life insurance reserves held under contracts purchased by organizations described under any other provision of section 501(c). Accordingly, the reserves held under contracts purchased by such other exempt organizations, or by entities not subject to Federal income tax (such as a State, municipality, etc.), shall not be treated as pension plan reserves unless they qualify as such under section 805(d)(1)(A), (B), or (C) or paragraph (b)(4)(ii) of this section.

* * * * *

PAR. 3. Section 1.812 is amended by revising section 812(e) and by revising the historical note to read as follows:

§ 1.812 Statutory provisions; life insurance companies; operations loss deduction.

Sec. 812. *Operations loss deduction.* * * *

(e) *New company defined.* For purposes of this part, a life insurance company is a

new company for any taxable year only if such taxable year begins not more than 5 years after the first day on which it (or any predecessor, if section 381(c)(22) applies or would have applied if in effect) was authorized to do business as an insurance company.

* * * * *

[Sec. 812 as added by sec. 2, Life Insurance Company Tax Act 1955 (70 Stat. 45); amended by sec. 2, Life Insurance Company Income Tax Act 1959 (73 Stat. 127); sec. 3, Act of October 23, 1962 (Pub. L. 87-858, 76 Stat. 1134); amended by sec. 1, Act of September 2, 1964 (Pub. L. 88-571, 78 Stat. 857)]

PAR. 4. Section 1.812-6 is amended to read as follows:

§ 1.812-6 New company defined.

Section 812(e) provides that for purposes of part I, subchapter L, chapter 1 of the Code, a life insurance company is a "new company" for any taxable year only if such taxable year begins not more than 5 years after the first day on which it (or any predecessor if section 381(c)(22) applies or would have applied if in effect) was authorized to do business as an insurance company.

PAR. 5. Section 1.815 is amended by revising section 815(d), and by revising the historical note to read as follows:

§ 1.815 Statutory provisions; life insurance companies; distributions to shareholders.

Sec. 815. *Distributions to shareholders.*

* * * * *

(d) Special rules. * * *

(5) *Reduction of policyholders surplus account for certain unused deductions.* If—

(A) An amount added to the policyholders surplus account for any taxable year increased (or created) a loss from operations for such year, and

(B) Any portion of the increase (or amount created) in the loss from operations referred to in subparagraph (A) did not reduce the life insurance company taxable income for any taxable year to which such loss was carried, the policyholders surplus account for the taxable year referred to in subparagraph (A) shall be reduced by the amount described in subparagraph (B).

* * * * *

[Sec. 815 as added by sec. 2, Life Insurance Company Income Tax Act of 1959 (73 Stat. 129); amended by sec. 3, Act of October 10, 1962 (Pub. L. 87-790, 76 Stat. 808); sec. 3(b), Act of October 23, 1962 (Pub. L. 87-858, 76 Stat. 1136); secs. 2, 3, and 4, Act of September 2, 1964 (Public Law 88-571, 78 Stat. 857); sec. 4, Act of December 27, 1967 (Public Law 90-225, 81 Stat. 733); sec. 907(b), Tax Reform Act, 1969 (83 Stat. 715)]

Because this Treasury decision merely adds statutory language and deletes inconsistent regulatory provisions, it is found impracticable to issue it with notice and public procedure thereon under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitations of subsection (d) of such section.

(Section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

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

Approved: September 20, 1974.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

[FR Doc.74-22771 Filed 9-30-74;8:45 am]

SUBCHAPTER B—ESTATE AND GIFT TAXES

[T.D. 7327]

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

Valuation of Bonds

By a notice of proposed rule making appearing in the FEDERAL REGISTER on June 28, 1974 (39 FR 24019) and a correction notice published in the FEDERAL REGISTER on July 5, 1974 (39 FR 24656) amendments to the Estate Tax Regulations (26 CFR Part 20) under section 2031 of the Internal Revenue Code of 1954 and to the Gift Tax Regulations (26 CFR Part 25) under section 2512 of such Code were proposed to provide an alternative method of valuing listed bonds based on selling prices for estate and gift tax purposes in cases where quotations, which are required to be taken into account under the existing regulations if the valuation is based on selling prices, are not generally available.

The amendments to §§ 20.2031-2(b) and 25.2512-2(b) provide that, if it is established that the highest and lowest selling prices are not generally available in the case of listed bonds, the mean between the closing selling price on the valuation date and the closing selling price on the day before the valuation date is the fair market value per bond. Recognition of the closing selling price on the day before the valuation date, as well as the closing price for the valuation date, will tend to smooth out significant fluctuations in price. Special rules are provided for valuing bonds where there were no sales of those bonds on the day before the valuation date or on the valuation date.

Adoption of amendments to the regulations. On Friday, June 28, 1974, notice of proposed rulemaking with respect to the amendments to the Estate Tax Regulations (26 CFR Part 20) under section 2031 of the Internal Revenue Code of 1954 and to the Gift Tax Regulations (26 CFR Part 25) under section 2512, in order to provide an alternative method of valuing listed bonds based on selling prices for estate and gift tax purposes in cases where quotations for the highest and lowest selling prices are not generally available, was published in the FEDERAL REGISTER (39 FR 24019). On Friday, July 5, 1974, a correction notice with respect to such amendment was published in the FEDERAL REGISTER (39 FR 24656). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendments to the regulations as proposed are hereby adopted, without change.

(Sec. 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

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

Approved: September 26, 1974.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

PARAGRAPH 1. Paragraph (b) of § 20.2031-2 is amended to read as follows:

§ 20.2031-2. Valuation of stocks and bonds.

* * * * *

(b) *Based on selling prices.* (1) In general, if there is a market for stocks or bonds, on a stock exchange, in an over-the-counter market, or otherwise, the mean between the highest and lowest quoted selling prices on the valuation date is the fair market value per share or bond. If there were no sales on the valuation date but there were sales on dates within a reasonable period both before and after the valuation date, the fair market value is determined by taking a weighted average of the means between the highest and lowest sales on the nearest date before and the nearest date after the valuation date. The average is to be weighted inversely by the respective numbers of trading days between the selling dates and the valuation date. If the stocks or bonds are listed on more than one exchange, the records of the exchange where the stocks or bonds are principally dealt in should be employed. In valuing listed securities, the executor should be careful to consult accurate records to obtain values as of the applicable valuation date. If quotations of unlisted securities are obtained from brokers, or evidence as to their sale is obtained from officers of the issuing companies, copies of the letters furnishing such quotations or evidence of sale should be attached to the return.

(2) If it is established with respect to bonds for which there is a market on a stock exchange, that the highest and lowest selling prices are not available for the valuation date in a generally available listing or publication of general circulation but that closing selling prices are so available, the fair market value per bond is the mean between the quoted closing selling price on the valuation date and the quoted closing selling price on the trading day before the valuation

date. If there were no sales on the trading day before the valuation date but there were sales on a date within a reasonable period before the valuation date, the fair market value is determined by taking a weighted average of the quoted closing selling price on the valuation date and the quoted closing selling price on the nearest date before the valuation date. The closing selling price for the valuation date is to be weighted by the number of trading days between the previous selling date and the valuation date. If there were no sales within a reasonable period before the valuation date but there were sales on the valuation date, the fair market value is the closing selling price on such valuation date. If there were no sales on the valuation date but there were sales on dates within a reasonable period both before and after the valuation date, the fair market value is determined by taking a weighted average of the quoted closing selling prices on the nearest date before and the nearest date after the valuation date. The average is to be weighted inversely by the respective numbers of trading days between the selling dates and the valuation date. If the bonds are listed on more than one exchange, the records of the exchange where the bonds are principally dealt in should be employed. In valuing listed securities, the executor should be careful to consult accurate records to obtain values as of the applicable valuation date.

(3) The application of this paragraph may be illustrated by the following examples:

Example (1). Assume that sales of X Company common stock nearest the valuation date (Friday, June 15) occurred two trading days before (Wednesday, June 13) and three trading days after (Wednesday, June 20) and on these days the mean sale prices per share were $10 and $15, respectively. The price of $12 is taken as representing the fair market value of a share of X Company common stock as of the valuation date

$$\frac{(3\times 10)+(2\times 15)}{5}.$$

Example (2). Assume the same facts as in example (1) except that the mean sale prices per share on June 13 and June 20 were $15 and $10, respectively. The price of $13 is taken as representing the fair market value of a share of X Company common stock as of the valuation date

$$\frac{(3\times 15)+(2\times 10)}{5}.$$

Example (3). Assume the decedent died on Sunday, October 7, and that Saturday and Sunday were not trading days. If sales of X Company common stock occurred on Friday, October 5, at mean sale prices per share of $20 and on Monday, October 8, at mean sale prices per share of $23, the price of $21.50 is taken as representing the fair market value of a share of X Company common stock as of the valuation date

$$\frac{(1\times 20)+(23\times 1)}{2}.$$

Example (4). Assume that on the valuation date (Tuesday, April 3, 1973) the closing selling price of a listed bond was $25 per bond and that the highest and lowest selling prices are not available in a generally available listing or publication of general circulation for that date. Assume further, that the closing selling price of the same listed bond was $21 per bond on the day before the valuation date (Monday, April 2, 1973). Thus, under paragraph (b)(2) of this section the price of $23 is taken as representing the fair market value per bond as of the valuation date

$$\frac{(25+21)}{2}.$$

Example (5). Assume the same facts as in example (4) except that there were no sales on the day before the valuation date. Assume further, that there were sales on Thursday, March 29, 1973, and that the closing selling price on that day was $23. The price of $24.50 is taken as representing the fair market value per bond as of the valuation date

$$\frac{((1\times 23)+(3\times 25))}{4}.$$

Example (6). Assume that no bonds were traded on the valuation date (Friday, April 20). Assume further, that sales of bonds nearest the valuation date occurred two trading days before (Wednesday, April 18) and three trading days after (Wednesday, April 25) the valuation date and that on these two days the closing selling prices per bond were $29 and $22, respectively. The highest and lowest selling prices are not available for these dates in a generally available listing or publication of general circulation. Thus, under paragraph (b)(2) of this section, the price of $26.20 is taken as representing the fair market value of a bond as of the valuation date

$$\frac{((3\times 29)+(2\times 22))}{5}.$$

* * * * *

PAR. 2. Paragraph (b) of § 25.2512–2 is amended to read as follows:

§ 25.2512–2 Stocks and bonds.

* * * * *

(b) *Based on selling prices.* (1) In general, if there is a market for stocks or bonds, on a stock exchange, in an over-the-counter market or otherwise, the mean between the highest and lowest quoted selling prices on the date of the gift is the fair market value per share or bond. If there were no sales on the date of the gift but there were sales on dates within a reasonable period both before and after the date of the gift, the fair market value is determined by taking a weighted average of the means between the highest and lowest sales on the nearest date before and the nearest date after the date of the gift. The average is to be weighted inversely by the respective numbers of trading days between the selling dates and the date of the gift. If the stocks or bonds are listed on more than one exchange, the records of the exchange where the stocks or bonds are principally dealt in should be employed. In valuing listed securities, the donor should be careful to consult accurate records to obtain values as of the date of the gift. If quotations of unlisted securities are obtained from brokers, or evidence as to their sale is obtained from the officers of the issuing companies, copies of letters furnishing such quotations or evidence of sale should be attached to the return.

(2) If it is established with respect to bonds for which there is a market on a stock exchange, that the highest and lowest selling prices are not available for the date of the gift in a generally available listing or publication of general circulation but that closing prices are so available, the fair market value per bond is the mean between the quoted closing selling price on the date of the gift and the quoted closing selling price on the trading day before the date of the gift. If there were no sales on the trading day before the date of the gift but there were sales on dates within a reasonable period before the date of the gift, the fair market value is determined by taking a weighted average of the quoted closing selling prices on the date of the gift and the nearest date before the date of the gift. The closing selling price for the date of the gift is to be weighted by the respective number of trading days between the previous selling date and the date of the gift. If there were no sales within a reasonable period before the date of the gift but there were sales on the date of the gift, the fair market value is the closing selling price on the date of the gift. If there were no sales on the date of the gift but there were sales within a reasonable period both before and after the date of the gift, the fair market value is determined by taking a weighted average of the quoted closing selling prices on the nearest date before and the nearest date after the date of the gift. The average is to be weighed inversely by the respective numbers of trading days between the selling dates and the date of the gift. If the bonds are listed on more than one exchange, the records of the exchange where the bonds are principally dealt in should be employed. In valuing listed securities, the donor should be careful to consult accurate records to obtain values as of the date of the gift.

(3) The application of this paragraph may be illustrated by the following examples:

Example (1). Assume that sales of stock nearest the date of the gift (Friday, June 15) occurred two trading days before (Wednesday, June 13) and three trading days after (Wednesday, June 20) and on these days the mean sale prices per share were $10 and $15, respectively. The price of $12 is taken as representing the fair market value of a share of stock as of the date of the gift

$$\frac{((3\times 10)+(2\times 15))}{5}.$$

Example (2). Assume the same facts as in example 1 except that the mean sale prices per share on June 13 and June 20 were $15 and $10 respectively. The price of $13 is taken as representing the fair market value of a share of stock as of the date of the gift

$$\frac{(3\times 15)+(2\times 10)}{5}.$$

Example (3). Assume that on the date of the gift (Tuesday, April 3, 1973) the closing selling price of certain listed bonds was $25 per bond and that the highest and lowest selling prices are not available in a generally available listing or publication of general circulation for that date. Assume further, that the closing selling price of such bonds was $21 per bond on the day before the date

of the gift (Monday, April 2, 1973). Thus, under paragraph (b)(2) of this section, the price of $23 is taken as representing the fair market value per bond as of the date of the gift

$$\frac{(25+21)}{2}.$$

Example (4). Assume the same facts as in example 3 except that there were no sales on the day before the date of the gift. Assume further, that there were sales on Thursday, March 29, 1973, and that the closing selling price on that day was $23. The price of $24.50 is taken as representing the fair market value per bond as of the date of the gift

$$\frac{((1\times 23)+(3\times 25))}{4}.$$

Example (5). Assume that no bonds were traded on the date of the gift (Friday, April 20). Assume further, that sales of bonds nearest the date of the gift occurred two trading days before (Wednesday, April 18) and three trading days after (Wednesday, April 25) the date of the gift and that on these two days the closing selling prices per bond were $29 and $22, respectively. The highest and lowest selling prices are not available for these dates in a generally available listing or publication of general circulation. Thus, under paragraph (b)(2) of this section the price of $26.20 is taken as representing the fair market value of a bond as of the date of the gift

$$\frac{((3\times 29)+(2\times 22))}{5}.$$

* * * * *

[FR Doc.74-22772 Filed 9-30-74;8:45 am]

Title 29—Labor

CHAPTER XIV—EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PART 1601—PROCEDURE REGULATIONS

Deferral of Employment Discrimination Charges

By virtue of the authority vested in it by section 713(a) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-12(a), 73 Stat. 365, the Equal Employment Opportunity Commission (hereinafter referred to as the Commission) hereby amends Title 29, Chapter XIV, Part 1601 of the Code of Federal Regulations.

The amendments set forth changes necessary to implement section 706 of the act which requires the deferral of charges of employment discrimination to appropriate State or local authorities (706(c)) and the according by the Commission of substantial weight to final findings and orders made by State and local authorities (706(b)).

Before a State or local authority can be designated "a 706 Agency," it must follow the procedures outlined and meet the criteria established by the Commission and enunciated in § 1601.12(e) and (f). These prospective 706 agencies which have not as yet been designated are categorized by the Commission as Provision 706 Agencies (§ 1601.12(d)(1)) and Provisional Notice Agencies (§ 1601.12(d)(2)). The Commission defers charges to Provisional 706 Agencies but does not accord substantial weight to their findings, while the Commission in the case of Provisional Notice Agencies merely notifies said agencies of the recepit of charges filed within their jurisdiction. These categories, when originally contemplated, were to remain in effect only until July 1, 1973, by which time it was hoped that those State and local agencies desirous of becoming 706 agencies would have met the necessary criteria and been so designated.

This time period has not proven sufficiently long to enable many prospective 706 agencies to satisfy the substantive and procedural prerequisites to designation. Therefore, the time period, during which prospective 706 agencies may function in the categories enunciated above, has been extended until December 31, 1974.

1. Section 1601.12 (d)(1) and (d)(2) are amended to read as follows:

§ 1601.12 Referrals to State and local authorities.

(d) * * *

(1) *Provisional 706 Agencies.* Until December 31, 1974, the Commission will defer charges alleging employment discrimination on the grounds of race, color, religion, sex, or national origin against covered public or private employers, unless otherwise indicated by public notice, arising in the jurisdiction of Provisional 706 Agencies, Agencies may be added as Provisional 706 Agencies by public notice issued by the Commission.

(2) *Provisional Notice Agencies.* Until December 31, 1974, with respect to the jurisdictions of Provisional Notice Agencies, the Commission will not defer, but will, with respect to charges alleging employment discrimination on the grounds of race, color, religion, national origin, and/or where indicated in the public notice which designated the agency a provisional notice agency, sex:

(i) NOTE: Receipt of said charges and serve notice thereof upon the respondent or respondents; (ii) inform the appropriate agency or person of the receipt of the charge. Agencies may be added as Provisional Notice agencies by public notice by the Commission.

* * * * *

(Sec. 713(a), 76 Stat. 265 (42 U.S.C. 2000e-12(a)))

This amendment is effective September 25, 1974.

Signed at Washington, D.C., this 25th day of September 1974.

JOHN H. POWELL, Jr.,
Chairman.

[FR Doc.74-22717 Filed 9-30-74;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 17—MEDICAL

State Home Facilities for Furnishing Nursing Home Care

Sections 17.170 through 17.176 effectuate the provisions of 38 U.S.C. 5031-5037 applicable to the "grants-in-aid" program for the construction of State nursing home care facilities. Section 17.173 is amended (1) to require review by areawide as well as State clearinghouses and (2) to require applicants to give assurances that projects will conform to air and water pollution control standards, that they will be designed and constructed so as to be accessible to the physically handicapped and that, when applicable, the requirements of the Flood Disaster Protection Act of 1973 be met. Appendix B "General Standards of Construction and Equipment for State Home Facilities for Furnishing Nursing Home Care" is amended to improve space criteria for patient care areas and to expand equipment items so as to more nearly conform with the Department of Health, Education and Welfare and Veterans Administration nursing home care standards. The new criteria is based on a 50-bed nursing unit. In addition technical requirements have been updated and building codes have been deleted from the regulations and the applicable codes incorporated in the grant application.

Compliance with the provisions of § 1.12 of this chapter, as to notice of proposed regulatory development and delayed effective date, is unnecessary in this instance and would serve no useful purpose. These regulations are not major in scope in that the authorized appropriation for this program is limited by statute (38 U.S.C. 5033), nor will they have any significant impact on State and local governments. Amendments improving space criteria are confined to patient rooms, toilet and bathing facilities and recreational areas. Expanded equipment standards enlarge the list of medical and support equipment. Changes in space criteria and equipment standards include recommendations made by officials of State Veterans Homes.

1. In § 17.173, paragraphs (a)(4) and (c)(2) are amended and paragraphs (b)(7) and (c)(7) are added so that the amended and added material reads as follows:

§ 17.173 Applications with respect to projects.

(a) A State desiring to receive assistance for construction of facilities for furnishing nursing home care must submit an application in writing for such assistance to the Administrator. The applicant will submit as part of the application or as an attachment thereto:

* * * * *

(4) Any comments or recommendations made by appropriate State and areawide clearing houses pursuant to policies outlined in part I, OMB Circular A-95 (revised).

(b) The applicant must furnish reasonable assurance in writing that:

* * * * *

(7) The project conforms to the applicable requirements for the implementation, maintenance and enforcement of ambient air quality standards adopted pursuant to section 108(c) of the Clean

Air Act, as amended (42 U.S.C. 1857d); that it conforms to the applicable requirements for water pollution prevention and control adopted pursuant to section 10(c) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251); that the project will comply with the standards provided under the National Environmental Policy Act of 1969, Pub. L. 91–190, and Executive Orders issued pursuant thereto; that it will comply with Pub. L. 90–480, as amended (42 U.S.C. 4151), which provides that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped, and that, when applicable, the requirements of section 102(a) of the Flood Disaster Protection Act of 1973, Pub. L. 93–234 (42 U.S.C. 4012a) have been met.

(c) The Administrator will approve any such application if he finds that:

* * * * *

(2) The proposal has been favorably reviewed by the State and areawide clearing house as required in paragraph (a) of this section,

* * * * *

(7) The application contains assurances that the applicable requirements for the implementation, maintenance and enforcement of ambient air quality standards adopted pursuant to section 108(c) of the Clean Air Act, as amended (42 U.S.C. 1857d); that it conforms to the applicable requirements for water pollution prevention and control adopted pursuant to section 10(c) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251); that the project will comply with the standards provided under the National Environmental Policy Act of 1969, Pub. L. 91–190, and Executive Orders issued pursuant thereto; that it will comply with Pub. L. 90–480, as amended (42 U.S.C. 4151), which provides that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped, and that, when applicable, the requirements of section 102 (a) of the Flood Disaster Protection Act of 1973, Pub. L. 93–234 (42 U.S.C. 4012a) have been met.

* * * * * *

2. In Appendix B following §§ 17.170 through 17.176, paragraph 6 is revised to read as follows:

APPENDIX B

GENERAL STANDARDS OF CONSTRUCTION AND EQUIPMENT FOR STATE HOME FACILITIES FOR FURNISHING NURSING HOME CARE

* * * * *

6. *Basic facilities.* With the exception of nursing, the basic facilities need not be provided if functionally available in an adjoining hospital or nursing home. The four basic facility areas are as follows:

a. *Administration.*

(1) Office, Administrator (200 sq. ft.).[1]

(2) Office, secretary and waiting (120 sq. ft.).[1]

(3) Office, Assistant Administrator, Registrar or equivalent (150 sq. ft.).

(4) Office, Nurse Supervisor (150 sq. ft.).

(5) Office, clerical (80 sq. ft. per person).

(6) Conference and consultation room (500 sq. ft. for independent facility or 300 sq. ft. for combined facility).

(7) Lobby and waiting area (minimum 150 sq. ft. and maximum 500 sq. ft.).

b. *Nursing units*—(1) *Size of nursing unit.* From the standpoint of staffing, a 50-bed unit is most desirable; however, under exceptional circumstances, less than 40 or more than 60 could be allowed. Not less than 80 percent of total beds should be provided in either single or double-bedded rooms or a combination of both.

(2) *General.* Patients' rooms shall not have more than four beds. A toilet room, with lavatory and water closet, accessible from adjoining patients' room is recommended. At least two single rooms with private toilet, lavatory, and bathtub shall be provided in each nursing unit for the purpose of medical isolation, incompatibility, personality conflict or for a female patient. All rooms shall include closet or separate wardrobe for each bed. No patients' rooms shall be located on any floor which is more than 50 percent below grade level.

(3) *Minimum patients' room areas.* Area is to be measured exclusive of closets, toilet rooms, lockers, wardrobes or vestibules.

(a) One-bed rooms (120 to 170 sq. ft., 140 sq. ft. optimum).

(b) Two-bed rooms (200 to 270 sq. ft., 235 sq. ft. optimum).

(c) Three-bed rooms (300 to 370 sq. ft., 330 sq. ft. optimum).

(d) Four-bed rooms (400 to 470 sq. ft., 425 sq. ft. optimum).

(4) *Service facilities for each 50-bed nursing unit.* (a) Nurses' station with ward secretary and medication area (5 sq. ft. per bed, range 200–300 sq. ft.).

(b) Nurses' toilet (30 sq. ft.).

(c) Treatment room adjacent to nurses' station (range 140–170 sq. ft.).

(d) Nourishment kitchen (2.5 sq. ft. per bed, minimum 100 sq. ft.).

(e) Patient lounge (5 sq. ft. per bed, minimum 210 sq. ft.).

(f) Patient quiet/meditation room—optional (3 sq. ft. per bed, minimum 120 sq. ft.).

(g) Clean utility room (range 80–120 sq. ft.).

(h) Soiled utility room (range 100–150 sq. ft.).

(i) Clean linen storage (range 80–120 sq. ft.).

(j) Unit supply room (1.5 sq. ft. per bed).

(k) Stretcher and wheel chair storage (range 80–120 sq. ft.).

(l) *Patient toilet facilities.* Connecting toilets between adjoining bedrooms are recommended. If congregate toilet facilities are planned, separate facilities for both male and female patients may be provided. Veterans Administration participation in congregate toilet facilities will be based on a maximum of one water closet and one lavatory per 8 beds and one urinal per 10 beds. If a combination of connecting and congregate facilities are provided, the number of beds served by the connecting facilities will be deducted from the total number of beds in calculating the number of fixtures required in the congregate facilities. All patient lavatories and water closets should be designed for wheelchair patients with grab bars to be provided around water closets. Wheelchair facilities should be designated on drawings.

Minimum space for toilet facilities:

Toilet rooms	Fixtures	Space per room
Connecting	Water closet and lavatory.	30–45 ft².[1]
Isolation	Water closet, lavatory, and bathtub.	75 ft².
Congregate	Urinal or lavatory	15–25 ft² [1] per fixture.
	Water closet	30–50 ft² [1] per fixture.

[1] Greater amount to be used when planning facilities or wheelchairs.

(m) *Staff and visitors' toilet facilities.* Facilities should be provided on each floor of multistory projects and on single level projects when the location and size of the unit precludes the use of facilities provided near the lobby area. One water closet and lavatory in each toilet room should be designed for wheelchairs. (Maximum 75 sq. ft. male and 75 sq. ft. female).

(n) *Patient bathing facilities.* Separate congregate bathing facilities are recommended to serve male and female patients. Veterans Administration participation will be limited to one fixture per 10 beds with 60 sq. ft. to be allowed for each bathtub/shower. Grab bars are to be provided. A water closet and lavatory may be provided in each bathing facility using space criteria for congregate toilets.

c. *Ancillary facilities.* (1) Patients' dining room (20 sq. ft. per bed).

(2) Patients' multipurpose room and storage (12 sq. ft. per bed). (It is recommended that the above two areas be adjacent so that they may be combined into one room for recreational, religious or other group activities).

(3) Occupational therapy (10 sq. ft. per bed for 50 beds or less plus 2.5 sq. ft. for each additional bed).

(4) Physical therapy (10 sq. ft. per bed for 50 beds or less plus 2.5 sq. ft. for each additional bed).

(5) Patients' personal laundry (125 sq. ft. for 50-bed unit plus 1 sq. ft. for each additional bed).

(6) Outdoor recreation area, such as a patio or screened porch (10 sq. ft. per bed).

d. *Support facilities.* (1) Dietary facilities—to include dietitian's office, kitchen, dishwashing room, adequate refrigeration, dry storage, receiving area and garbage facilities as required by the scope of the project.

(2) Personnel dining facilities (minimum 12 sq. ft.—maximum 15 sq. ft. per seat).

(3) *Janitor's closets.* One closet may be provided in each nursing unit, in the dietetic area and in the administrative area (provided no other closet on that floor) with a minimum of one on each floor. The closet in dietetic area shall not serve other areas.

(4) *Housekeeping facilities.* (a) Clean linen (1.5 sq. ft. per bed).

(b) Soiled linen (1 sq. ft. per bed).

(c) Trash collection (as required).

(d) Laundry.[2]

ALLOWANCE FOR LAUNDRY AREAS

[Area in ft²]

Number of beds	Gross building area	Service platform
25	1,000	100
50	1,100	100
100	1,400	100
150	2,100	200
200	2,400	200
250	3,000	200
300	3,700	300

[2] As required by scope of project and subject to the review and approval of the Veterans Administration.

[1] Area to be prorated for combined facility.

(5) *Employees' facilities.* Separate male and female locker rooms with toilet may be provided. Six sq. ft. per locker may be allowed for each employee. Two water closets and lavatories may be provided for each 15 male or female employees and one for each 15 thereafter. Twenty-five sq. ft. is allowed for each fixture. One-hundred sq. ft. may be allowed for each lounge.

(6) *Storage.* (a) Dietary (3.5 sq. ft. per bed).

(b) General (8 sq. ft. per bed for a combined facility or 10 sq. ft. per bed for an independent facility).

(7) *Barber or beauty shop.* (120 sq. ft. for each).

(8) *Mechanical facilities.*[2] (a) Boiler room.

(b) Maintenance facilities. (Minimally a work bench in boiler room. In larger nursing homes, separate facilities should be provided.)

(9) *Chapel.*[2] Existing chapel facilities which serve nursing home care patients may be remodeled, altered or modified. This may include office space, chapel with chancel, sacristy, devotional, confessional, Eucharistic rooms where applicable, and supporting areas such as toilets, janitor's closets, storage, etc.

3. In paragraph 7, subparagraphs a (1), a(2)(a), a(3), a(4), b(2), b(3), b (12) and b(18) are amended and subparagraph b(22) is added so that the amended and added material reads as follows:

7. *Architectural requirements*—a. *Finishes.* Conventional finishes shall be used on all floors, walls and ceilings and as follows:

(1) *Floors.* (a) The floors of the following areas shall have smooth surfaces which are wear resistant and impervious to liquids:

Toilets, baths, bedpan rooms, floor pantries, utility rooms, treatment rooms, janitors' closets.

(b) The floors of the following areas shall be smooth and easily cleaned:

Patient rooms.

Pharmacies (if required).

(c) Kitchen floors shall be non-skid, resistant to heavy wear and impervious to liquids and grease.

(2) *Walls.* (a) The walls of the following areas shall have a smooth surface with painted or equal washable finish in light color. At the base, they shall be free from spaces which may harbor ants and roaches and impervious to liquids.

All rooms where food and drink are prepared, served or stored.

* * * * *

(3) *Ceilings.* The ceilings of the following areas shall be acoustically treated:

Corridors in patient areas, nurses' stations, utility rooms,[3] floor pantries, offices (as required), kitchens[3] (with moisture resistant finish), scullleries,[4] other rooms where food and drink are prepared.[4]

(4) *Wainscot.* A wainscot of scuff resistant material is desirable in all corridors used by patients for protection of walls against damage caused by wheelchairs, stretchers, and carts.

(b) *Details.* * * *

(2) *Doors.* All doors shall comply with requirements of the applicable code in the grant application.

(3) *Corridors.* Corridors required for exit access or exit shall be at least 8 feet in clear and unobstructed width except that corridors in adjunct areas not intended for the housing, treatment or use of inpatients may be a minimum of 6 feet in clear and unobstructed width.

* * * * *

(12) *Lavatories.* The front edge of the lavatory for patient use shall be set not less than 22 inches from the wall to which it is attached. They shall be supported on brackets to allow wheelchairs to slide under and shall be of sizes commercially available.

* * * * *

(18) *Nurses' call system (see electrical section).* Call station between each two beds in two-bed rooms and four-bed rooms and one in each one-bed room.

Corridor dome light over each nursing room.

Dome light and buzzer at nurses' station, utility room and floor pantry and a dome light at the intersection of corridors.

* * * * *

(22) *Windows.* Every institutional sleeping room shall have an outside window or door arranged and located so that it can be opened from the inside without use of tools or keys to permit the venting of products of combustion and to permit any occupant to have direct access to fresh air in case of emergency. Exceptions are listed in the applicable code in the grant application.

4. Paragraph 8 is revised to read as follows:

8. *Safety and fire protection.* The provisions of the applicable codes in the grant application shall apply for safety and fire protection.

5. Paragraph 9a is amended to read as follows:

9. *Structural requirements*—a. *Codes.* In addition to compliance with the standards set forth in this document, all applicable local and State building codes and regulations must be observed. In areas which are not subject to local or State building codes, the recommendations of any one of the national codes listed in the grant application shall apply insofar as such recommendations are not in conflict with the standards set forth herein.

* * * * *

6. In paragraph 10, subparagraphs a(3), a(4), a(7), b(3), b(4), b(5), b(12) and b(13) are revoked and reserved and subparagraphs a(1), a(2), a(13), b(introductory portion), b(2), b(6), b(9), b(10), b(14) and c(1) are amended. The amended material reads as follows:

10. *Mechanical requirements.* * * *

a. *Heating: Steam systems and ventilation*—(1) *Codes.* The heating system, steam system, boilers, ventilation system and air-conditioning system shall be furnished and installed to meet all requirements of the local and State codes and regulations, and the applicable codes listed in the grant application and the minimum general standards as set forth in item 10.

(2) *Boilers.* Boilers shall have the necessary capacity when operating at normal rating to supply the heating system, hot water, and steam-operated equipment. It is desirable to operate boilers, supplying steam for laundries, at not less than 105 pounds pressure while boilers for kitchen may operate at 50 pounds pressure. All steam and hot water boilers shall be labeled and rated in accordance with a recognized standard.

(3) and (4) [Reserved].

* * * * *

(7) [Reserved].

* * * * *

(13) *Installation.* Air conditioning and ventilating systems are to be installed in accordance with the applicable code listed in the grant application.

b. *Plumbing and drainage.* All parts of the plumbing systems shall comply with all applicable local and State codes and the requirements of the State Department of Health and the minimum general standards as set forth in item 10b. Where no State or local codes are in force or where such codes do not cover special hospital equipment, appliances, and water piping, the applicable code listed in the grant application shall apply.

* * * * *

(2) *Hot water heaters and tanks.* For preliminary design, the hot water heating equipment shall have sufficient capacity to supply 6½ gallons of water at 125° F. per hour per bed for plumbing fixtures, 4 gallons of water at 180° F. per hour per bed for kitchens and 4½ gallons of water at 180° F. per hour per bed for laundry. Plumbing fixtures which require hot water and which are accessible to patients shall be supplied with water which is thermostatically controlled to provide a maximum water temperature of 110° F. at the fixture.

(3), (4) and (5) [Reserved].

(6) *Gas piping.* Gas appliances shall be approved by the American Gas Association and shall be connected in accordance with the requirements of the company furnishing the gas.

* * * * *

(9) *Insulation.* Tanks and heaters shall be insulated with covering equal to 2 inches of fiberglass.

Hot water and circulating pipes shall be insulated with covering equal to ½-inch glass jacketed fiberglass.

Cold water mains in occupied spaces and in storerooms shall be insulated with glass jacketed glass fiber covering to prevent condensation. All pipes in outside walls shall also be insulated to prevent freezing.

(10) *Standpipe System.* The standpipe system shall be installed as required by the applicable codes listed in the grant application.

* * * * *

(12) and (13) [Reserved].

(14) *Tests.* All soil, waste, vent, and drain lines shall be tested in accordance with local codes.

c. *Kitchen equipment*—(1) *Codes.* The kitchen equipment shall be so constructed and installed as to comply with the applicable local and State laws, codes, regulations, and requirements, and with the sanitation standard listed in the grant application and with the minimum general standards set forth in item 10c. Automatic fire extinguishing systems in range hoods are to be installed in accordance with the applicable codes listed in the grant application.

* * * * *

7. In paragraph 11, subparagraphs a, c, d, f, h, i, and k are amended, subparagraph (l) is revoked and reserved and subparagraphs n and o are added so that the amended and added material reads as follows:

11. *Electrical requirements.*—a. *Codes and regulations.* The installation of electrical work and equipment shall comply with all local and State codes and laws applicable to electrical installations and the minimum general standards as set forth in item 11.

[2] As required by scope of project and subject to the review and approval of the Veterans Administration.

[3] Desirable but not mandatory.

[4] Waterproof finishes are desirable.

Where such codes and laws are not in effect or where they do not cover special installations, the applicable code listed in the grant application shall apply. The regulations of the local utility company shall govern service connections. All materials shall be new and shall equal standards established by the Underwriters' Laboratories, Incorporated. Certificates of approval shall be issued by these departments having jurisdiction before the work will be approved for final payment.

* * * * *

c. *Feeders and circuits.* Service feeders to terminate in a distribution switchboard and from this point subfeeders are to be provided for power and lighting panels as necessary for the project. Branch circuits for motor and heating loads are to terminate at the power panel and circuits for lighting and receptacles are to terminate at the lighting panel.

d. *Switchboard and panels.* Circuit breakers are to be provided in the switchboard for the subfeeders; also circuit breakers of proper capacity are to be provided in power and lighting panels. Where motor control centers are to be employed, provide a subfeeder from the main switchboard for the unit.

* * * * *

f. *Lighting outlets and switches.* All occupied areas shall be adequately lighted as required by duties performed in the space. Patients' bedrooms shall have as a minimum: General illumination, a night light, and a patient's reading light. The outlets for general illumination and night lights shall be switched at the door. Switches in patients' rooms shall be of an approved, quiet operating type, or shall be placed in the corridor. It is suggested that lighting levels be not less than those for similar areas for hospitals.

* * * * *

h. *Emergency lighting.* Emergency lighting shall be provided in accordance with the applicable code listed in the grant application for exits, stairs, and patient corridors which shall be supplied by second utility emergency service or an automatic emergency generator.

i. *Nurses' call.* Each patient shall be furnished with an audiovisual or visual nurses' call station which will register a call from the patient; at the corridor door and at the nurses' station. A duplex unit may be used for two patients. Indicating lights shall be provided at each station where there are more than two beds in a room. A nursing call emergency station shall also be provided at each water closet used by patients and in bathrooms. Wiring for nurses' call systems shall be installed in conduit.

* * * * *

k. *Fire alarms.* Every building shall have an electrically supervised, manually operated fire alarm system. Presignal systems are not permitted. The installation of fire alarm systems shall be in conformance with the applicable code in the grant application.

l. [Reserved].

* * * * *

n. *Emergency power.* Emergency power shall be provided for equipment vital to patient use.

o. *Telephone service.* Telephone service shall be provided in required areas.

8. Paragraph 12 is revised to read as follows:

12. *Elevator and dumbwaiter requirements.*—a. *Codes.* The elevator and dumbwaiter installations shall comply with all applicable local and State codes, and the applicable codes in the grant application, and the standards provided in item 12.

b. *Number of elevators.* Any nursing home with patients on one or more floors above the first shall have at least one electric elevator. Nursing homes with a bed capacity of 60 to 200 above the first floor shall have not less than two elevators. Interval of service; 40 to 60 seconds. Recommended 5 minute capacity; 8 to 10 percent.

c. *Car platform sizes.* Elevator platform shall be not less than 5 feet 8 inches wide by 8 feet 8 inches with inside dimensions of 5 feet 4 inches by 7 feet 11 inches. Minimum rated capacity shall be 4,000 pounds. Car and hoistway entrance sizes shall be not less than 4 feet wide by 7 feet high with two-speed doors.

d. *Recommended speeds (feet per minute).*

Number of floors:	*Speed*
2 to 4	150 to 200.
4 to 6	250 to 300.
7 and above	350 to 500.[5]

[5] Gearless equipment shall be used at speeds over 400 feet per minute.

e. *Power door operation.* The power door operation shall be capable of opening car and hoistway doors simultaneously at a maximum speed of not less than 2 feet per second. The elevator shall be equipped with photoelectric door control in addition to protective safety edge. The control for both car and hoistway doors shall have two light beams projecting across the elevator car entrance.

f. *Control.* Control system for elevators with speeds up to 100 feet per minute shall be of the two-speed alternating current type with low speed in the 30–40 feet per minute range. Speeds over 100 feet per minute shall be provided with generator field control.

g. *Leveling accuracy.* Elevator machine and control shall be of such design to bring elevator to floor landing within plus or minus ¼ inch automatically and shall be independent of operating devices, car loading and rope stretch.

h. *Operation.* Where two elevators are located together they shall have duplex selective-collective automatic operation and arranged for "Without Attendant." Single car operation shall be selective-collective automatic operation.

i. *Dumbwaiters.* Dumbwaiter car enclosure shall be stainless steel and not less than 24 inches wide by 24 inches deep by 36 inches high with one removable shelf. Carrying capacity shall be 200 pounds. Provide stainless steel bi-parting car doors and hoistway doors. When the dumbwaiter serves 3 or 4 floors, the speed shall be 100 feet per minute; when serving 5 or 6 floors, the speed shall be 150 feet per minute. Control system for cars with speeds up to 150 feet per minute shall be two-speed alternating current type with low speed in the 40 to 50 feet per minute range.

j. *Tests.* Elevators shall be tested in accordance with procedures outlined in the applicable code listed in the grant application.

9. In paragraph 13, subparagraph b is amended to read as follows:

13. *Repair, modernization and alteration projects.* * * *

b. The fire safety requirements for repair, modernization and alteration projects shall comply with the applicable codes in the grant application. Deviations shall be fully justified by the State agency and must have the approval of the Veterans Administration before incorporation into a project.

* * * * *

10. In paragraph 14, subparagraph a (4) is revoked and reserved and subparagraphs b(3)(a) 2 and 3 and b(3)(d) 2*h* are amended. The amended material reads as follows:

14. *Requirements for preparation of plans, specifications and estimates*—a. *General.* * * *

(4) [Reserved].

* * * * *

b. *Drawings and specifications.* * * *

(3) *Third stage—Working drawings and specifications.* All working drawings shall be well prepared so that clear and distinct prints may be obtained; accurately dimensioned and include all necessary explanatory notes, schedules and legends. Working drawings shall be complete and adequate for contract purposes. Separate drawings shall be prepared for each of the following branches of work: Architectural, structural, heating and ventilating, plumbing and electrical. They shall include the following:

(a) *Architectural drawings.* * * *

2. Plan of each floor and roof. All floor and roof plans shall be drawn to same scale by all disciplines.

3. Elevations of each facade. All elevators should show equipment projecting above the roof.

* * * * *

(d) *Mechanical drawings.* These drawings with specifications shall show the complete heating, piping and ventilation systems; plumbing, drainage and standpipe systems; and laundry.

* * * * *

2. *Plumbing, drainage and standpipe systems.* * * *

h. Instructions concerning submissions to Environmental Protection Agency, Department of Interior (Executive Order 11507, dated February 4, 1970; 3 CFR 1970 Comp.)

(*1*) Prior to issuance for bids, report only projects having the following requirements:

(*a*) New sanitary sewer connections to a city system. Indicate new flow.

(*b*) Substantial change in sewage quantity at on-site sewage plant or on-site sewers. Indicate existing and new flows.

(*c*) Adjustments to on-site sewage treatment and control facilities. Submit 80 percent complete drawings and specifications.

(2) Upon receipt of comments, appropriate revisions shall be made. Final drawings and specifications for treatment and control facilities shall be resubmitted for their files.

* * * * *

10. In paragraph 15, subparagraphs c, d(3) and (e)(1) and (3) are amended to read as follows:

15. *Equipment requirements.* * * *

c. *Classification of equipment.* All equipment shall be classified in two groups as indicated below.

(1) *Fixed equipment.* Equipment which is permanently affixed to the building or which must be connected to service distribution systems designed and installed during construction for the specific use of the equipment. Included are items such as kitchen and intercommunication equipment, built-in casework, venetian blinds and cubicle curtain rods.

(2) *Movable equipment.* All items of equipment which are not considered to be fixed equipment and are normally purchased through other than a construction contract. Examples are bedroom and office furniture, wheeled equipment, refrigerators, examining tables, chinaware, linen and kitchen utensils.

d. *Responsibility of State agency.* * * *

(3) As soon as possible after the award of the construction contract, the State agency shall submit to the Veterans Administration for approval a separate, complete itemized

list of fixed and movable equipment. Fixed equipment, not included in the construction contract, shall be itemized by category of equipment and show the estimated costs of each category or item and the total costs. The itemized lists of movable equipment shall be submitted in a format similar to the following equipment planning guide for 50-bed nursing home showing estimated costs for each item and total costs for each functional area or group of items based on the actual number of units and the number of beds in each unit.

(a) *Fixed equipment (included in construction contract).* The percentage of participation in the cost of fixed equipment included in the construction contract will be determined by the Veterans Administration percentage of participation in the cost of construction.

(b) *Fixed (not included in construction contract) and movable equipment.*[6] The percentage of participation will not exceed 65 percent of the cost of Veterans Administration approved itemized lists of fixed and movable equipment.

e. *Equipment planning guide for 50-bed nursing home.* (1) This guide is furnished as an aid in the planning of a 50-bed Nursing Home Care Unit. It provides for fixed and movable equipment. Equipment for Nursing Home Care Units other than 50 beds should be prorated to this planning guide. This guide pertains to facilities for three different types of Nursing Home Care Units, i.e.:

(a) A self sustaining nursing home, remote from existing State operated facilities which cannot be used in support of the nursing home operation.

(b) A nursing home adjacent to an existing State operated facility which will be used in support of the nursing home operation.

(c) Nursing home care unit(s) within a State operated facility.

* * * * *

(3) *List of equipment.* Fixed equipment items such as window blinds or draperies, electric clocks, bulletin boards, water coolers, pictures and ash receptacles may be provided where reasonable.

EQUIPMENT

ADMINISTRATION

Office, Administrator

	Suggested quantity
Fixed: Outlet, intercommunication system	1
Movable:	
Bookcase	1
Chair:	
Arm	2
Office, with swivel	1
Office, straight	2
Desk, with credenza	1
Lamp, desk	1
Safe	1

Administrator's Toilet

Fixed:	
Dispenser, paper towel	1
Electric outlet, shaver	1
Lavatory	1
Mirror	1
Water closet	1

[6] The value of any of fixed and movable equipment which is to be shared with any facility other than the nursing home care unit will first be prorated on the portion of use and then the percentage of participation in the nursing care project will be determined as applicable.

Office, Secretary and Waiting Room

Fixed: Intercommunication system, master station	1
Movable:	
Bookcase	1
Cabinet:	
Filing, card size	1
Filing, 5-drawer	1
Chair:	
Office, swivel without arms	1
Arm	2
Costumer	1
Desk, typist	1
Lamp, table	1
Table, magazine	1
Typewriter	1

Office, Asst. Administrator

Fixed: Outlet, intercommunication system	1
Movable:	
Bookcase	1
Cabinet, metal, filing, 5-drawer	1
Chair:	
Office, swivel with arms	1
Arm	4
Desk, office, double pedestal	1
Table, office	1

Office, Nurse Supervisor

Fixed:	
Nurses' call system	1
Outlet, intercommunication system	1
Movable:	
Chair:	
Office, swivel with arms	1
Arm	4
Desk, office, double pedestal	1
Table, office	1

Office, Clerical

Movable:	
Adding machine or calculator	1
Cabinet:	
Filing, 5-drawer	2
Supply	1
Chair:	
Office, swivel without arms	1
Arm	2
Posture	1
Desk, typing	1
Duplicator with stand	1
File, visible index 5" x 8"	1
Stand, typewriter	1
Typewriter	2

Clothes Closet and Supply

Fixed:	
Hook strip	
Shelves	

Conference and Consultation Room

Fixed:	
Dispenser, paper towel	1
Lavatory, spout outlet mounted 5 inches above flood rim, wrist control	1
Outlet, intercommunication system	1
Movable:	
Chair:	
Office with arms	3
Office, swivel with arms	2
Desk, single pedestal	1
Receptacle, waste, foot operated, closed top	1
Table, 74 x 21 in	1
X-ray illuminator 14 x 17 in, portable	1

Lobby and Waiting Room

Movable:	
Chair, arm	3
Chair, straight without arms	4
Costumer	1
Lamp, floor	1
Lamp, table	2
Planters	
Settee, 3-seat	1
Table, coffee	1
Table, end	2

Administrative

Minor Movable:	
Mirror	1
Pad, stamp, ink	2
Paper punch, 2-hole	1
Pen, desk set	5
Ruler, 12-in	4
Sharpener, pencil	2
Shears, office	1
Stamp, dating	2
Stamp, rubber	2
Stapler	5
Tray, desk	8

Nursing units	Suggested quantity for bedrooms			
	1	2	3	4
Bedrooms (minimum of 2 isolation rooms per 50-bed units):				
Fixed:				
Dresser with drawers (may be movable)	1	2	3	4
Light	1	2	3	4
Bed (may be movable)	1	2	3	4
Night	1	2	3	4
Locker	1	2	3	4
Mirror, tilted above dresser	1	2	3	4
Nurses' call system:				
Call station	1	2	3	4
Corridor signal light	1	1	1	1
Track, cubicle curtain		2	3	4
Movable:				
Bed, Hi-Lo type (fully adjustable w/side rails)	1	2	3	4
Cabinet, bedside	1	2	3	4
Chair:				
Easy, seat and back cushions with ottoman	1	2	3	4
Straight, patient's room	1	2	3	4
Lamp, floor	1	2	3	4
Mattress	1	2	3	4
Table, overbed	1	2	3	4

Nurses' Station W/Ward Secretary

Fixed:	
Counter, nurse control	1
Desk, drawer below (desk, typist, may be substituted)	1
Light above desk	1
Nurses' call system, master station	1
Outlet, intercommunication system	1
Movable:	
Cabinet, filing, 5-drawer	1
Chair:	
Straight	1
Swivel without arms	1
Cart, clinical chart holder (50-chart capacity)	1
Typewriter	1

Medication Room (Adjacent to or part of nurses' station)

Fixed:	
Cabinet:	
Above counter	1
Medicine, inner locked narcotic compartment	1
Counter, sink, open below, 36 in high with light above	1
Dispenser, paper towel	1
Rack, medication cards	1
Sink, counter, spout outlet mounted 5 in above flood rim, wrist control	1
Movable:	
Cart, medicine	1
Receptacle, waste, foot operated, closed top	1
Refrigerator, counter type, 4 to 6 ft³	1
Stool, revolving	1

Treatment Room

Fixed:	
Cabinet:	
Above counter	2
Below counter	1
Dispenser, paper towel	1
Nurses' call system:	
Calling station	1
Corridor signal light	1
Duty station	

Sink, counter, spout outlet mounted 5 in. above flood rim, foot, knee or wrist control	1
Movable:	
Atomizer ¾ oz	1
Blade, operating knife No. 10	3
Cabinet, metal, filing, 5-drawer	1
Cart, instrument and dressing	1
Cart, utility	1
Chair:	
Posture	1
Straight	1
Clamp, towel	4
Forceps:	
Hemostatic, box lock, 5½ in	
Curved	3
Straight	2
Splinter	2
Sponge, straight, box lock, 9½ in	3
Thumb, serrated, dressing, 6 in	2
Tissue, 1 x 2 teeth, 5 in	2
Hamper, linen	1
Handle, knife, operating No. 3	1
Holder, needle, 6 in	1
Kick bucket	1
Lamp, examining	1
Nipper, nail, concave edge	1
Mirror	
Opthalmoscope-otoscope combination set	1
Receptacle, waste, foot operated, closed top	1
Resusitator automatic	1
Scale, clinic, measuring rod	1
Scissors:	
Bandage, angular, 7 in	2
Dissecting, straight, 6¾ in	1
Nail, heavy pattern	1
Operating, curved, blunt, 6¾ in	1
Sphygmometer	1
Steam pack unit, electric, portable, 4 pack capacity with pack	1
Sterilizer, instrument, approximately 16 x 6 x 4	1
Stethoscope	2
Stool:	
Foot	1
Operation, adjustable 19 to 25 in	1
Table, examining with accessories, storage space below	1
Instrument, steel 16 x 20	1
Work 20 x 48	1
Whirlpool, carriage, portable	1

Nourishment Kitchen

Fixed:	
Nurse calling system, calling station	1
Sink, counter, spout outlet 5 in. above flood rim, wrist control	1
Movable:	
Hot plate, electric, double element, 3 heat control, heavy duty	1
Ice-making machine	1
Receptacle, waste, closed top, foot operated	1
Refrigerator, counter type, 4 to 6 ft³	1
Toaster, electric, 2 slice, heavy duty	1

Patients' Lounge

Fixed:	
Nurses' call system:	
Call station	1
Corridor signal light	1
Planter	-
Movable:	
Bookcase	1
Chair:	
Desk	3
Easy, seat and back cushions	9
Desk, writing	3
Lamp:	
Desk	3
End table	6
Floor	3
Pictures	-
Rack, magazine	1
Radio-stereophonic combination	1
Sofa, sectional	3
Table:	
Coffee	3
End	6
Television	1

Patients' Quiet/Meditation Room (may adjoin Patients' Lounge)

Fixed:	
Nurses' call system:	
Call station	1
Corridor signal light	1
Moveable:	
Bookcase	1
Chair: Easy, seat and back cushions	2
Lamp:	
End table	2
Floor	1
Rack, magazine	1
Sofa, sectional	1
Table:	
Coffee	1
End	2

Clean Utility Room

Fixed:	
Cabinet above counter	1
Counter, sink, open below, 36 in. high	1
Dispenser, paper towel	1
Nurses' call system, calling station	1
Sink, counter, spout outlet mounted 5 in. above flood rim, wrist control	1
Movable: Autoclave, utensil, electric	1

Soiled Utility Room

Fixed:	
Bedpan washer, sanitizer	1
Cabinet above counter	1
Counter, sink, open below, 36 in. high	1
Dispenser, paper towel	1
Dispenser, soap	1
Nurses' call station, duty station	1
Rack, drying, bedpan and urinal (if bedpan washer provided)	1
Sink, counter, spout outlet mounted 5 in. above flood rim, wrist control	1
Utensil washer, sterilizer	1
Movable:	
Can, garbage	1
Cart, utility	1
Hamper, linen	2
Ladder, step, pantry type	1
Receptacle, waste, foot operated closed top	1
Table, steel, 16 x 20 in	1

Clean Linen Storage

Fixed: Shelves		--
Movable:		
Cart, clean linen, enclosed, adjustable		3
Ladder, step, pantry type		1
Shelves and partitions		--
Apron:		
Cotton twill with bib	dozen	1
Duck	do	½
Bag:		
Hamper, linen	do	1
Laundry, mesh	do	1
Blanket:		
Cellular cotton or wool	each	72
Cotton	do	120
Cover, plastic:		
Mattress, contour	do	72
Pillow:		
Small	dozen	9
Standard	do	10
Curtain:		
Cubicle	do	4
Shower	do	1
Mat, bath, cotton	do	1
Pap, mattress, hospital bed	do	10
Pants, incontinent, plastic flannel lined	each	1
Pillow:		
Small	do	2
Standard	do	10
Pillowcase:		
Small	do	4
Standard	do	20
Sheet:		
Bed, 72 x 108	do	30
Draw, 54 x 72	do	24
Spread, bed 72 x 108	each	120
Towel:		
Bath, terry, 20 x 40	dozen	36
Huck, hand and face, 17 x 32	do	36
Washcloth, terry, 12 x 12	do	40

Unit Supply Room

Fixed:		
Shelves		--
Pegboard, heavy duty		--
Movable:		
Bed, electric, Circo type		1
Bed, exercise bar		6
Board, foot		8
Breathing apparatus, positive pressure		1
Chair, shower and commode		4
Cradle, folding:		
Arm or leg size		4
Body		3
Drainage apparatus, gravity type		1
Frame, Balkan		1
Frame, toilet, safety		6
Pad, alternating pressure point, complete:		
Bed		8
Wheelchair		4
Rod, irrigator or intravaneous, 2 hooks, bed attachable		2
Screen, bedside, 3 panel		5
Suction apparatus, portable		1
Walker, invalid:		
With seat, casters		2
Without seat		4
Minor movable:		
Bag, immobilization	each	6
Basin:		
Emesis, 8 x 2 in deep	do	24
Solution, deep, outside diameter 14 in 9 qts	do	2
Wash, shallow, outside diameter 13 in 4½ qts	do	28
Bedpan:		
Large	do	28
Small	do	2
Board, arm	do	2
Bottle, rubber, hot water-ice combination	do	12
Bowl, sponge, straight sides:		
1 pt, outside diameter 4½ in	do	4
1 qt, outside diameter 6 in	do	2
Brush:		
Hair	do	6
Hand	do	6
Bumper, bed	do	200
Cane	do	6
Catheter, rubber or plastic:		
Nasal oxygen, green:		
8 French	do	2
10 French	do	2
12 French	do	2
14 French	do	2
Self-retaining	do	2
Urethral:		
8 French	do	2
10 French	do	2
12 French	do	2
14 French	do	2
16 French	do	2
18 French	do	2
20 French	do	2
22 French	do	2
Clamp, rubber tubing:		
Lever, shut off	do	2
Screw	do	2
Clipper, hair, manual	do	1
Clock, interval timer	do	1
Comb, hair	do	6
Crutches, adjustable	pair	12
Cushion, rubber, invalid:		
Large	each	6
Small	do	2

Dish, soap, metal or plastic, 4 x 5	do	60
Dropper, medicine	do	12
File, nail	do	6
Flashlight	do	4
Funnel, metal catheter, top outside diameter 3⅛ ins	do	4
Glass, medicine, 1 oz	do	60
Gloves, rubber, assorted sizes	pair	36
Holder, chart	each	60
Irrigator, metal with handle, 2 qt	do	2
Jar, metal, forceps, 8 x 2 ins	do	4
Laryngoscope, medium	do	1
Marker, bed	do	60
Mask, oxygen therapy	do	2
Measure, metal, graduated, double scale 500 ml, 16 oz	do	2
Needle, hypodermic, regular Luer:		
18 gauge, 2 ins	do	12
29 gauge, short level, 1½ ins	do	12
20 gauge, 2 ins	do	12
22 gauge, 1½ ins	do	12
25 gauge, ⅝ in	do	24
Pitcher, metal, water, 3¼ qts	do	6
Scissors, hair	pair	2
Sheeting, rubber or plastic, lightweight 36 ins. wide	yard	50
Syringe:		
Glass:		
Bladder, irrigating, 150 cc	each	1
Catheter tip, irrigating with bulb		
1 oz	do	2
4 ozs	do	2
Luer:		
2 cc	do	24
5 cc	do	12
Insulin, 40 to 80 units, 1 cc	do	2
Kaufman, 2 cc	do	2
Tuberculin, ½ cc	do	2
Rubber, irrigating, ear and ulcer:		
1 oz	do	2
3 oz	do	2
Thermometer:		
Bath	do	2
Clinical:		
Oral	do	36
Rectal	do	12
Tourniquet	do	2
Tray, metal:		
12 x 8 x 2 in	do	6
10 x 12 x ¾ in	do	6
Catheter with cover, 17⅛ x 4⅛ x 2⅛	do	2
Tub, foot, oval	do	3
Tube:		
Glass or plastic:		
Connection:		
Straight	do	6
Three-in-one	do	2
Drinking	do	24
Irrigating	do	3
Rubber or plastic:		
Colon, assorted sizes	do	24
Duodenal:		
12 French	do	2
14 French	do	2
16 French	do	2
Nasal, feeding	do	6
Stomach, bulb and funnel	do	2
Urinal, metal male	do	24

Stretcher and Water Closet Storage

Movable:	
Lifter, patient, hydraulic, including scale with accessories	1
Stretcher, wheeled	2
Wheelchair	2
Water closet, folding	6
Water closet, folding with high back and leg rest attachments	2

Patient Toilet Facilities

Fixed:	
Bathtub (required for each isolation room)	1
Dispenser, paper towel	1
Electric outlet, saver	1
Grab bars (to be provided around all water closets and bathtubs)	--
Lavatory (lavatory, spout outlet mounted 5 ins above flood rim, wrist control should be provided in isolation rooms)	1
Light above lavatory	1
Nurses' call system, call station	1
Shelf above lavatory	1
Towel bar	1
Water closet (bedpan flushing attachment suggested)	1
Movable: Receptacle, waste, paper towel	1

Staff and Visitors' Toilet Facilities

Fixed:	
Dispenser:	
Paper towel	2
Soap	2
Lavatory	2
Mirror over lavatory	2
Urinal	2
Water closet	1

Patients' Bathing Facilities (Male and Female)

Fixed:	
Bathtub	--
Bathtub, pedestal type [7]	1
Glass, obscure in windows	-
Hook strip	3
Nurses' call system, calling station	1
Overhead hoist (patient), electric over pedestal tub	1
Receptacle, soap	6
Rod, shower curtains	--
Shower compartment, flexible head attachment, thermostatic valve, remote control	--
Sink, shampoo, with rinsing attachment	1
Towel bars	4
Water closet	1
Movable: Chairs, straight	7

[7] Required in rooms having more than one bathtub.

ANCILLARY FACILITIES

Patients' Dining Room

Fixed: Room divider, folding	1
Movable:	
Cart, tray, shelf type, open	1
Chair, dining	40
Dolly, cup, glass and tray racks	3
Salad, folding tray	1
Table, high enough to accommodate wheelchairs	1
Round diameter 48 in	2
Square, 46 x 46 in	8
Utility	1
Toaster, electric, heavy duty, 4-slice	4

Recreation Storage Room

Fixed: Storage cabinets	-
Movable:	
Chair, folding, metal	16
Projector, 16 mm. (per facility)	1
Screen, projection (per facility)	1
Shelving	-
Table, card, folding to accommodate wheelchairs	4

Occupational Therapy

Movable:	
Bench:	
Carpentry, work	1
Leather, work	1
Bookcase	1
Cabinet, metal, filing, 5-drawer	1
Chair, straight	5
Frame:	
Hooking	1
Quilting	1
Grinder, electric, bench type	1
Jigsaw with front pedal	1
Kiln	1
Lathe	1
Loom, weaving	1
Machine, sewing	1
Tables, work 20 x 6 x 30 in high	3

Physical Therapy

Fixed:	
Bath, whirlpool	1
Cabinet above sink	1
Counter, sink, open below, 36 in high	1
Dispenser, paper towel	1
Dispenser, soap	1
Hook strip	1
Lavatory, spout outlet mounted 5 in above floor rim, wrist control	1
Mirror above lavatory	1
Shelves	--
Track, cubicle curtain (treatment and hydrotherapy cubicles)	--
Movable:	
Bars, parallel, walking, folding, 10 ft	1
Bicycle trainer	1
Bucket, mopping, with wringer	1
Chair:	
Straight with arms	5
Without arms	4
Hydraculator	1
Lifter, patient	1
Machine, hot pack	1
Mat, gym, 72 x 96 in	1
Mirror, posture training, triple	1
Pad, water, heating and cooling, assorted sizes complete	1
Paraffin bath	1
Platform, mat, 72 x 96 x 18 in	1
Receptacle, waste, paper towel	1
Shoulder wheel	1
Steps, exercise	1
Stool, adjustable:	
Low with back	1
Therapist	1
Stool, foot	1
Table, hand, wrist, and forearm exercise	1
Table, treatment, storage space below, 36 x 78 in	1

Storage Alcove

Fixed: Shelves	--

P. T. Desk Alcove

Fixed:	
Outlet, intercommunication system	1
Shelf, book, above alcove	--
Movable:	
Cabinet, metal filing, 5-drawer	1
Chair:	
Office, swivel with arms	1
Straight	1
Desk, office, single pedestal	1
Lamp, desk	1

SUPPORT FACILITIES

DIETARY [8]

Dietitian's Office

Movable:	
Bookcase	1
Cabinet, metal, filing, 5-drawer	1
Chair:	
Office, with swivel	1
Office, straight	1

Vegetable and Salad Preparation Area

Fixed:	
Sink, two 24 x 24 x 14 in. compartments; 2 drainboards	1
Movable:	
Can, waste with cover, capacity 20 gal	1
Dolly, can with cover	1
Rack, tool	1
Table, preparation, undershelf, locking casters, 30 x 72 in	1

[8] The following are as required by the scope of the project. The dietary equipment list is to be considered as a guide.

Cooking and Baking Area

Fixed:
- Broiler, 1 deck — 1
- Cabinet, below broiler — 1
- Counter, 30 x 48 in — 1
- Extinguisher system for grease fires in hoods and ducts — 1
- Hood and fan, ventilating with removable filters — 1
- Kettle, steam-jacketed, tilt type swinging spout, table or counter mounted, capacity 20 qts — 1
- Oven, capacity two 18 x 26 in. pans:
  - Bake, single deck — 2
  - Roast, double deck, one removable shelf — 1
- Range, 1 section — 1
- Sink, cook-bake table, spout outlet mounted 5 in. above flood rim, wrist control — 1
- Spreader, plate — 1
- Streamer, one compartment, 100 to 150 meals per hr — 1
- Table, cook-bake, undershelf, 30 x 90 ins — 1

Movable:
- Bin, roll under, cook-bake table — 3
- Mixer, food, bench type, capacity 20 qts., 12 qt. bowl, meat grinder, chopper and other attachments, interchangeable hubs — 1
- Rack, cooling with casters, 24 x 18 x 72 ins — 1
- Scale, bakers — 1
- Slicer, food, electric — 1

Table:
- Mixer, food, locking casters, 24 x 24 ins — 1
- Utility — 1

Tray Setup, Serving and Distribution Area

Fixed: Cabinet — 1

Movable:
- Blender, electric — 1
- Cabinet, ice cream, upright, capacity 10 gal — 1
- Can, waste with cover, capacity 20 gal — 1
- Coffeemaker, vacuum type, 5 element — 2
- Conveyor, tray, unheated, enclosed, capacity 20 to 24 trays — 1
- Dispenser:
  - Dish, locking casters:
    - Heated:
      - Bowl, 2 compartment, capacity 6 doz — 1
      - Cup-saucer, 2 compartment, capacity 6 doz — 1
      - Plate, 1 compartment, capacity 6 doz — 1
      - Vegetable, 1 compartment, capacity 6 doz — 1
    - Unheated:
      - Dessert, 1 compartment, capacity 6 doz — 1
      - Plate, bread-salad, 2 compartment, capacity 12 doz — 1
  - Flatware — 1
- Holding units, food, electric, table type, inserts:
  - Cold food, refrigerated sections — 1
  - Hot food, warming sections — 1
- Table, locking casters:
  - Tray setup — 1
  - Utility — 1
- Toaster, electric, heavy duty, 4 slice — 1

Refrigerated Storage Area

Fixed:

Movable:
- Freezer, reach-in capacity 30 ft³ — 1
- Refrigerator, reach-in:
  - Capacity 20 ft³ — 2
  - Capacity 40 ft³ — 1

Potwashing Area

Fixed:
- Shelf above sink — 1
- Sink, three 24 x 24 x 14-in. compartments, one with dial thermometer, two drainboards — 1

Movable:
- Can, waste, with cover, capacity 20 gals — 1
- Dolly, can, with cover — 1
- Rack, pot, adjustable shelves, locking casters:
  - 24 x 30 x 60 in — 1
  - 36 x 30 x 60 in — 1

Dishwashing Room

Fixed:
- Disposer, waste, institutional size, soiled dish table — 1
- Hood and fan, ventilating — 1
- Machine, dishwashing, automatic, floor model, 20 x 20 in. racks with booster heater, detergent dispenser, rack return conveyor, rinse injector and splash guards, door type, single tank, capacity 35 to 50 racks per hr — 1
- Sink, soak, 2 compartments — 1
- Table, dish:
  - Clean, rolled rim edge, shelf above 4 to 5 racks — 1
  - Soiled, sink type — 1

Movable:
- Can, waste, with cover, capacity 20 gals — 1
- Carrier, dishwashing rack, 20 x 20 in., 1 every 4 to 10 racks — 1
- Dolly:
  - Can with cover — 1
  - Cup, glass and tray racks — 3
- Rack, dishwashing machine:
  - Bowl, 20 x 20 in., open — 2
  - Creamer, 6 x 10 in., 24 compartments — 2
  - Cup, 20 x 20 in., 20 compartments — 6
  - Flatware, 12¾ x 26 in., 8 compartments — 1
  - Glass, 20 x 20 in., 36 compartments — 4
  - Plate, 20 x 20 in., 9 compartments — 8
  - Tray, 20 x 20 in., 8 compartments — 3
- Truck, adjustable shelves, dish rack storage — 1

Dietary

Minor movable: L
- Beater, rotary, manual, commercial type — each — 1
- Board, cutting, hardwood, 10 x 16 x ¼ in — each — 1
- Chopper, manual:
  - Food — do — 1
  - Meat — do — 1
- Colander, metal, 16 in — do — 1
- Corer, peeler — do — 2
- Cup:
  - Custard — dozen — 10
  - Measure, metal:
    - 6 oz — each — 1
    - 16 oz — do — 2
    - 32 oz — do — 4
- Cutter, metal:
  - Biscuit — do — 2
  - Doughnut — do — 1
  - Salad, rotary type, manual, slicing, shredding, or grating cone cutters — each — 1
- Dispenser:
  - Flatware, counter type — do — 1
  - Napkin — do — 1
- Extractor, juice, manual — do — 1
- Fork, cook:
  - 12 in — do — 2
  - 14 in — do — 1
- Funnel, metal, capacity one-half to 1 qt. — do — 2
- Holder, tray card — dozen — 5
- Knife:
  - Boning, blade 6 in — each — 1
  - Bread, serrated, blade 10 in — do — 1
  - Butcher, blade 12 in — do — 1
  - Chopping or mincing, double blades — do — 1
  - French, blade 10 in — do — 1
  - Grapefruit — do — 2
  - Paring — do — 6
  - Sabatier, heavy, blade 14 in — do — 1
  - Slicing:
    - Blade 12 in — do — 1
    - Blade 14 in — do — 1
- Ladle, stainless steel
  - 2 oz — do — 2
  - 4 oz — do — 3
  - 6 oz — do — 2
  - 8 oz — do — 2
  - 16 oz — do — 2
- Machine, patty, manual — do — 1
- Masher, heavy duty — do — 1
- Mold, small, diameter 3 in — dozen — 10
- Opener:
  - Bottle — each — 2
  - Can:
    - Manual — do — 3
    - Table, model, heavy duty, adjustable — do — 2
- Pin, rolling, hardwood, heavy duty, revolving handle — do — 1
- Pitcher, metal, capacity 3 qts — do — 6
- Scoop, metal with handle:
  - Grocers, 5 x 12 in — do — 1
  - Spring type:
    - No. 6, capacity two-third cup — do — 1
    - No. 8, capacity one-half cup — do — 1
    - No. 10, capacity two-fifths cup — do — 1
    - No. 12, capacity one-third cup — do — 1
    - No. 16, capacity one-fourth cup — do — 1
- Scraper, bowl, flexible, nonmetallic blade, width 7 in — do — 6
- Shaker:
  - Pepper — do — 3
  - Salt — do — 3
- Shears, kitchen, steel, 8 in — do — 1
- Sieve, flour, diameter 16 in — do — 1
- Sifter, flour, diameter 6 in — do — 1
- Skimmer, handle 15 in. long, blade diameter 4½ in — do — 2
- Slicer, egg — do — 1
- Spatula, baker, 10 inches — do — 3
- Spoon:
  - Measuring, graduated, one-half to 1 tablespoon sets — 2
  - Serving, stainless, steel, perforated or slotted, 13¼ in — each — 4
  - Solid, 11 to 13 in — do — 2
- Wood, mixing, 15 in — do — 1
- Steel, butcher — do — 1
- Strainer:
  - Sink, 9½ x 8 in — do — 3
  - Wire
    - 3½-in. diameter — do — 3
    - 8-in. diameter — do — 3
- Thermometer, food, stainless steel — do — 2
- Tongs, serving, 9 to 12 in — do — 2
- Turner, pancake — do — 2
- Whip, wire — do — 1
- Tableware, patient and staff:
  - Carafe, water, individual — dozen — 5
  - Cover, metal, plate — each — 50
  - Dinnerware:
    - Bowl, cereal, 10 oz — dozen — 9
    - Cup, tea, 6 oz — do — 13
    - Plate:
      - Bread and butter, diameter 6 in. — do — 13
      - Dinner, diameter 9 in — do — 9
      - Salad, diameter 7 in — do — 11
    - Saucer:
      - Fruit, 4 oz — do — 13
      - Tea, diameter 5 in — do — 9
  - Flatware:
    - Fork, dinner — do — 13
    - Knife, dinner — do — 7
    - Spoon:
      - Soup — do — 7
      - Teaspoon — do — 15

	Suggested quantity
Glassware:	
Creamer, three-fourth to 1 oz. ---do---	7
Fruit juice, 4 to 5 oz ---do---	9
Sherbet ---do---	9
Tumbler, 10 oz ---do---	18
Pot, coffee, metal, individual ---each---	50
Tray, serving, 15 x 20 in ---dozen---	7
Utensils, cooking and baking:	
Boiler, double with cover:	
2 qt ---each---	2
7 qt ---do---	1
11 qt ---do---	1
Bowl:	
Chopping, wood, diameter 15 in ---do---	2
Mixing, metal:	
1½ qt ---do---	2
3 qt ---do---	3
5 qt ---do---	2
11 qt ---do---	1
30 qt ---do---	1
Pan:	
Bake:	
2 x 12 x 18 in ---do---	4
4 x 18 x 20 in ---do---	3
Bun, standard size, 1 x 18 x 26 in ---do---	4
Cake:	
2 x 9 x 9 in ---do---	16
Tubed, diameter 9 in ---do---	16
Dish:	
16 qt ---do---	1
20 qt ---do---	1
Fry:	
12 in diameter ---do---	2
14 in diameter ---do---	2
Loaf, 9⅝ x 5½ x 2¾ in ---do---	6
Muffin, 12 cups ---do---	10
Pie, diameter 9 x 1 or 1⅜ in ---do---	18
Roast, 19 x 26 or 18 x 24 in ---do---	2
Sauce, with cover:	
2 qt ---do---	2
6 qt ---do---	2
8 qt ---do---	1
Pot, stock, with cover, faucet and strainer, 16 qt ---do---	1
Personnel Dining	
Movable:	
Chair, dining	8
Table:	
Dining, 46 x 4 in	2
Utility	1
Janitors Closets	
Fixed:	
Basin, mop service with floor drain, approximately 28 x 8 x 8 in	1
Mop and broom rack	1
Shelving	--
Movable:	
Basket, waste	72
Broom:	
Corn	6
Fiber or plastic	6
Brush:	
Bedpan	6
Floor	6
Toilet	6
Bucket, galvanized, 12 qt	4
Cart, housekeeping cleaning supplies	1
Deodorizer, electric	1
Hanger, coat	200
Machine, floor maintenance, 16 to 20 ins	1
Mat, bath, rubber	6
Mirror	1
Mop with handle:	
Dry sweep, 18 in	6
Wet, 24 oz	6
Pan, dust	5
Pump, spray, germicide	2
Receptacle, waste with cover	1
Refill, mop, dry sweep, 18 in	6
Scissors, heavy pattern, 8 in	2
Scrubbing and polishing machine	1
Squeegee, window	3
Truck, mopping two buckets with wringer	1
Vacuum cleaner with attachments wet-dry, 5 gal	1
Soiled Linen Room	
Movable:	
Telephone	
Truck, soiled linen	3
Trash Collection	
Fixed:	
Floor drain	1
Hot and cold water hose connection	1
Steam hose connection	1
Movable:	
Can, waste/trash with cover:	
10 gal	8
20 gal	4
Dolly, can with cover	2
Rack, trash/waste can, locking casters	2
Employees' Lounge	
Men and/or Women	
Fixed:	
Dispenser, soap	1
Lavatory	1
Nurses' call system, calling station	1
Movable:	
Chair:	
Easy	1
Straight with or without arms	2
Lamp, table	2
Receptacle, waste, closed top	1
Settee, three seat	1
Table, approximately 30 in. diameter	1
Table, end	2
Men's Locker Room and Toilet	
Fixed:	
Dispenser, paper towel	1
Dispenser, soap	1
Light above lavatory	1
Lavatory	1
Lockers	—
Mirror, above lavatory	1
Water closet	1
Urinal	1
Movable:	
Chair, straight	2
Receptacle, waste, paper towel	1
Women's Locker Room and Toilet	
Fixed:	
Dispenser, paper towel	1
Dispenser, sanitary napkin	1
Dispenser, soap	1
Lavatory	1
Mirror:	
Over lavatory	1
Full length	1
Water closet	1
Movable:	
Chair, straight	2
Receptacle, waste, closed top	1
Barber-Beauty Shop (may be separated)	
Fixed:	
Counter, sink, drawers and cabinets below, 36 in high	1
Hair, vacuum unit, self-contained, electric	1
Hook strip	1
Mirror above counter	1
Sink, shampoo, mixing valve	1
Barber	
Movable:	
Barber chair	1
Chair, waiting	3
Table or rack, magazine	1
Beauty	
Movable:	
Beauty shop chair with headrest, all purpose	1
Chair, waiting	3
Dryer, hair, heavy duty	2
Stool, operators, adjustable, 19 to 25 in	1
Table lamp	1
Tray, shampoo:	
Bed type	1
Sink type	1
Maintenance Area	
Fixed: Outlet, electric, heavy duty	
Movable:	
Bench, work	1
Cabinet, storage	1
Dolly	1
Extinguisher, fire, CO_2	1
Ladder, extension, 12 ft	1
Ladder, step, 8 ft	1
Mower, lawn, power	1
Shelves, adjustable, 18 in deep, 42 in wide	25
Stool, adjustable, operators	1
Vise	1
Wheelbarrow	1
Oxygen Storage Alcove	
Fixed: Holder, cylinder	
Movable: Carrier, cylinder	
Corridor, Patients'	
Fixed:	
Electric outlets for floor care machines	
Fire apparatus closet with hose, etc	
Handrails, both sides or corridor, returns at each opening	
Night light	
Major movable: Fire extinguishers	
Master Antenna System	
Patients' Personal Laundry	
Fixed:	
Cabinet supply	
Laundry trays	
Movable:	
Board, ironing	1
Chair, straight	2
Dryer, domestic type	1
Iron, electric	1
Sewing machine, domestic type	1
Table, work, locking casters	1
Washer, domestic type	1

These VA Regulations are effective September 24, 1974.

Approved: September 24, 1974.

[SEAL] R. L. ROUDEBUSH,
Acting Administrator.

[FR Doc.74-22570 Filed 9-30-74;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 51—COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

NATIONAL INDUSTRIES FOR THE SEVERELY HANDICAPPED

Central Nonprofit Agency

The enactment of Pub. L. 93-358, July 25, 1974, which amended Pub. L. 92-28, June 23, 1971 (85 Stat. 77, 41 U.S.C. 46-48), and the recognition of the National Industries for the Severely Handicapped as a central nonprofit agency requires

certain revisions to the Committee regulations (38 FR 16316). These revisions are as follows:

1. The title of Chapter 51, §§ 51–1.1(a), and 51–1.2(a) have been revised to reflect the change in the name of the Committee.

2. Section 51–2.1 has been revised to add a fifteenth Committee member.

3. Sections 51–3.1(b), and 51–5.1–2(b) have been revised to add National Industries for the Severely Handicapped as a central nonprofit agency.

4. A minor editorial change has been made in § 51–1.2(b).

Effective date. These revisions are effective upon issuance.

By the Committee.

C. W. FLETCHER,
Executive Director.

1. The title of Chapter 51 is revised by deleting "Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped", and substituting "Committee for Purchase from the Blind and Other Severely Handicapped".

PART 51–1—GENERAL

§ 51–1.1 [Amended]

2. Paragraph (a) of § 51–1.1 is revised by deleting in the first sentence "The Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped", and substituting "The Committee for Purchase from the Blind and Other Severely Handicapped".

3. Paragraphs (a) and (b) of § 51–1.2 are revised to read as follows:

§ 51–1.2 Definitions.

* * * * *

(a) "Committee" means the Committee for Purchase from the Blind and Other Severely Handicapped.

(b) "Direct labor" means all work required for preparation, processing, and packing of a commodity or work directly related to the performance of a service but not supervision, administration, inspection or shipping.

* * * * *

PART 51–2—COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED

4. Section 51–2.1 is revised to read as follows:

§ 51–2.1 Membership.

Under the Act the Committee is composed of 15 members appointed by the President. There is one representative from each of the following departments or agencies of the Government: The Department of Agriculture, the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the Department of Health, Education and Welfare, the Department of Commerce, the Department of Justice, the Department of Labor, the Veterans Administration, and the General Services Administration. Four members are private citizens: One who is conversant with the problems incident to the employment of blind individuals; one who is conversant with the problems incident to the employment of other severely handicapped individuals; one who represents blind individuals employed in qualified nonprofit agencies for the blind; and one who represents severely handicapped individuals (other than blind) employed in qualified nonprofit agencies for the other severely handicapped.

PART 51–3—CENTRAL NONPROFIT AGENCIES

5. Section 51–3.1 is revised to read as follows:

§ 51–3.1 General.

Under the provisions of section 2(c) of the Act, the following are designated central nonprofit agencies:

(a) To represent the workshops for the blind:

National Industries for the Blind.

(b) To represent the workshops for other severely handicapped:

National Industries for the Severely Handicapped, Inc.
Goodwill Industries of America.
International Association of Rehabilitation Facilities.
Jewish Occupational Council.
National Association for Retarded Citizens.
National Easter Seal Society for Crippled Children and Adults.
United Cerebral Palsy Association.

PART 51–5—PROCUREMENT REQUIREMENTS AND PROCEDURES

6. Paragraph (b) of § 51–5.1 is revised to read as follows:

* * * * *

§ 51–5.1–2 Allocations and orders.

(b) Letter requests for allocation shall be submitted to the appropriate central nonprofit agency listed below:

Agency:	*Agency symbol*
National Industries for the Blind 1511 K St., Washington, D.C. 20005.	IB
National Industries for the Severely Handicapped, Inc., 4350 East-West Highway, Suite 204, Bethesda, Md. 20014.	SH
Goodwill Industries of America, 9200 Wisconsin Ave., Washington, D.C. 20014.	GI
International Association of Rehabilitation Facilities, 5530 Wisconsin Ave., Washington, D.C. 20015.	RF
Jewish Occupational Council, 114 Fifth Ave., New York, N.Y. 10011.	JO
National Easter Seal Society for Crippled Children and Adults, 2023 West Ogden Ave., Chicago, Ill. 60612.	ES
United Cerebral Palsy Association 66 East 34th St., New York, N.Y. 10016.	CP
National Association for Retarded Citizens, 2709 Avenue "E" East, Arlington, Tex. 76011.	RC

* * * * *

[FR Doc.74–22706 Filed 9–30–74;8:45 am]

Title 50—Wildlife and Fisheries

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

PART 32—HUNTING

Dismal Swamp National Wildlife Refuge, Va.

The following special regulation is issued and is effective for the period October 5, 1974 through November 30, 1974. Administrative and biological needs require the Dismal Swamp Refuge deer hunting season to be held concurrent with the Virginia State hunting season. It is therefore found impracticable to issue regulations that would be effective 30 days after publication in accordance with Department of the Interior general policy. The proposed rulemaking designating the above refuge open to big game hunting preceded publication of the following regulations and allowed notice and public procedure thereon under 5 U.S.C. 553(b). Such notice was published in the FEDERAL REGISTER August 30, 1974.

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

VIRGINIA

DISMAL SWAMP NATIONAL WILDLIFE REFUGE

That portion of the Dismal Swamp National Wildlife Refuge described herein will be open to controlled public hunting of white-tailed deer in accordance with the regulations of the Commonwealth of Virginia governing the hunting of white-tailed deer and the following special refuge regulations:

1. Hunting will be permitted on Saturdays only during the regular Virginia Dismal Swamp hunting season of October 1 through November 30, 1974.

2. The number of hunters will be limited to 40 per hunt day.

3. Hunters will be selected by lottery from applications submitted in writing to the refuge. Each hunter drawn will be issued a permit to hunt on the refuge for three consecutive Saturdays.

4. Weapons and ammunition will be restricted to shotguns and shells loaded with buckshot or slugs.

5. Hunters will be required to wear a minimum of one square foot, both front and back, of blaze orange or red clothing during the hunt.

6. The bag limit will be restricted to one buck deer per hunter.

7. Hunters will be required to enter and exit the refuge via locations specified on the day of the hunt. Transportation to and from the hunt areas will be provided by the refuge.

8. Hunters may not take stands closer than 200 yards apart along a roadway nor may stands be taken or weapons fired closer than 200 yards of the Lake Drummond shoreline or any of the cabins located around the perimeter of Lake Drummond.

9. A total refuge area of 9,070 acres in two separate parcels described as follows will be open to hunting:

The area bounded generally on the north and northeast by Hudnell Ditch Road, on

the east by East Ditch Road, on the south by Cross and Middle Ditch Roads, and on the west by Lynn Ditch Road totaling 6,490 acres, and; the area bounded generally on the north by Railroad Ditch Road, on the east by the Lake Drummond shoreline, on the south by Interior Ditch Road, and on the west by West Ditch Road totaling 2,580 acres.

Information about the refuge area, comprising approximately 49,097 acres and located in the cities of Suffolk and Chesapeake, Virginia, is available from the Refuge Manager, U.S. Fish and Wildlife Service, Box 349, Suffolk, Virginia 23434.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuges generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 30, 1974.

RICHARD E. GRIFFITH,
Regional Director,
U.S. Fish and Wildlife Service.

[FR Doc.74-22825 Filed 9-30-74;8:45 am]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

CFR Correction

On page 13 of Title 49, Code of Federal Regulations, Parts 1–99, revised as of October 1, 1973, the text of paragraph (c) of § 1.47 was inadvertently omitted. An amendment published at 38 FR 2693, Jan. 29, 1973 had revoked a delegation to the Administrator of the Federal Aviation Administration to carry out the civil administration of Wake Island. However, prior to this amendment revoking § 1.47 (c, an amendment had been published at 37 FR 19138, Sept. 19, 1972 purporting to add § 1.47(c) by delegating to the FAA Administrator certain functions under section 208 of the Appalachian Regional Development Act. In effect, this amendment deleted the Wake Island delegation. The amendment published at 38 FR 2693 only formalized the revocation of the Wake Island delegation, and, to that extent, it had no effect on the Appalachian delegation.

Therefore, the text of 1.47(c) should read as follows:

§ 1.47 Delegations to the Federal Aviation Administrator.

* * * * *

(c) Carry out the functions of the Secretary under section 208 of the Appalachian Regional Development Act of 1965 (85 Stat. 168; 40 U.S.C. App. 208).

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1003—LIST OF FORMS

Revocation of Application Form BF 201

Pursuant to section 206 of the Interstate Commerce Act, and good cause appearing therefor, the use of a new form for application for Transfer or Lease of Motor Carrier Certificates of Registration and Certain other Single-State Operating Rights being under consideration:

It is ordered, That Application Form BF 201 be, and it is hereby, vacated and revoked.

It is further ordered, That Application for Transfer or Lease of Motor Carrier Certificates of Registration and Certain other Single-State Operating Rights attached hereto and incorporated into this order, be, and it is hereby, prescribed and approved.

It is further ordered, That 49 CFR 1003.1, be, and it is hereby, amended by deleting the subheading "BF 201" and replacing said subheading with a new subheading "OP–M 110".

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, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register (Sec. 204(a)(4a), (49 U.S.C. 304(a)(4a))).

Dated at Washington, D.C., this 26th day of September, 1974.

By the Commission, Commissioner Murphy.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-22784 Filed 9-30-74;8:45 am]

PART 1003—LIST OF FORMS

Revocation of Application Form BF 200

Pursuant to section 211 and 212(b) of the Interstate Commerce Act, and good cause appearing therefor, the use of a new form for application for transfer or lease of motor common and contract carrier operating rights and transfer of brokers licenses being under consideration:

It is ordered, That Application Form BF 200 be, and it is hereby, vacated and revoked.

It is further ordered, That Application for transfer or lease of motor common and contract carrier operating rights and transfer of brokers licenses attached hereto and incorporated into this order, be, and it is hereby, prescribed and approved.

It is further ordered, That 49 CFR 1003.1, be, and it is hereby, amended by deleting the subheading "BF 200" and replacing said subheading with a new subheading "OP–M 100", (Sec. 211 and 212, (49 U.S.C. 304(a)(4a))).

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, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

Dated at Washington, D.C., this 26th day of September 1974.

By the Commission, Commissioner Murphy.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-22785 Filed 9-30-74;8:45 am]

PART 1003—LIST OF FORMS

Revocation of Application Form B.M.C.

(Pursuant to section 204(a)(4a) of the Interstate Commerce Act, and good cause appearing therefor, the use of a new form for application for exemption, under section 204(a)(4a), of motor carriers engaged in transportation in interstate or foreign commerce solely within a single State being under consideration:

It is ordered, That Application Form B.M.C. 72 be, and it is hereby, vacated and revoked.

It is further ordered, That Application for Exemption, under section 204(a)(4a), Form OP–OR–110 (49 CFR 1003.1), which is attached hereto and incorporated into this order, be, and it is hereby, prescribed and approved.

It is further ordered, That 49 CFR 1003.1, be, and it is hereby, amended by deleting the subheading "B.M.C. 72" and replacing said subheading with a new subheading "OP–OR–110".

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, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register (Sec. 204(a)(4a), 49 U.S.C. 304(a)(4a)).

Dated at Washington, D.C., this 26th day of September, 1974.

By the Commission, Commissioner Murphy.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-22786 Filed 9-30-74;8:45 am]

PART 1003—LIST OF FORMS

PART 1115—ISSUANCE OF SECURITIES, ASSUMPTION OF OBLIGATIONS AND FILING OF CERTIFICATES AND REPORTS

Revocation of Reporting Form BF 23

Pursuant to section 20a or 214 of the Interstate Commerce Act, and good cause appearing therefor, the use of a new form for submitting a special report under section 20a(10), Interstate Commerce Act: Issuance of securities or assumption of obligations.

It is ordered, That Reporting Form BF 23, be, and it is hereby, vacated and revoked.

It is further ordered, That Reporting Form, OP–F 240, Special report under section 20a(10), Interstate Commerce Act: Issuance of securities or assumption of obligations attached hereto and incorporated into this order, be, and it is hereby, prescribed and approved.

It is further ordered, That 49 CFR 1003.4, be, and it is hereby, amended by

deleting the subheading "BF 23" and replacing said subheading with a new subheading "OP–F 240".

It is further ordered, That 49 CFR 1115.6, be, and it is hereby, amended by deleting the term "BF 23" and replacing said term with "OP–F 240".

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, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

Dated at Washington, D.C., this 26th day of September 1974.

By the Commission, Commissioner Deason.

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

[FR Doc.74–22787 Filed 9–30–74;8:45 am]

PART 1003—LIST OF FORMS

PART 1115—ISSUANCE OF SECURITIES, ASSUMPTION OF OBLIGATIONS AND FILING OF CERTIFICATES AND REPORTS

Reporting Form BF 21; Revocation

Pursuant to section 20a or 214 of the Interstate Commerce Act, and good cause appearing therefor, the use of a new form for reporting a Certificate of notification under section 20a(5) Interstate Commerce Act: Disposal of pledged or Treasury securities.

It is ordered, That Reporting Form BF 21, be, and it is hereby, vacated and revoked.

It is further ordered, That Reporting Form OP–F 220, Certificate of notification under section 20a(5), Interstate Commerce Act: Disposal of pledged or Treasury securities attached hereto and incorporated into this order, be, and it is hereby, prescribed and approved.

It is further ordered, That 49 CFR 1003.4, be, and it is hereby, amended by deleting the subheading "BF 21" and replacing said subheading with a new subheading "OP–F 220."

It is further ordered, That 49 CFR 1115.4, be, and it is hereby, amended by deleting the term "BF 21" and replacing said term with "OP–F 220."

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, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

Dated at Washington, D.C., this 26th day of September 1974.

By the Commission, Commissioner Deason.

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

[FR Doc.74–22788 Filed 9–30–74;8:45 am]

PART 1003—LIST OF FORMS

PART 1115—ISSUANCE OF SECURITIES, ASSUMPTION OF OBLIGATIONS AND FILING OF CERTIFICATES AND REPORTS

Reporting Form BF 22; Revocation

Pursuant to section 20a or 214 of the Interstate Commerce Act, and good cause appearing therefor, the use of a new form for reporting a Certificate of notification under section 20a(9), Interstate Commerce Act: Issuance of short-term notes.

It is ordered, That Reporting Form BF 22, be, and it is hereby, vacated and revoked.

It is further ordered, That Reporting Form OP–F 230, Certificate of notification under section 20a(9), Interstate Commerce Act: Issuance of short-term notes attached hereto and incorporated into this order, be, and it is hereby, prescribed and approved.

It is further ordered, That 49 CFR 1003.4, be, and it is hereby, amended by deleting the subheading "BF 22" and replacing said subheading with a new subheading "OP–F 230."

It is further ordered, That 49 CFR 1115.5, be, and it is hereby, amended by deleting the term "BF 22" and replacing said term with "OP–F 230."

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, Washington, D.C. and by filing a copy with the Director, Office of the Federal Register.

Dated at Washington, D.C., this 26th day of September 1974.

By the Commission, Commissioner Deason.

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

[FR Doc.74–22789 Filed 9–30–74;8:45 am]

PART 1003—LIST OF FORMS

PART 1115—ISSUANCE OF SECURITIES, ASSUMPTION OF OBLIGATIONS AND FILING OF CERTIFICATES AND REPORTS

Revocation of Application Form BF 7

Pursuant to section 20a or 214 of the Interstate Commerce Act, and good cause appearing therefor, the use of a new form for application for authority to sell securities without competitive bidding being under consideration:

It is ordered, That Application Form BF 7 be, and it is hereby, vacated and revoked.

It is further ordered, That application for authority to sell securities without competitive bidding attached hereto and incorporated into this order, be, and it is hereby, prescribed and approved.

It is further ordered, That 49 CFR 1003.4, be, and it is hereby, amended by deleting the subheading "BF 7" and replacing said subheading with a new subheading "OP–F 210."

It is further ordered, That 49 CFR 1115.25, be, and it is hereby, amended by deleting the term "BF 7" and replacing said term with "OP–F 210."

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, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

Dated at Washington, D.C., this 26th day of September 1974.

By the Commission, Commissioner Deason.

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

[FR Doc.74–22790 Filed 9–30–74;8:45 am]

PART 1003—LIST OF FORMS

PART 1047—EXEMPTIONS

Reporting of Application Form BOR 100

Pursuant to section 206 of the Interstate Commerce Act, and good cause appearing therefor, the use of a new form for application for Motor Carrier Certificate of Registration being under consideration:

It is ordered, That Application Form BOR 100 be, and it is hereby, vacated and revoked.

It is further ordered, That Application for Motor Carrier Certificate of Registration, Form OP–OR 100, (49 CFR 1003.1) which is attached hereto and incorporated into this order, be, and it is hereby, prescribed and approved.

It is further ordered, That 49 CFR 1003.1, be, and it is hereby, amended by deleting the subheading "BOR 100" and replacing said subheading with a new subheading "OP–OR 100".

It is further ordered, That 49 CFR 1047.10 be and it is hereby, amended by deleting the term "BOR 100" and replacing said term with "OP–OR 100".

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, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, (Sec. 204(a)(4a) and Sec. 206(a), (49 U.S.C. 304(a)(4a) and 306(a))).

Dated at Washington, D.C., this 26th day of September 1974.

By the Commission, Commissioner Murphy.

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

[FR Doc.74–22783 Filed 9–30–74;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Defense

Section 213.3306 is amended to show that one position of Special Assistant to

the Director, Defense Civil Preparedness Agency, is reestablished under Schedule C.

Effective October 1, 1974, § 213.3306 (e)·(2) is amended as set out below.

§ 213.3306 Department of Defense.

* * * * *

(e) *Defense Civil Preparedness Agency.* * * *

(2) One Special Assistant to the Director.

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

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

[FR Doc.74–22936 Filed 9–30–74;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 DEFENSE

Corps of Engineers

[33 CFR Part 209]

REVIEW OF NPDES PERMITS

Proposed Policy, Practice, and Procedure

Notice is hereby given that the regulation set forth in tentative form below is being proposed by the Secretary of the Army (acting through the Chief of Engineers) to implement section 402(b)(6) of the Federal Water Pollution Control Act of 1972 (Pub. L. 92–500). The proposed regulation prescribes the policy, practice and procedure to be followed by all District and Division offices in their review of proposed National Pollutant Discharge Elimination System (NPDES) permit applications as to their effect on navigation and anchorage.

The right of the United States to recover the costs of removing obstructions to navigation resulting from the discharge of pollutants into navigable waters of the United States pursuant to the River and Harbor Act of 1899 (33 USC 401 et seq.) has been judicially upheld. "United States v. Republic Steel Co.", 362 U.S. 482 (1960). As a practical matter, however, it becomes extremely difficult to establish the individual effect of a particular pollutant discharge on navigation and to assess financial responsibility for the removal costs of these pollutants after they have been discharged into the water, since in most cases these discharges are commingled with other pollutant discharges in the area which results in the creation of a cumulative shoaling condition. It was the intention of the Corps of Engineers, therefore, in its administration of the discharge permit program under section 13 of the River and Harbor Act of 1899, commonly referred to as the "Refuse Act," to resolve this problem by developing a mutually acceptable procedure with the applicant to assess these charges before the discharges originating from his activity were authorized under the Refuse Act, and to incorporate this procedure as a condition to the discharge permit.

Before this procedure could be implemented, however, the responsibility for the administration of the permit program for the discharge of pollutants into navigable waters was transferred from the Secretary of the Army, acting through the Chief of Engineers, under the Refuse Act, to the Administrator, Environmental Protection Agency (EPA) and ultimately to the States, by section 402 of the Federal Water Pollution Control Act. This Act provides, however, that no permit for the discharge of a pollutant will be issued if, in the judgment of the Secretary of the Army, acting through the Chief of Engineers, following consultation with the Coast Guard, navigation and anchorage of any of the navigable waters would be sustantially impaired thereby.

EPA has promulgated regulations which are codified in Title 40 of the Code of Federal Regulations, Parts 124 and 125, to be followed in the administration of this new NPDES permit program. Section 124.41(b) and § 125.21(c) of Title 40, provide that no permit shall be issued if, in the judgment of the Secretary of the Army, acting through the Chief of Engineers, navigation and anchorage of any of the navigable waters would be substantially impaired. Section 124.42 (a)(4) and § 125.22(b) of Title 40 further provide that NPDES permits, if issued, shall contain such conditions as the District Engineer of the Corps of Engineers considers to be necessary to insure that navigation and anchorage will not be substantially impaired.

The policies and procedures expressed in this proposed regulation have been developed with the cooperation and assistance of the Environmental Protection Agency. While the proposed regulation set forth below deals with matters relating to Agency procedures and would, therefore, not be required to be published as a proposed regulation pursuant to the Administrative Procedures Act prior to promulgation in final form, it is the policy of the Secretary of the Army and the Chief of Engineers to solicit public participation in the formulation of Agency programs. Accordingly, prior to adoption of this regulation, consideration will be given to any objections to this proposed regulation which are submitted to the Office of the Chief of Engineers, Forrestal Building, Washington, D.C. 20314, Attention: DAEN–CWO–N, on or before 4 November 1974.

In view of the fact that EPA regulations, referenced above, now require that applications for NPDES permits be forwarded to appropriate Corps District Engineers for review as to the impact of the proposed discharge on navigation and anchorage, this proposed regulation will serve as interim guidance to the District Engineers in their review of these applications until final regulations are promulgated by the Secretary of the Army (acting through the Chief of Engineers).

Dated: September 25, 1974.

J. W. MORRIS,
Major General, USA,
Director of Civil Works.

It is proposed to add § 209.121 to read as follows:

§ 209.121 Review of NPDES Permit Applications.

(a) *Purpose.* This regulation prescribes the policy, practice and procedures to be followed in the review of proposed National Pollutant Discharge Elimination System (NPDES) permits as to their effect on navigation and anchorage.

(b) *Applicability.* This regulation is applicable to all Divisions and Districts responsible for reviewing proposed NPDES permits for discharges of pollutants into navigable waters.

(c) *References.* (1) Section 13 of the River and Harbor Act of 1899 (33 USC 407) and Executive Order 11574, dated 23 December 1970, "Administration of Refuse Act Permit Program."

(2) Section 402 of the Federal Water Pollution Control Act (33 USC 1342).

(3) 40 CFR 124, "State Program Elements Necessary for Participation in the NPDES."

(4) 40 CFR 125, "National Pollutant Discharge Elimination System."

(5) 33 CFR 209.120, "Permits for Activities in Navigable Waters or Ocean Waters." (ER 1145–2–303).

(d) *Procedures.* (1) *Introduction.* Section 402(b)(6) of the Federal Water Pollution Control Act provides that no NPDES permit shall be issued if in the judgment of the Secretary of the Army acting through the Chief of Engineers, after consultation with the Coast Guard, a substantial impairment to navigation and anchorage will be caused by authorizing the particular pollutant discharge. It is recognized that most NPDES discharges will not cause a significant impact on navigation and anchorage. As a general rule, any activity which results in the average discharge of more than 1,000 pounds per day of suspended solids into a navigable water, or into a tributary of a navigable water, will be regarded as causing a substantial impact on navigation; however, the physical characteristics of the affected waterbody and the type of discharge(s) involved may result in a discharge of less than 1,000 pounds of suspended solids having a substantial impact on navigation and anchorage or a discharge of more than 1,000 pounds not having such an impact. The procedures which follow will provide for a timely determination of the impact of any proposed discharge on anchorage and navigation consistent with current U.S. Environmental Protection Agency (EPA) and State NPDES permit issuance procedures.

(2) *Coordination with EPA and States with approved NPDES programs*—(i) *Identification of pertinent Navigable Waters and request for meeting.* The

District Engineer, if he has not already done so, shall contact the appropriate Regional Administrator(s) or State agencies operating under an approved NPDES permit program, as appropriate, and shall identify all waters within their respective jurisdictions, by basin or otherwise, including any appropriate tributaries, within his District:

(1) Which are part of a Corps maintenance dredging porgram, or

(2) Over which the Corps has a proprietary interest, or

(3) For which navigation and anchorage is being or may be maintained.

In addition, the District Engineer shall request a meeting to be held as soon as possible.

(ii) *Meeting with Regional Administrator or State.* Consistent with the intent of Congress as expressed in section 402(b)(6) of the Federal Water Pollution Control Act, the District Engineer has a responsibility to insure that the interests of navigation and anchorage are protected in the administration of the NPDES permit program within his district by insuring that no NPDES permit will be issued if it will cause, without appropriate conditions, a substantial impairment to navigation and anchorage of any of the waters identified in subparagraph (d)(2)(i) of this section. The District Engineer shall meet with each Regional Administrator or State, as appropriate, and shall attempt to establish mutually acceptable procedures for Corps' review of proposed NPDES permits. Such procedures should ensure that no NPDES permit be issued unless and until the District Engineer makes a final determination that the permitted discharge with or without appropriate conditions will not cause a significant impact to navigation or anchorage. Such procedures shall include the following:

(1) With respect to any discharges for which a tentative permit has already been prepared but not issued, the District Engineer shall request the Regional Administrator or the State to furnish copies, if they have not been previously furnished to him, of the following:

(A) A copy of the fact sheet, or if none is prepared, the tentative permit for all proposed NPDES permits which would authorize an average daily discharge of suspended solids in excess of 1,000 lbs/day; and

(B) A copy of the public notice of all proposed NPDES permits for which a fact sheet or tentative permit was not furnished pursuant to subparagraphs (d)(ii)(1)(A) of this section.

The District Engineer shall develop a schedule with the Regional Administrator or the State which establishes deadlines for an accelerated final determination by the District Engineer consistent with the following guidelines: Final determinations as to whether the discharge will have a substantial impact on navigation and anchorage for applications for which permits are ready to be issued should be made within 15 days. Final determinations for applications for which public notice has been issued should be provided during the public comment period or within 20 days, whichever period is longer. Final determinations for applications for which draft permits have been prepared and submitted to EPA or a State for concurrence or certification, as the case may be, shall be provided within 40 days.

(2) With respect to those applications for which a tentative permit has not yet been drafted, including any applications subsequently received, the District Engineer shall request the Regional Administrator or the State to provide him with copies of public notices, fact sheets, or tentative permits in accordance with the following procedures:

(A) For applications for which the Regional Administrator or the State proposes to issue an NPDES permit which authorizes an average daily discharge of suspended solids in excess of 1,000 pounds per day, the District Engineer shall arrange to receive a copy of the fact sheet, or if none is prepared, the tentative permit at the time the Regional Administrator or the State, as the case may be, transmits such tentative permit for State certification (in the case of EPA-issued NPDES permits) or EPA concurrence (in the case of State-issued NPDES permits). The District Engineer shall ensure that he will have 15 days from the date of his receipt of a fact sheet or tentative permit, if his preliminary determination is that the proposed discharge may have a substantial impact upon navigation or anchorage, to notify the Regional Administrator or the State in writing pursuant to subparagraph (d)(4)(ii) of this section that he objects to the issuance of the permit and to request that the Regional Administrator or the State refrain from issuing an NPDES permit to the applicant pending the District Engineer's final determination to allow or object to the issuance of the NPDES permit.

(B) The District Engineer shall also arrange to receive, at the time of issuance thereof, a copy of the public notice of all tentative permits not transmitted pursuant to subparagraph (d)(2)(ii)(2)(A) of this section. The District Engineer shall ensure that he will have 15 days from the date of his receipt of a public notice to notify the Regional Administrator or the State in writing or by telephone that the discharge described in the notice is or may be contributing to a substantial impairment to navigation and anchorage and to request a copy of the fact sheet or, if none is prepared, the tentative permit. The District Engineer shall further ensure that he will have 15 days from the date of his receipt of the fact sheet or tentative permit, if his preliminary determination is that the proposed discharge may have a substantial impact upon navigation or anchorage, to notify the Regional Administrator or the State in writing pursuant to subparagraph (d)(4)(ii) of this section that he objects to the issuance of the permit and to request that the Regional Administrator or the State refrain from issuing an NPDES permit to the applicant pending the District Engineer's final determination to allow or object to the issuance of the NPDES permit.

(3) *Accelerated final determination process.* With respect to the applications for which tentative permits had already been prepared at the time of the meetings held pursuant to subparagraph (d)(2)(ii) of this section, the District Engineer shall attempt to carry out all applicable procedures specified in subparagraphs (d)(4) through (d)(9) in making his final determinations in accordance with the schedules agreed to with the Regional Administrator(s) and States with approved NPDES programs pursuant to subparagraph (d)(2)(ii)(1) above. These procedures include review of public notices and request for fact sheets or tentative permits where necessary, review of fact sheets or tentative permits, consultation with the appropriate District Commander of the Coast Guard, determination of what conditions are necessary to remedy or avoid any impairment to anchorage and navigation, notification to applicant of proposed permit conditions, receipt of applicant's written acceptance or rejection of any proposed permit conditions, and written communications to Regional Administrator or State of the final determination to allow or object to the issuance of the permit.

(4) *Receipt and review of public notices, fact sheets and tentative permits.* Upon receipt of public notices, fact sheets, or tentative permits, (other than those for which an accelerated final determination has already been scheduled pursuant to subparagraph (d)(2)(ii)(1) above), the District Engineer shall insure that the public notice, fact sheet or tentative permit includes all point source discharges associated with the particular activity under review. If the public notice, fact sheet, or tentative permit does not include all of this information, the District Engineer shall notify the Regional Administrator or State, as appropriate, that he is unable to fully assess the cumulative effect of all discharges associated with the particular activity on navigation and anchorage, and inform the Regional Administrator or the State that the permit application must be denied or held in abeyance until this information is furnished. When this information is made available to the District Engineer, or if it is already in the public notice, fact sheet, or tentative permit, the District Engineer shall proceed as follows:

(i) *Receipt and review of public notices.* The District Engineer immediately shall review public notices (of tentative permits authorizing an average daily discharge of suspended solids of less than 1,000 lbs/day) received pursuant to the arrangements made with the Regional Administrators and the States in subparagraph (d)(2)(ii)(2)(B) above. If the District Engineer believes that the proposed discharge described in the public notice is or may be contributing to a cumulative shoaling condition, immediately thereafter and no later than 15

days from the date of his receipt of the notice, he shall notify the Regional Administrator or the State by telephone that the discharge described in the public notice may be contributing to a substantial impairment to navigation and anchorage and shall request a copy of the fact sheet, or if none is prepared, the tentative permit. If the District Engineer does not so notify the Regional Administrator or the State, the District Engineer's silence shall be deemed to be a final determination that the proposed discharge will not substantially impair navigation and anchorage that the District Engineer does not object to the issuance of the NPDES permit, and that the Regional Administrator or the State may proceed with the processing and issuance of the permit.

(ii) *Receipt and review of fact sheets and tentative permits.* The District Engineer immediately shall review any fact sheet or tentative permit received pursuant to subparagraph (d) (4) (i) above or pursuant to the arrangements made pursuant to subparagraph (d) (2) (ii) (2) (A) of this section, to determine if the discharge or proposed discharge has or may have a substantial impact on anchorage and navigation. As part of his review, the District Engineer shall consult with the appropriate District Commander of the Coast Guard. Following such consultation and no later than 15 days from the date of his receipt of the fact sheet or tentative permit, the District Engineer shall, in writing, notify the Regional Administrator or the State, as the case may be, of his determination. If his determination is that the proposed discharge substantially impairs navigation and anchorage the District Engineer's notification shall be a preliminary determination pursuant to subparagraph (d) (7) (i). If his determination is that the proposed discharge does not substantially impair navigation and anchorage the District Engineer's notification shall be a final determination that the proposed discharge will not substantially impair navigation and anchorage, that the District Engineer does not object to the issuance of the NPDES permit, and that the Regional Administrator of the State may proceed with the processing and issuance of the permit.

(5) *Criteria for evaluation of discharge.* In reviewing a proposed NPDES discharge as to its effect on navigation and anchorage, and in developing appropriate terms and conditions to protect navigation and anchorage, the District Engineer will consider all appropriate information and data available to him, including that contained in the public notice, fact sheet, tentative permit, the nature, characteristics, and average daily discharge by weight of any suspended solids authorized by interim or final effluent limitations in the tentative permit to be discharged into the water by the applicant, and, where applicable, the source of the facility's intake water, the daily average volume intake water from each intake source, and the daily average concentration of suspended solids in the water intake source; the nature and character of the waterway involved; the location of the proposed discharge(s); the proximity, nature, types, classes and sizes of other discharges in the vicinity of the applicant's activity; the past and existing navigable capacity and dimensions of the waterway, including the average shoal density of the waterway; and any other pertinent data which the Regional Administrator, the State, the applicant, or any other party has furnished.

(6) *Formulation of permit conditions.* (i) *Dredging maintenance cost assessment conditions.* In those cases where a proposed discharge, as authorized by interim or final effluent limitations in a tentative NPDES permit, will cause a significant impact on navigation and anchorage in a navigable water which is part of a Corps maintenance dredging program, or over which the Corps has a proprietary interest, the District Engineer shall develop a formula to determine equitably the applicant's individual responsibility and to assess him for his share of the overall costs incurred by the Corps in its maintenance dredging program to remove the shoaling conditions in the water and restore the waterway to its desired condition. A sample of the methodology used by the Philadelphia District in making this assessment is attached as Appendix A; however, it should be noted that the development of this methodology was predicated on the unique physical characteristics of the Delaware River, and that this methodology may not be altogether appropriate for other waterbodies. After this formula has been developed and if it is acceptable to the applicant, it will be transformed into a permit condition using the format in Appendix B.

(ii) *Other conditions related to maintenance of navigation.* In addition to the procedures in subparagraph (d) (6) (i) above, and in those cases where a proposed discharge, as authorized by interim or final effluent limitations in a tentative NPDES permit, will cause a significant impact on navigation and anchorage of a navigable water for which there is no Corps maintenance dredging program or over which the Corps has no proprietary interest, the District Engineer will develop appropriate terms and conditions for inclusion in the NPDES permit to protect navigation and anchorage, including any conditions recommended by the appropriate Coast Guard District Commander and, where appropriate, conditions which would require the permittee to perform maintenance dredging to correct the shoaling conditions in the waterway or to reimburse another Federal agency for such work. If a permit condition is developed which requires the permittee to remove shoaling conditions caused by his discharge, the permittee should also be advised of the need to obtain a Department of the Army permit for such work pursuant to 33 CFR 209.120 before such work can be accomplished. No condition will be developed for the assessment of costs by the Corps of Engineers where the affected water is not included in the Corps maintenance dredging program or is not a proprietary interest of the United States.

(iii) *Duration of permit conditions relating to anchorage and navigation.* In most cases any substantial impairment to anchorage and navigation resulting from a proposed discharge will cease with installation of the necessary treatment and control facilities and the permittee's compliance with his final permit effluent limitations. In such cases the District Engineer shall provide in any conditions formulated pursuant to subparagraphs (d) (6) (i) and (d) (6) (ii) above that such conditions will terminate upon the permittee's compliance with his final effluent limitations. If the District Engineer determines that the substantial impairment to navigation and anchorage will continue following permittee's compliance with his final effluent limitations he shall, in making his preliminary recommendation pursuant to subparagraph (d) (7) below, so advise the Regional Administrator or the State. He shall further determine, in consultation with the Regional Administrator or the State, what stricter final suspended solids effluent limitations would eliminate the substantial impairment to navigation and anchorage. In his communication with the applicant pursuant to subparagraph (d) (8) below, the District Engineer may impose the stricter suspended solids effluent limitation or give the applicant the option either of complying with the stricter final effluent limitation or of complying with the final effluent limitations as proposed by the Regional Administrator or the State and remaining subject to other permit conditions determined by the District Engineer as necessary to remedy or avoid the impairment to navigation and anchorage.

(7) *Preliminary determination by district engineer.* (i) If he determines pursuant to subparagraph (d) (4) (ii) of this section that a proposed discharge will substantially impair navigation and anchorage, the District Engineer will, following consultation with the appropriate District Commander of the U.S. Coast Guard, notify the Regional Administrator or the State that his preliminary determination is that the proposed discharge will impair navigation and anchorage and that, in the absence of protective conditions to remedy or avoid the impairment in the permit, he objects to its issuance and that the permit must be denied. In his letter notifying the Regional Administrator or the State, the District Engineer may include such conditions that he has determined to be necessary and shall state that he is prepared to meet with the applicant to develop a signed agreement prior to removing his objection. Dealings with the applicant are contained in paragraph (8) below.

(ii) If the District Engineer determines that the imposition of conditions cannot remedy or avoid the impairment to navigation and anchorage, he shall immediately notify the Regional Administrator or State in writing that his final

determination is that the proposed discharge would substantially impair navigation and anchorage, that the imposition of permit conditions cannot remedy or avoid the impairment, that he objects to the issuance of the NPDES permit, and that the permit must be denied by the Regional Administrator or the State.

(8) *Dealings with applicant.* (i) At the same time the District Engineer transmits the proposed permit conditions to the Regional Administrator or the State pursuant to paragraph (d) (7) (i) of this section, the District Engineer shall notify the applicant by certified mail, return receipt requested, that the District Engineer has made a preliminary determination that the proposed discharge will substantially impair anchorage and navigation and has therefore objected to the issuance of the NPDES permit. The District Engineer shall further state that he has enclosed permit conditions which, if adhered to by the permittee, will remedy or avoid the impairment and that the District Engineer will withdraw his objection if the applicant agrees to comply with the proposed permit conditions. The District Engineer shall enclose the proposed permit conditions and a form upon which the applicant shall indicate his choice of one of the three following options:

(*1*) Acceptance of the proposed permit conditions,

(2) Rejection of the proposed permit conditions with the understanding that the NPDES permit will be denied by the Regional Administrator or the State, or

(3) Request to meet with the District Engineer in order to discuss the proposed permit conditions further. The form shall notify the applicant that he must make his election, sign the form, and return it within 14 days of the date of receipt of the certified letter.

(ii) If the applicant requests a meeting, the District Engineer shall contact the applicant, determine the issues to be discussed, and schedule a meeting to be held within 10 days of receipt of the applicant's response. If, at the meeting, the applicant agrees to the District Engineer's conditions, either as originally proposed or as modified, the District Engineer shall obtain such agreement in writing.

(9) *Final determination of District Engineer.* No later than 30 days from the date of receipt of the certified letter by the applicant, the District Engineer shall make his final determination to allow or object to the issuance of the NPDES permit. Such final determination shall be made and communicated as follows:

(i) If the applicant agrees, either by initial written acceptance in the returned form or in writing during or following a meeting, to the appropriate conditions to be inserted in the NPDES permit, the District Engineer immediately shall notify the Regional Administrator or State in writing of this agreement and shall forward the agreed upon permit conditions for inclusion in the NPDES permit. The District Engineer shall further advise the Regional Administrator or State that his final determination is to allow issuance of the NPDES permit, that inclusion of the agreed upon conditions in the NPDES permit is necessary to avoid any substantial impairment to navigation and anchorage, that the permittee has agreed to the permit conditions, and that the permittee understands that his failure to comply with them will cause a substantial impairment of navigation and anchorage thereby subjecting the permit on written notice from the District Engineer to EPA of its violation to immediate revocation.

(ii) If the applicant refuses to accept, either by initial written rejection in the returned form or during or following a meeting, to the appropriate terms and conditions to be inserted in the NPDES permit, the District Engineer immediately shall notify the Regional Administrator or State in writing that his attempt to remedy the impairment to navigation and anchorage was unsuccessful, that his final determination is to object to the issuance of the NPDES permit on the ground that navigation and anchorage of navigable waters would be substantially impaired thereby and that the permit must be denied.

APPENDIX A—PHILADELPHIA DISTRICT REGULATION NO. NAPDR 1145–1–1

CIVIL REGULATORY FUNCTIONS: DISCHARGES OR DEPOSITS IN NAVIGABLE WATERS

1. *Purpose.* This regulation describes the procedures for developing the appropriate charges for industries depositing solids in the waterways of the District.

2. *Applicability.* It is applicable to Operations Division and District Comptroller.

3. *References.*

a. Sections 10 and 13 of the Act of Congress approved on March 3, 1899 (33 U.S.C. 403 and 407).

b. ER 1145–2–303.

4. *Definition of Violators.* Any person, firm or other entity who discharges or deposits into a navigable waterway or tributary or into a waste treatment system from which the same will flow into a navigable waterway or tributary.

5. *Responsibility.*

a. Operations Division will assess for payment any person, firm or other entity who discharges or deposits into a navigable waterway or tributary.

b. Industries discharging in excess of 2,000 pounds of suspended solids per day will be assessed based on their total discharge. This minimum level shall be reviewed by Chief, Operations Division, at the commencement of each Fiscal Year and a recommendation will be made to the District Engineer as to the minimum level. The Chief, Operations Division, will also revaluate the unit price at the commencement of each Fiscal Year.

c. The District Comptroller is responsible for the financial accounting, receiving, and recording the charges levied by Operations Division.

6. *Procedures.* The data furnished by the discharger in a National Pollution Discharge Elimination System (NPDES) discharge permit application and subsequent water quality reports will be used as values in determining the amount of suspended solids discharged. The assessed payment for the discharge of solids into a waterway will be $3.50 per ton based on the following:

a. Average shoal density in the Delaware estuary is 1270 Grams/Liter.

b. It is assumed that the specific gravity of absolute solids is 2.6 and that the average dredged material contains 16.9% (by volume) of absolute solids.

c. Average dredging cost for one cubic yard of shoal material is $1.30.

d. Recognition that solids released into the Delaware River do not flow out to sea.

7. *Computations.*

a. $0.169 \text{ cu. yd.} \times 2.6 \times \frac{27 \text{ cu. ft.}}{\text{cu. yd.}} \times \frac{62.4 \text{ lbs.}}{\text{cu. ft.}}$

=740.3 lbs. of Absolute Solids is contained in one cubic yard of dredged material.

b. $\frac{2000 \text{ lbs./ton}}{740.3 \text{ lbs./cu. yd.}} = 2.7 \text{ cu. yds./ton}$

c. 2.7 cu. yds./ton × $1.30/cu. yd. = $3.50/ton.

d. Cost to dredge one ton of absolute solids is $3.50.

e. The review of discharge water quality data and the computation of assessed charges will be initiated during the 1st quarter of each Calendar Year. The assessed charges will be for the net total amount of suspended solids to be discharged during a Calendar Year (Net Solids=total Solids Discharged minus Solids in River Water Intake). The charges will be based on the most recent water quality data available at the time of review. Billing for the assessed charges will be made during December of each Calendar Year, payable within 60 days of receipt.

For the district engineer.

SAMUEL J. NEWSOM, Jr.,
Lieutenant Colonel, Corps of Engineers, Deputy District Engineer.

APPENDIX B—PERMIT CONDITION

POINT SOURCES

Pursuant to Section 402(b)(6) of the Federal Water Pollution Control Act, the ---------- District Engineer, of the U.S. Army Corps of Engineers, determined that the interim effluent limitations authorized herein will permit the discharge of suspended solids which will contribute to the shoaling conditions of a navigable water and thereby significantly affect navigable capacity. The District Engineer has therefore entered into an agreement with the permittee, which is reflected in this permit condition, to obtain reimbursement from him for the removal of shoaling conditions attributable to the permittee's discharge activity.

In making this determination and reaching this agreement, the District Engineer has considered the data and information contained in the fact sheet or tentative permit prepared by the appropriate Regional Administrator, EPA or State Agency, the nature, characteristics, and average daily discharge by weight of any of suspended solids authorized by interim or final effluent limitations in the tentative permit to be discharged into the water by the permittee, and where applicable, the source of the facility's intake water, the daily average volume intake water from each intake source, and the daily average concentration of suspended solids in the water intake source; the nature and character of the waterway involved; the location of the proposed discharge(s); the proximity, nature, types, classes and sizes of other discharges in the vicinity of the permittee's activity; the past and existing navigable capacity and dimensions of the waterway, including the average shoal density of the waterway; and any other pertinent data which the Regional Administrator, the State, the applicant, or any other party has furnished.

The permittee hereby agrees to reimburse the ---------- District Engineer in the amount of $------ per ------ pounds of suspended solids discharged, payable annually. Provided, however, that the requirement for

this reimbursement shall cease when the permittee achieves full compliance with the final effluent limitations specified herein unless the _____ District Engineer concludes that such final effluent limitation compliance will still cause a substantial impairment to navigation and anchorage, and may be adjusted downward as the permittee achieves compliance with the various stages of interim effluent limitations as prescribed in this permit. The permittee acknowledges that this reimbursement agreement has resulted in the withdrawal of the District Engineer's objection to the issuance of this permit, and recognizes that this permit, which could not have been issued without the withdrawal of this objection, is being issued on the assurance that the permittee will adhere to the provisions of this agreement. The permittee further acknowledges that this permit condition shall not be the basis for a request for an adjudicatory hearing, and that violation of this condition shall, upon written notice from the District Engineer to the Regional Administrator or applicable State Agency of the violation, result in the immediate revocation of this permit, and in addition, subject the permittee to appropriate civil and criminal penalties.

[FR Doc.74-22860 Filed 9-30-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 1231]

[Docket No. AO-378]

BENTGRASS SEED GROWN IN OREGON

Decision on a Proposed Marketing Agreement and Order

A public hearing was held upon a proposed marketing agreement and order regulating the handling of bentgrass seed grown in Oregon.

The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Salem, Oregon, June 12, 13, and 14, 1973, pursuant to notice thereof issued on May 8, 1973.

Upon the basis of the evidence adduced at the hearing and the record thereof, the Associate Administrator, on May 23, 1974, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings and the general findings of the recommended decision (39 FR p. 18100) are hereby approved and adopted and are set forth in full herein subject to the following modification:

Material Issue No. (5) (c) concerning levying of assessments, paragraph 10 (p. 18104) is revised to clarify that any reserve fund for administrative expenses would be recommended by the Committee and approved by the Secretary.

Material issues. The material issues presented on the record of the hearing are as follows:

(1) The existence of the right to exercise Federal jurisdiction;

(2) The need for the regulatory program to effectuate the declared purposes of the act;

(3) The definition of the commodity and determination of the production area to be affected by the order;

(4) The identity of the persons, and the marketing transactions to be regulated; and

(5) The specific terms and provisions of the order including:

(a) Definitions of terms used therein which are necessary and incidential to attain the declared objectives of the act, and including all those set forth in the notice of hearing, among which are those applicable to the following additional terms and provisions;

(b) The establishment, maintenance, composition, powers, and duties of a committee which shall be the local administrative agency for assisting the Secretary in administration of the order;

(c) The incurring of expenses and the levying of assessments on handlers to obtain revenue for paying such expenses;

(d) The method of regulating the handling of bentgrass seed grown in the production area, including the establishment of base quantities and allocations and other terms and provisions relating to volume regulations;

(e) The establishment of requirements for reporting and recordkeeping on marketing transactions;

(f) The requirements of compliance with all provisions of the order and with regulations issued pursuant thereto; and

(g) Additional terms and conditions of miscellaneous provisions published (38 FR 11465) as §§ 70 through 81 which are common to marketing orders and other terms and conditions published as §§ 82 through 84 which are common to marketing agreements only.

Findings and conclusions. The findings and conclusions on the aforementioned material issues, all of which are based on the evidence adduced at the hearing and the record thereof, are as follows:

Bentgrass seed (see definition in the order limiting the order to the Agrostis species, commonly known as colonial bentgrass) is an agricultural commodity to which marketing orders may be issued pursuant to the act. The order should regulate the handling of bentgrass seed by restricting the quantity of bentgrass seed which may be freely handled by handlers. It should provide a method for allotting the quantity of bentgrass seed from any crop year among handlers based on amounts sold by growers during a representative period determined by the Secretary, to the end, that the total quantity to be handled from such crop year will be apportioned equitably among the growers. This is for the purpose of carrying out the declared policy of the act by establishing and maintaining orderly marketing conditions and increasing returns to growers for bentgrass seed so as to approach the parity price.

(1) Bentgrass seed is harvested and cleaned by growers and sold to handlers for shipment throughout the United States and the world. Almost 99 percent of the 9.4 million pounds (production in 1971) of the bentgrass seed grown in the United States was produced in Oregon.

The record indicates that normally over 95 percent of the bentgrass seed produced in Oregon is shipped for use in other states and foreign countries. The domestic market for bentgrass seed grown in Oregon is the entire United States. Usually, at least 90 percent of the bentgrass seed produced in Oregon is exported to foreign countries.

Therefore, it is concluded that the handling of bentgrass seed produced in Oregon is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce in such commodity to such an extent as to make necessary the regulation of bentgrass seed grown in Oregon and handled for use in intrastate commerce as well as for use in interstate and foreign commerce.

It is determined from substantial evidence in the record of hearing on which these findings and conclusions are based that the right to exercise federal jurisdiction in the handling of bentgrass seed produced in Oregon is proper and appropriate under the act and the marketing order hereinafter set forth.

(2) The need for the regulatory program for bentgrass seed is supported by substantial evidence in the record of hearing. Prices received by growers for all bentgrass averaged $40.00 per hundredweight from sales of 9 million pounds for the 1972 crop. The June 1973 parity price for all the bentgrass seed was ¢72.22 per hundredweight. Prices received by growers were approximately 56 percent of the June 1973 parity price.

Price fluctuations for bentgrass seed were shown to be significant within crop years as well as between crop years. The price range during the last 14 years was from $22.00 in 1959 to $50.00 in 1969 per hundredweight for all bentgrass seed. Significant price fluctuations have continued through the years. During these years, costs of operations have increased.

The record of evidence showed that the average gross return of bentgrass for 1973 was $120.00 per acre, while the reported cost of production was $148.20 per acre. The record further indicated that this operating loss has been consistent through the years and has caused a decline in the number of growers each year.

Growers frequently finance production and harvesting costs with borrowed capital. Growers' assets are affected by the returns received from the bentgrass seed. Associated industries, such as credit agencies, manufacturers, and dealers in fertilizer, insecticides, machinery, etc., are directly affected by the wide price fluctuations growers receive for bentgrass seed.

Growers' motivations for increasing or decreasing production of bentgrass seed during any given season are influenced by prices received. Growers tend to plant in response to previous year's prices. Growers frequently are unable to accurately estimate their

share of an indefinite or unknown annual supply and, therefore, plant in excess of the amount necessary to provide the market with a supply that would help avoid low returns to producers.

The record evidence shows that bentgrass growers, both individually and collectively, have been unable to cope with the industry-wide problem of balancing supply with demand. The favorable effects on price of reductions in production and sales of bentgrass seed by some individual producers have been negated by increases in production and sales by other producers.

According to the record, adduced at the hearing, growers of bentgrass seed in Oregon may expect that in the absence of a program such as proposed, conditions will likely continue to alternate between supplies in excess of demand resulting in depressed prices, and a period of relatively small supplies with sharply higher prices.

The record confirmed that need exists to regulate marketings by making allotments to growers which specify the maximum quantity of bentgrass seed a handler may purchase or handle from a grower, and thereby stabilize supplies, promote orderly marketing, and tend to cause prices to rise toward parity. The interests of consumers would be served by maintaining an adequate supply of bentgrass seed at more stable prices, and excessive price rises would be discouraged by removing all limitations on production and sales of bentgrass seed during any period when prices to growers have reached parity.

The need for a regulatory program, such as the order, to better balance the supply of bentgrass with demand is clearly established in the record. Further, the terms and provisions of the order which are authorized by the act would serve as a means of establishing and maintaining orderly marketing conditions for this commodity.

(3) Certain terms and provisions in the order should be initially defined and explained therein for the purpose of designating specifically their applicability and limitations whenever they are thereafter used.

Accordingly, "Bentgrass" should be defined as the seed of those grasses of the Agrostis species identified as Agrostis tenuis, commonly known as colonial bentgrass, grown within the production area. The inclusion of all varieties under the specie Agrostis tenuis is necessary to effectively control the volume of marketing of bentgrass seed in the production area. Any exclusion of a variety of this specie would offer a means for producers to avoid volume controls and therefore negate the purpose and effect of the order. Any variety of this specie of bentgrass may be produced and marketed under the order.

The record shows that prior to the time this order was announced some handlers contracted with growers for the production of certain proprietary varieties of the species Agrostis tenuis over a period of one or more future years. A proprietary variety, according to the record, should be considered as any variety of the specie Agrostis tenuis over which a person has exclusive ownership or control. The regulation of the handling of bentgrass seed produced under the terms of prior contracts could work an undue hardship on both the growers and the handlers. Therefore, it is concluded that all grower contracts for the production of proprietary varieties of bentgrass seed outstanding at the time of publication of the recommended decision, published in the FEDERAL REGISTER on May 23, 1974, should be exempt from such order as may be issued for the ensuing four years, or during the life whichever period of time is shorter, provided that an application for such exemption is filed with the committee within 60 days from the effective date of any such order and a satisfactory showing of such facts is made to the committee (see § ____.43 of the order). Extensions of contracts or new contracts for the production of proprietary varieties of Agrostis tenuis entered into after the time of publication of the recommended decision should not be exempt from the order.

Consideration was given to include the species Agrostis canina, commonly known as velvet bentgrass, and Agrostis palustris, commonly known as creeping bentgrass. Although these species are grown in Oregon and are in the same marketing channels, the evidence showed that these species should not be included because they do not compete directly with colonial bentgrass, Agrostis tenuis. The uses of these species are different from those of colonial bentgrass, Agrostis tenuis.

"Production Area" means the locale where the bentgrass seed grown is subject to the terms and provisions of the order. Growers in the State of Oregon produce almost 99 percent of the bentgrass seed grown in the United States. Some shifts in production have occurred from some parts of the State of Oregon to others and other shifts may occur in the future, because it is possible to produce bentgrass seed generally throughout the State. Bentgrass seed is now produced commercially in each hereinafter named district of the State. Therefore, it is determined that the State of Oregon constitutes the smallest regional production area that is practicable, consistent with carrying out the declared policy of the act and the production area should be so defined.

The production area should be defined as hereinafter set forth.

(4) The term "grower" should be deemed to be synonymous with producer and should be defined to mean any person engaged in a proprietary capacity in the production of bentgrass seed in the production area for market.

Growers include individuals, partnerships, corporations, or any other business units which in any way own all or a portion of the bentgrass seed produced. The term "grower" would include a husband and wife, who together produce bentgrass seed.

In sharecropping arrangements, each person receiving a share of the crop would be a grower. A cash renter of bentgrass acreage who produces bentgrass seed thereon and has the full right of disposition of the crop, would be the grower. For the purposes of nominating grower members, conducting elections and carrying out the order, the Committee should establish a list of registered growers. Every person engaged in a proprietary capacity in the commercial production of bentgrass seed for market should be included on the list of registered growers.

"Handle" should be defined to mean the act or function, or both, of placing bentgrass seed in the current of the commerce within the production area or between the production area and any point outside thereof. It should include the purchase of bentgrass seed from a grower, or the acquisition of bentgrass seed from a grower by any means, if bentgrass seed is viable seed. However, if bentgrass seed is ground into meal, heated, or its viability completely destroyed, the marketing of such product should not be termed handling bentgrass seed.

Handle should also mean to sell, consign, ship or transport bentgrass seed, except by a common or contract carrier of bentgrass owned by another person. The transporting of bentgrass seed within the production area by growers for cleaning and storage should not be construed as handling by such growers. However, if a grower sells, consigns, or otherwise places bentgrass seed into market channels, except through a registered handler, then the grower himself must be considered as a handler. "Handle" should not include the transaction where one grower sells or loans bentgrass seed to another grower in order to enable the latter to fulfill his allotment.

"Handler" should be defined in the order to identify the persons who would be subject to regulation. It should mean any person who handles bentgrass seed. In order to facilitate administration of the proposed order, to obtain nominations and conduct elections of handler members of the Committee, to keep handlers informed of regulatory actions and monitor the quantity of bentgrass seed handled, all handlers should be registered with the Committee.

Any act by any person whereby he purchases cleaned bentgrass seed from a producer, or he sells or transports cleaned bentgrass seed within the production area or between the production area and any point outside thereof is handling.

The definition of "person" should be the same as that term is set forth in the act.

(5) (a) Certain terms applying to specific individuals, agencies, legislation, concepts, or things are used throughout the order. These terms should be defined in the order for the purpose of designating specifically their applicability and establishing appropriate limitations of their respective meanings wherever they are used.

The definition of "Act" provides the correct legal citations for the statute pursuant to which the regulatory program is to be operative and avoids the need for referring to these citations throughout the order.

Section 8c(7)(c) of the act (7 U.S.C. 608c(7)(c)) provides for an administrative agency for effective operation of an order. It is desirable to establish such an agency to administer this order, as an aid to the Secretary in carrying out the purposes of the order and the declared policy of the act. The term "Bentgrass Administrative Committee" is a proper identification of the agency and reflects the character thereof.

"Crop year" should be defined to mean the period July 1 through June 30 inclusive, as this period begins shortly before the beginning of harvest of bentgrass seed and continues for 12 consecutive months. It establishes an operation period for the levying of assessments, other financial operations, regulatory proviimproving and stabilizing the market for

"Districts" should be defined as the geographical divisions of the production area which delineate the producing sections generally in accordance with industry understanding of subdivisions of the production area and to assure equitable representation of such subdivisions on the Committee.

The terms "Foundation Seed, Registered Seed, and Certified Seed" should be defined because they are terms relating to quality of seed and the order makes provisions for using quality limitation as well as quantity limitation to aid in improving and stablizing the market for bentgrass seed. The terms should be defined as specified in the regulations under the Federal Seed Act (7 U.S.C. 1551 et al.).

"Proprietary interest" is construed to mean the assumption of the risk or sharing the risk of loss in production and marketing of a crop of bentgrass seed. Each party to a joint venture should be considered a grower in proportion to the share of his proprietary interest; for instance, each party to a 50–50 joint venture should be considered the grower of half the bentgrass seed sold.

Since there are so many possible sharing arrangements by growers, rather than to try to cover them all in the order, it is appropriate that the order should provide that the administrative committee, with approval by the Secretary, develop criteria to cover such sharing arrangements as the necessity therefore arises.

"Proprietary variety" should be defined as any variety of bentgrass, as defined in the order, over which a person has exclusive ownership or control. Some growers have contracted to produce proprietary varieties of bentgrass and sell the seed produced to the person owning or controlling the contract.

"Secretary" should be defined to include not only the Secretary of Agriculture of the United States, the official charged by law with the responsibility for programs of this nature, but also, in order to recognize the fact that it is physically impossible for him to perform personally all functions and duties imposed upon him by law, any other officer or employee of the U.S. Department of Agriculture who is, or who may hereafter be, authorized to act in his stead.

"Quantity" of bentgrass seed should be defined to mean the weight of cleaned bentgrass seed in pounds. It is customary for a grower to clean his bentgrass seed, or have it cleaned, before it is sold by him. Therefore the application of the term "quantity" to the bentgrass seed after it is cleaned is the customary way in which this term is used.

(b) Bentgrass Administrative Committee—Record evidence shows that a committee of 12 members, with representation as hereinafter provided in §_____.20, with a like number of alternates, should be a workable, equitable, representative committee providing adequate industry representation and assuring recommendations of marketing regulations reflective of the general consensus of the industry and should also be adequate for the discharge of the other various committee duties and responsibilities.

Since a declared policy of the act is to assist producers, it is appropriate that a preponderance of committee members should be producers. Nine of the twelve committee members should be growers of bentgrass seed for market at the time of their selection and during their term of office in the respective districts as hereinafter defined, or who are officers or employees of corporate producers in the respective districts. For purposes of committee membership, a grower is a handler if the quantity of bentgrass seed handled by him exceeds the quantity produced by him. Three handler members and their alternates, selected from the production area at large, who are currently handling bentgrass seed and who handled bentgrass seed during the previous crop year, should complement the producer membership, providing balanced judgments and a broad perspective of the production area bentgrass seed marketing situation.

Grower representation on the committee should be distributed among such districts on the basis of their past record of acreage and production in each district. This basis should provide equitable representation on the Committee and should also provide the separate districts with reasonable representation. This should be accomplished by allowing District No. 1, consisting of Marion County, Oregon, with approximately 68 percent of the production, 5 grower members; District No. 2, consisting of Linn County, Oregon, with approximately 12 percent of the production, 1 grower member; District No. 3, comprising Benton and Lane Counties, Oregon, with approximately 6 percent of the production, 1 grower member; District No. 4, comprising Polk and Yamhill Counties, Oregon, with approximately 6 percent of the production, 1 grower member; and District No. 5 embracing all other counties of Oregon, with under 3 percent of the production, 1 grower member.

The order should provide for reapportionment and redistricting so that the Secretary may, upon recommendation of the Committee, give consideration to adjustments and to make adjustments when warranted in committee representation in the event of significant changing conditions in the future, such as major shifts in production within the production area.

Provisions should be included for growers in each district to nominate persons for each committee member and alternate position to represent them on the Committee. It would be desirable to hold one or more public meetings to nominate the initial committee members and their alternates. However, if this procedure might cause undue delay, the Secretary should have the flexibility of accepting nominations obtained in an appropriate alternative manner.

If nominations cannot be obtained by the use of one or more public meetings, or by other means, without undue delay, the Secretary is authorized to select the committee without regard to nomination. Such selection should, of course, be on the basis of the representation provided in the order.

Each person selected by the Secretary as a committee member or alternate should qualify by filing with the Secretary a written acceptance of his willingness and intention to serve in his position.

Provision should be set forth in the order for the filling of any vacancies on the committee, including selection by the Secretary without regard to nominations where such nominations are not made as prescribed, in order to provide for maintaining a full membership on the committee.

The order should provide that an alternate member shall be selected for each member of the committee in order to insure that each district has representation at meetings. Each alternate who is selected should have the same qualifications for membership as the member for whom he is alternate so that during the member's absence or in the event that the member should die, resign, be removed from office, or be disqualified, the district representation on the committee will remain unchanged. In such cases, the alternate should serve until a successor to such member has been selected and qualified.

A 3-year term, with the election of 4 committee members each year seems reasonable, and will allow the bentgrass seed industry to express its approval or disapproval of committee membership each year. The terms of office of the initial members of the committee should be established by the Secretary so the term of office for 3 grower members and 1 handler member should be the initial crop year, the term of office for 3 grower members and 1 handler member should be the initial crop year plus the succeeding crop year, and the term of office for 3 grower members and 1 handler member should be the initial crop year plus the 2 succeeding crop years. The

terms of office of each committee member should continue until his successor is selected and has qualified.

With regard to committee meetings and procedure, the evidence of record shows that 9 members, including alternates acting as members, should be necessary to constitute a quorum and any action of the committee will require the concurring vote of at least 7 members.

The committee should have authority to follow procedures which will assure its proper and efficient operation. In order to facilitate the transaction of routine, noncontroversial business where it might be expensive and unreasonable to call an assembled meeting, or in other instances when rapid action may be necessary, the committee should be authorized to conduct meetings by telephone, telegraph or other means of communication. Such possibilities as conference telephone calls or simultaneous meeting of groups of its members in two or more places with direct communications connections should be considered and utilized if advantageous to the operation of the order.

At least nine concurring votes and no dissenting votes should be necessary for approval of any committee action voted on at nonassembled meetings. Any votes cast at nonassembled meetings should be confirmed promptly in writing to provide a record of how each member, or the alternate acting in his stead, voted.

It is appropriate that the members and alternates of the committee be reimbursed for necessary expenses incurred when performing authorized committee business, since it would be unfair for them to bear personally such expense incurred in the interests of all bentgrass seed growers in the production area.

The committee should be given those specific powers which are set forth in section 8c(7)(c) of the act (7 U.S.C. 608c(7)(c)). Such powers are necessary to enable an administrative agency of this character to function properly under the order. The committee's duties as set forth in the order are necessary for the discharge of its responsibilities. These duties are generally similar to those specified for administrative agencies under other programs of this nature.

An annual report should be prepared by the committee as soon as possible after the close of each marketing year to document fully its operations for the season to the industry and the Secretary.

(c) The committee should be authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it for its maintenance and functioning and to enable it to exercise its powers and perform its duties pursuant to the order. The committee should be required to prepare a budget at the beginning of each crop year and as often as may be necessary thereafter, showing estimates of the income and expenditures necessary for the administration of the order during such period. Each such budget should be submitted to the Secretary with an analysis of its components in the form of a report which should also recommend to the Secretary the rate of assessment believed necessary to secure the income required for that period. While expenses and income cannot be anticipated with exact mathematical certainty, the committee with its knowledge of conditions within the industry will be in good position to ascertain the necessary assessment rate and make recommendations in this regard. The funds to cover committee expenses should be obtained by levying assessments on handlers. The act specifically authorizes the Secretary to approve the incurring of expenses by the administrative agency established under the order and requires that each order of this nature contain provisions requiring handlers to pay, pro rata, the necessary expenses.

As his pro rata share of such expenses, each person who first handles bentgrass seed during such crop year should pay assessments to the committee at a rate fixed by the Secretary on all bentgrass seed he so handles. In this way, each handler's total payment of assessments during a crop year would be proportional to the quantity of bentgrass seed handled by such handler and assessments would be levied on the same bentgrass seed only once.

The rate of assessment should be established by the Secretary on the basis of the Committee's recommendation, or the Secretary may use other available information in addition to that provided by the Committee so as to assure the imposition of such assessments as are consistent with the act. Such rate should be fixed on a unit basis, such as a pound or hundredweight.

The proponents proposed a modification of § ____.56. The record of evidence indicated that the original proposed maximum rate of assessment of 5 cents per hundredweight on current production levels would be very inadequate for the costs of establishing and maintaining the Committee. The proposed modification would set the maximum rate of assessment at 1 cent per pound. Although the Committee may be able to operate on a budget which, except for unusual circumstances would require an assessment below the maximum, this maximum rate seems fair and should be adopted.

Although handling of bentgrass from the production area is a continuous 12-month operation, the period near the beginning of the crop year will be one of extra activity, for the Committee will be closing out one crop year, auditing its account, preparing the annual report, surveying the crop and marketing situation, developing a marketing policy and holding meetings to develop recommendations for regulations. This means that in all probability a large percentage of the committee's expenses will be incurred in advance of receipt of income for the current crop year.

In order to provide funds for the administration of this program during the crop year prior to the time sufficient assessment income becomes available during such period, the committee should be authorized to accept advance payments of assessments from handlers and also, when such action is deemed to be desirable, to borrow money to meet such deficiency. Furthermore, the committee should be authorized to establish a reserve fund which could be used to pay operating expenses until assessments are received from the new crop year in sufficient amount to pay current expenses.

The provision for the acceptance by the administrative agency of advance assessment payments is included in other marketing order programs and has been found to be a satisfactory and desirable method of providing funds to cover costs of operation prior to the time when assessment collections are made in an appreciable amount. Revenue accruing to the committee from assessments later in the season would normally provide the means of repaying any loans.

Should it develop that assessment income during a crop year plus any funds in reserve would not, at the previously fixed rate, provide sufficient income to meet expenses, the funds to cover such expenses should be obtained by increasing the rate of assessment. Circumstances might necessitate amending the budget for the crop year to increase it and such increase would not have been planned in the original assessment rate. Since the act requires that administrative expenses shall be paid by handlers, this is the only source of income to meet such expenses. The increased assessment rate should be applied to all bentgrass seed handled during the particular crop year, so that the total payments by each handler during each crop year will be proportional to his share of the total volume of bentgrass seed handled by all handlers during that year.

Should the regulatory provisions of the order be suspended during any portion or all of a crop year, it will be necessary to obtain funds to cover expenses during such year unless funds in the reserve are sufficient for such purpose. Thus authorization should be provided to require the payment of assessments to meet any necessary expenses during such year.

The assessment rates under the program would be set at the beginning of the crop year based on an estimate of number of pounds of bentgrass seed to be marketed. Should crop failure or partial crop loss reduce the crop so that assessment income falls below expenses, it might be necessary for handlers to cover the deficit through increased assessments. Since this would impose an extra burden on the industry, it would be equitable and less burdensome for the committee to recommend an operating reserve fund subject to approval by the Secretary. The reserve fund would be built during years when income exceeds expenses. In order that reserve funds not be accumulated beyond a reasonable amount, a limit of not to exceed approximately 1 crop year's expenses should be provided.

Except as necessary to establish and maintain an operating reserve as set forth in the order, handlers who have paid part of any excess should be entitled to a proportionate refund of any excess funds that remain at the end of a crop year.

Upon termination of the order, any funds in the reserve that are not used to defray the necessary expenses of liquidation should, to the extent practicable be returned to the handlers from whom such funds were collected. However, should the order be terminated after many years of operation, the precise equities of handlers may be impractical to ascertain. Therefore, it would be desirable and necessary to permit the unexpended reserve funds to be disposed of in any manner that the Secretary may determine to be appropriate in such circumstances.

Funds received by the Committee from assessments should be used solely for the purpose of the order. The Committee should as a matter of good business practice, maintain up-to-date books and records clearly reflecting the operation of its affairs. It should provide the Secretary with periodic reports at appropriate times such as at the end of each crop year or at such other times as may be necessary, to enable him to maintain appropriate supervision and control over activities and operations.

The order should provide authority for production and marketing research and market development. Such activity could contribute to greater efficiency in production and marketing and stimulate sales and use of bentgrass seed. Since the act contains no authority for paid advertising for bentgrass seed, market development does not include paid advertising.

(d) The declared policy of the act is to establish and maintain such orderly marketing conditions for bentgrass seed among other commodities, as will tend to establish parity prices to growers and be in the public interest. The regulation of the handling of bentgrass seed, as authorized in the order, provides a means for carrying out such policy.

Growers begin to incur production cost shortly after September 1 for the ensuing crop year, and it is desirable to provide them with definite marketing guides as to the quantity of bentgrass seed that may be saleable so they can adjust their cultural and production plans accordingly. Since the marketing policy meeting is of importance to all segments of the bentgrass seed industry, except as otherwise provided by the Secretary, but not earlier than the preceding September 1, or such earlier date as the committee, with the approval of the Secretary, may establish, the committee should meet and adopt its marketing policy for the ensuing crop year.

In developing a comprehensive marketing policy, the committee should consider the prospective carryin of growers and handlers, the desirable carryout, trade demand, market prices for bentgrass seed and other relevant factors affecting marketing conditions. On the basis of its evaluation of these factors, the committee should recommend to the Secretary the total quantity of bentgrass seed (hereinafter referred to as the "Total Desirable Quantity") that should be allotted for handling during the crop year. If considerations indicate a need for limiting the quantity of bentgrass seed marketed, the committee should recommend to the Secretary a total desirable quantity and allotment percentage, hereinafter discussed, for the crop year.

The committee should meet again prior to February 1 of each crop year to review its marketing policy and, if conditions warrant, recommend to the Secretary an appropriate increase in the total desirable quantity and allotment percentage for the current crop year. Any increase should be to assure availability of adequate supplies, in view of changes in market conditions that may have taken place. A decrease would not be practical because it could cause undue hardship to the growers who had previously sold all of their allotment for the crop year.

Notice of marketing policy recommendations for a crop year and any later changes should be submitted promptly to the Secretary and also to all growers and handlers. This is necessary so all interested persons will be made aware of the marketing policy and can plan accordingly.

If the Secretary finds, on the basis of the committee's recommendation or other information, that limiting the quantity of bentgrass seed that may be freely marketed from a given crop would tend to effectuate the declared policy of the act, he should determine the total desirable quantity of bentgrass seed that may be acquired by handlers to meet normal market requirements and establish an annual allotment prcentage for the purpose of releasing such total desirable quantity. If market requirements warrant release of supplies in excess of the total of all grower allocation bases, an annual allotment percentage of over 100 percent should be established. The Secretary's action, while normally based on the committee's recommendation, may also take into consideration other information which, for example, might include such items as changes in crop or market conditions, the estimated season average price for bentgrass seed and legal limitations, if any, that might be applicable. The desirable quantity should be apportioned among growers on the basis of their individual allocation bases as discussed hereinafter. The order should provide that in years when regulations are in effect handlers would be prohibited from handling bentgrass seed in excess of the growers allotment (except for any bentgrass seed exempted from provisions of the order).

Operation of the order should provide for apportioning among bentgrass seed growers the total desirable quantity of bentgrass seed that may be purchased from them. To equitably apportion this quantity of bentgrass seed, reliance should be based on pounds of sales-history of the growers.

The method of apportioning the desirable quantity of bentgrass seed for market should rely on the sales history of growers during the crop years 1967 through 1973. The evidence of record is that the initial base for existing growers should be the average crop year pounds of bentgrass seed produced and sold by him or on his behalf, during any one of the crop years 1967 through 1972 and that produced and sold by him during 1973 if such production and sales covered such two crop years. For growers who only had sales during one of the crop years 1967 through 1973, the sales of that year would be his base. The use of the average is to moderate the influence of the unusually bountiful year or years or substantial loss for any grower while providing each with a base reflecting his volume of sales. The formula seems equitable and makes provisions for growers with only one crop year's sales history to be allowed an allocation base.

The proponents proposed a change in § ____.41, paragraph C, to provide for a 6-year adjustment instead of a 4-year adjustment. This change should accommodate the farming techniques of the bentgrass seed growers and encourage efforts to maintain and improve quality.

Allocation bases for succeeding crop years should be recomputed by adding the sales of bentgrass seed of the preceding year to the total number of pounds of bentgrass seed used to compute his preceding base and dividing by the number of years of sales of such bentgrass seed until a 6-year average has been computed.

For subsequent crop years, the allocation base should be recomputed by adding the sales of the preceding year, subtracting the poundage for the earliest chronological year of sales and determining a new average.

A grower must produce and sell to maintain his allocation base. Non-use of an allocation base for three consecutive years should be cause for cancellation of the base, because if this were not done, non-operators could tie-up a portion of the allotments and thus impede the proper functioning of the order.

For succeeding crop years, the Committee should recommend to the Secretary any adjustment in allocation bases that is required to reflect increased bentgrass seed usage, entry of new growers, and expansion by existing growers. A limitation of 5 percent of the total allocation bases for the preceding crop year should be used in granting bases for new growers and expansion for existing growers.

To assure equity to new producers, record evidence indicated that new producers should be given priority in granting the first 50 percent of any increase. In the absence of applications from new producers, for any or all of the first 50 percent of any increase, the unallocated portion of the first 50 percent and the second 50 percent of any increases in

allocation bases should be distributed to growers with existing allocation bases.

The record indicates that both tenants and landlords should be protected in circumstances when a change of growers, either by lease or ownership, occurs. Cash tenants would be fully protected because allocation bases would be issued to the grower with proprietary interest in the crop. Questions arose over the position of the landlord in a cash-rent situation or both landlord and tenant in a share-rent situation. Any landlord or tenant (operating on a share-rent basis) who has potentially drastically lower allocation bases by reason of a change of either tenant or landlord, may apply to the Committee for new allocation bases. Likewise, any new tenant may apply for a new allocation base, provided he has not previously been assigned a base. The new allocation, in either case, would be provided from the maximum of 5 percent increase in allocations allowable each year and from anticipated increases in allocation bases resulting from grower retirement or surrender of their allocation bases for other reasons. Such procedure would seem to provide equal protection for both lessee tenants and land owners.

Administrative procedures required to establish volume limitations during the allocation period under the order are (1) determination of a base quantity for each grower, known as an "allocation base", and total of all allocation bases; (2) committee recommendations for and establishment by the Secretary of the total desirable quantity of bentgrass seed; (3) computation of a uniform percentage which the total desirable quantity is of the total of all allocation bases and (4) application of such uniform percentage to each producer's allocation base to determine his "allotment" in pounds of cleaned bentgrass seed for the crop year.

Administration of the order will be facilitated by computation of the uniform percentage referred to in (3) and (4) of the above paragraph. This provides a readily available and easily understood expression of the ratio of the total desirable quantity to the total of all allocation bases in the form of a ratio or percentage figure applicable to each grower. The uniform percentage provides each grower with an equitable allotment of the total desirable quantity under a uniform rule. His allotment is readily ascertainable by multiplying his allocation base by the uniform percentage. The resulting number of pounds of cleaned bentgrass seed thereby becomes his "allotment."

Provisions should be made for adjustment of a grower's allocation base when it is shown that during the base period, the growers' sales were substantially not representative due to unusual conditions beyond the control of the grower, such as adverse weather, insects, disease or fire.

The proponents proposed a modification to § ____.42 that would provide that not later than March 1 of each crop year, the Committee will, with approval of the Secretary, establish an allotment of bentgrass seed for the ensuing crop year for each grower who has an allocation base. The proposed modification would enable bentgrass seed growers with any anticipated excess production to make such changes in the management of their farm as they believe are appropriate, in view of their bentgrass seed allotment. The proposed modification seems reasonable and should be adopted.

If marketing conditions arise which make it appropriate that total allotments should exceed total allocation base quantities, the resulting uniform percentage should be applied to each grower's base so that his allotment will exceed 100 percent of his allocation base.

Provisions that an allotment be nontransferable except in conjunction with a transfer of an allocation base are in the order, and the evidence adduced at the hearing makes it clear that such provisions should be retained. Transfer of allocation bases should be permitted to facilitate changes in ownership of land and changes in enterprise of growers. An allotment is a percentage of an allotment without accompanying transfer of an allocation base is not practical under the order.

Since bentgrass seed production is not a process which can be precisely adjusted during a growing season to meet needs, it is unlikely that growers will always be able to precisely balance their supplies of bentgrass seed and their allotments. Some growers produce more than their allotments and other growers may produce less than their allotments. The record of evidence indicates provision should be made to allow for exchange of bentgrass seed between growers, without affecting their allotments, providing the amount of bentgrass seed which all handlers handle from any grower does not exceed his allotment. This provision is practical and will help to effectuate the purposes of the order and should be approved. Alternatively, a grower who produces more than his allotment may carry over the excess into the following crop year for handling under a subsequent allotment.

Bentgrass seed in the hands of growers upon the effective date of the order should be allowed to be marketed without regard to any allotment. However, growers should make application to the committee requesting that such bentgrass seed be designated as prior production. The committee may limit the amount certified for handling in any one crop year to not less than 25 percent of such prior production. Such limitation should be applied uniformly among all growers.

Occasionally bentgrass seed is obtained from cleaning cereal grain or other seed crop. Provisions should be made to exempt from the order the handling of a minimum quantity of bentgrass seed on behalf of any grower, regardless of whether it was obtained from cleaning or from his own production providing he has not been assigned a bentgrass seed allotment.

Provisions should be made to require all bentgrass seed to meet the provisions of Federal and State seed acts and regulations issued thereunder. The committee should have the authority to establish higher standards for bentgrass seed handled under the order. The Federal and State seed acts do not limit the size of a lot of seed. It is possible to have substantial quantities of seed within a large lot which is of lower or higher quality than the lot average. When such a large lot is subdivided into smaller lots, the quality of some lots may be significantly different from the average quality of the large lot. Many buyers prefer to have the quality of each smaller unit equal to that of the large lot average. By regulating both quality and maximum size of lot, the marketing of bentgrass seed on a quality basis can be better controlled. The record evidence supports the quality regulation provisions of the order. The establishing of higher standards would be made only if it were in the best interest of growers to insure a higher quality supply of seed. Any such proposed change should allow for a two years notice before the change could be made effective, thus, allowing ample opportunity for consideration by all interested parties.

Provisions should be made for the purpose of identifying bentgrass seed under the order. The identifying marks should be established by the committee.

Unfair trade practices by growers or handlers should be prohibited. The Secretary, upon recommendation of the committee, may prohibit such trade practices for any period or periods. The committee should recommend such rules, procedures and recordkeeping requirements as are necessary to administer the prohibitions.

(e) The committee should have all necessary information and data for the performance of its functions under the order including but not limited to that necessary to establish allocation base quantities, allotments, modifications thereof, and verification of compliance with regulations. The industry has routinely maintained adequate information and has it in its possession, and the requirement that such information be furnished to the committee in the form of reports would not constitute an undue burden. It is difficult to anticipate every type of report or kind of information which the committee may find necessary in the conduct of its operations under the order. One report that should be submitted by each handler is the quantity of bentgrass seed purchased from growers or the quantity of bentgrass seed handled on behalf of each and all growers. Therefore, the committee should have the authority to require, with approval of the Secretary, reports and information from handlers, as needed, of the type set forth in the order, and at such times and in such manner as may be necessary.

All reports and records furnished or submitted pursuant to the order to the committee should be treated as confidential and be disclosed to no person other than the Secretary and persons authorized by the Secretary. The record evidence makes it clear that members of the

committee should not have access to confidential information about a handler or a grower. The employees of the committee would have access to such information. The reasons for this provision are sound and should be included in the order. Under certain circumstances, release of information compiled from handlers' reports may be helpful to the committee and the industry generally. However, such reported information should not be released other than on a composite basis, and such releases should not disclose information concerning individual operations. Such prohibition is necessary to prevent the disclosure of information that may affect detrimentally the business operations of the persons who furnish the report. However, since the operation of this allocation program is inextricably involved with individual growers' allocation base quantities and allotments, such allocation bases and allotments should not be treated as confidential.

(f) Since questions could arise with respect to compliance, it would be appropriate to provide in the order that handlers be required to maintain for each marketing year complete records on their purchases, handling, and disposition of bentgrass seed. Such records should be retained for not less than 2 years after the termination of the marketing year in which the transaction occurred, so that, if needed in connection with enforcement, or other necessary purposes under the order, the requisite records will be available for the purpose. Such a 2-year period would afford an adequate and reasonable time for access thereto and would not impose an unreasonable or burdensome obligation on handlers inasmuch as such records are generally retained for similar time for purposes of business operations.

The successful operation of the order depends upon the degree of compliance with its provisions. In this connection, it is necessary that the committee's designees for this purpose be given full authority to examine and verify records and ascertain the quantity of bentgrass seed handled. The verification of records and reports and the inspection needed in connection therewith should be performed during reasonable working hours and in such manner that normal operations of the handlers would not be interrupted.

No handler should be permitted to handle bentgrass seed (as the term is hereinafter defined in the order), the handling of which is prohibited pursuant to the order; and no handler should be permitted to handle bentgrass seed (as the term is hereinafter defined in the order) except in conformity with the order. For example, no handler should be permitted to handle bentgrass seed from any grower in excess of such grower's allotment. If the program is to operate effectively, compliance therewith is essential; and, hence, no handler should be permitted to evade any of its provisions. Any such evasion on the part of even one handler could be demoralizing to the handlers who are in compliance and would tend, thereby, to impair the effective operation of the program.

(g) The provisions of § ____.71 through § ____.81, as hereinafter set forth, are generally similar to those which are included in marketing agreements and orders now operating. Such provisions are identified by section numbers and headings, as follows: § ____.71 Right of the Secretary; § ____.72 Effective time; § ____.73 Termination or Suspension; § ____.74 Proceedings after termination; § ____.75 Effect of termination or amendment; § ____.76 Duration of immunities; § ____.77 Agents; § ____.78 Derogation; § ____.79 Personal liability; § ____.80 Separability; and § ____.81 Amendments; and are incidental to and not inconsistent with the act and are necessary to effectuate the other provisions of the order and to effectuate the declared policy of the act. The hearing record supports the inclusion of each such provision in the order.

Provisions should be included requiring the Secretary to terminate the provisions of the marketing agreement and order whenever he finds that any or all provisions of it obstruct or do not tend to effectuate the declared policy of the act, or at the end of any crop year whenever he finds that such termination is favored by a majority of the growers who, during such period, held allotments for more than 50 percent of the volume of all the allotments of all bentgrass seed in the area of production. Such determination should be made on the basis of a referendum conducted by the Secretary to determine whether the requisite number of growers favor termination of the program.

Those provisions which are applicable to the marketing agreement only identified by section number and heading, are as follows: § ____.82 Counterparts; § ____.83 Additional parties; and § ____.84 Order with marketing agreement. Such provisions are also included in marketing agreements now in effect for other commodities and the record supports inclusion of such provisions in the marketing agreement.

Rulings on briefs of interested parties. At the conclusion of the hearing, the Presiding Officer fixed August 31, 1973, as the time within which interested parties were to file briefs with respect to the evidence adduced at the hearing and the findings and conclusions to be drawn therefrom.

Five briefs were filed on behalf of certain interested parties. These briefs were considered in conjunction with the evidence in the record in making the findings and conclusions set forth herein.

An objection was made to the inclusion of Seaside and Penncross varieties of bentgrass under the order because of the price differences between these varieties and colonial species of bentgrass. However, as indicated earlier in the recommended decision, the uses of Seaside and Penncross are different from those of colonial bentgrass and do not have a significant competitive relationship, and therefore the varieties Seaside and Penncross have been excluded from the proposed order.

An objection filed stated that the order will not achieve its primary purpose—improving stability of prices because competition between bentgrass, bluegrass and the fine fescues will prevent the order from attaining the desired results. Record evidence showed that the uses for colonial bentgrass seed are significantly different from the uses for the other kinds of seed referred to above. Record evidence adduced at the hearing further showed that each kind of grass seed has certain demand factors, largely independent of the demand factors for the other kinds of grass seed. The grass seeds bluegrass and the fine fescues are not directly competitive with colonial bentgrass seed. Therefore, the objection is denied.

An objection was filed to the definition of person as defined in § ____.10 of the order on the grounds that it does not allow a vote to each individual in a partnership. The same kind of objection could have been made to allowing one vote for a business unit owned by a husband and wife. It is found and concluded that the provision in the order for one vote for each business unit engaged in the commercial production of bentgrass for market is fair and reasonable.

An objection was filed to defining "Grower" in § ____.7 of the order to mean any person engaged in a proprietary capacity in the commercial production of bentgrass for market, and proposed that only landowners should be included in the definition. The objection was intended to disqualify all tenants or other non-landowners engaged in a proprietary capacity in commercial bentgrass production. The objection is denied because it would fail to recognize those segments of the industry who are actually operating in a proprietary capacity in the commercial production of bentgrass seed for market.

To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions as set forth herein, the request to make such findings or reach such conclusions are denied for the reasons previously cited in this decision.

General findings. Upon the basis of the evidence introduced at such hearing, and the record thereof, it is found that:

(1) The agreement and order, as herein set forth, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said agreement and order authorize regulation of the handling of bentgrass seed grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial or industrial activity specified in, an agreement and order upon which a hearing has been held;

(3) The said agreement and order are limited in their application to the smallest regional production area which is practical, consistent with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of bentgrass seed grown in the production area which make necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of bentgrass seed grown in the production area, as defined in said agreement and order, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Rulings on exceptions. Exceptions to the recommended decision were filed within the prescribed time only by the Bentgrass Marketing Order Committee (proponent).

Exceptions filed within the prescribed time were considered along with the record evidence and the recommended decision preparatory to making the findings and conclusions set forth in this decision. To any extent that any exception is not specifically ruled upon or the findings and conclusions contained herein are at variance with any of the exceptions pertaining thereto such exception is denied on the basis of the findings and conclusions relating to the issues to which the exception refers.

The proponent filed an exception suggesting that the status of a grower/handler as a handler for purposes of committee membership should be made clear.

Under the order, the initial nomination of grower members will be performed by the Secretary and recommendations for all succeeding nominations will be carried out by the committee. The committee will conduct the nominations for grower members and their alternates through meetings on the basis of mailed ballots. Thus, the bentgrass growers will have ample opportunity to express their choice for grower members of the committee. The definition in the order of who is a grower and who is a handler for purposes of committee membership is clear. Further amplification is unnecessary.

Exception was filed regarding the wording that stated the necessity "* * * for handlers to cover the deficit through increased assessments * * *" and "handlers to establish an operating reserve." Proponents requested that the word "committee" should be substituted for the word "handlers" in both instances.

The committee does have the duty to maintain an adequate operating fund through assessments, while the handlers have the responsibility to pay the assessments at the established rate. Payments to cover a deficit through increased fees would be accomplished by the handlers. Accordingly, consistent with the exception, the wording of the final decision has been modified for clarity.

Proponent also excepted to the minimum quantity exemption provision of the order, urging that some definitive amount should be specified in the order.

Since the members of the committee will be well acquainted with the operating practices of the bentgrass industry, specifying a fixed minimum quantity in the order would appear to be unwise. Therefore, the exception is overruled.

Marketing agreement and order. Annexed hereto [1] and made a part hereof are two documents, a Marketing Agreement regulating the handling of bentgrass seed, and an Order regulating the handling of bentgrass seed grown in Oregon which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions. The marketing agreement and marketing order annexed hereto and made a part hereof are identical to the proposed marketing agreement and marketing order annexed to the recommended decision published in the FEDERAL REGISTER on May 23, 1974, except for updating the dates referred to in § ____.41(b) on line 2, § ____.41(c) on line 2, and § ____.41(e) on line 2. The above changes in dates have been necessitated because it will not be practical to implement the order in the crop year which began July 1, 1974.

It is hereby ordered, That this entire decision, except the regulatory provisions of the marketing agreement which are identical with those contained in the annexed order, be published in the FEDERAL REGISTER.

REFERENDUM ORDER TO DETERMINE PRODUCER APPROVAL; DETERMINATION OF REPRESENTATIVE PERIOD; AND DESIGNATION OF REFERENDUM AGENT

It is hereby directed that a referendum be conducted and completed on or before the 60th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.400 et seq.), to determine whether the issuance of the attached order regulating the handling of bentgrass seed grown in Oregon is approved or favored by producers, as defined under the terms of the order and who, during the representative period, were engaged in the production of bentgrass seed for sale within the aforesaid marketing area.

The representative period for the conduct of such referendum is hereby determined to be July 1, 1973, through June 30, 1974.

The agent of the Secretary to conduct such referendum is hereby designated to be James W. Coddington of the Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture.

The ballots used in the referendum shall provide for recording essential information for ascertaining (1) whether the person voting is an eligible voter, and (2) the total volume produced for market during the representative period.

A copy of the annexed order and of the aforesaid referendum procedure may be examined in the following offices: Program Analysis Group, Grain Division, AMS, USDA, 6525 Belcrest Road, Hyattsville, Maryland 20782 or Office of the Marion County Extension Agent, Cooperative Extension Service, 3810 State Street, Salem, Oregon 97308.

Ballots to be cast in the referendum and other necessary forms and instructions may be obtained from the referendum agent or his appointee.

Signed at Washington, D.C., on September 25, 1974.

J. PHIL CAMPBELL,
Under Secretary.

[FR Doc.74-22713 Filed 9-30-74;8:45 am]

[1] Filed as part of the original document.

Food and Nutrition Service

[7 CFR Part 250]

NUTRITION PROGRAMS FOR THE ELDERLY AND FOR INSTITUTIONS

Donation of Foods

Notice is hereby given that the Food and Nutrition Service, Department of Agriculture, intends to amend the regulations governing the food distribution program to (1) update the quoted provisions of section 707 of the Older Americans Act of 1965, as amended, (2) exclude, for commodity allocation purposes, the number of persons who use food coupons to purchase meals served by institutions, (3) specify the minimum level of commodity assistance to be provided to States in which nutrition programs for the elderly are operated, and (4) provide that distributing agencies may allocate commodities to individual programs for the elderly within the State in accordance with their needs.

Pub. L. 93-351 (88 Stat. 357), approved July 12, 1974, amended section 707 of the Older Americans Act of 1965, as amended, to prescribe a minimum level of commodity assistance which the Secretary of Agriculture shall provide for each meal served by nutrition programs for the elderly. Therefore, it is proposed to amend the regulations for food distribution to provide that a quantity of commodities, which meets the legislative criteria, will be allocated by FHS to each State in which nutrition programs for the elderly are operated and that distributing agencies may, in turn, allocate commodities to such programs in accordance with needs as prescribed by the Commissioner on Aging.

Under regulations governing the Food Stamp Program (7 CFR 272.1 (c) and (d)), institutions which desire to prepare and deliver or serve meals to households eligible to receive food coupons must establish that they are not receiving Federally-donated commodities from the Department for use in the preparation of meals to be exchanged for food coupons. Therefore, it is proposed to amend the regulations for food distribution to exclude, for commodity allocation purposes, the number of persons who use food coupons to purchase meals served by institutions.

Nutrition programs for the elderly under the Older Americans Act of 1965 are not within the definition of "institutions," under the regulations for food distribution, and are eligible for commodities at the level required by Pub. L. 93-351 to the extent of their caseload.

Comments, suggestions, or objections are invited. To be assured of consideration, such comments, suggestions, or objections must be delivered by October 16, 1974, to Juan del Castillo, Director, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, or submitted by mail postmarked not later than October 16, 1974. The comment period is shorter than the 30 days normally provided because Pub. L. 93-351 requires that the Secretary of Agriculture shall issue regulations, with respect to the donation of commodities to nutrition programs for the elderly, within ninety days of the enactment of Pub. L. 93-351. All written submissions received pursuant to this notice will be made available for public inspection in the Office of the Director, Food Distribution Division, during regular business hours (8:30 a.m. to 5 p.m.) (7 CFR 1.27 (b)).

The proposed amendments are as follows:

1. In § 250.1(b)(15), a new subparagraph (d) is added to the quoted statute:

§ 250.1 General purpose and scope.

* * * * *

(b) *Legislation.* * * *

* * * * *

(15) Section 707 of the Older Americans Act of 1965, as amended, which reads in pertinent part as follows:

* * * * *

(d) In donating commodities pursuant to this section, the Secretary of Agriculture shall maintain an annually programmed level of assistance of not less than 10 cents per meal: *Provided*, That this amount shall be adjusted on an annual basis each fiscal year after June 30, 1975, to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent. Among the commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates. The Secretary of Agriculture, in consultation with the Commissioner [on Aging], is authorized to prescribe the terms and conditions respecting the donating of commodities pursuant to this section, * * *

2. In § 250.3, paragraph (m) is revised to read as follows:

§ 250.3 Definitions.

* * * * *

(m) "Needy person"[1] means (1) persons served by institutions who, because of their economic status, are in need of food assistance and who do not use coupons issued under the Food Stamp Program (7 CFR Part 271) to purchase meals provided by an institution, and (2) all the members of a household which is certified as in need of food assistance.

* * * * *

3. In § 250.4, the following language is added after the first sentence of paragraph (b):

§ 250.4 Availability of donated foods.

* * * * *

(b) *Quantities.* * * * The quantity of commodities to be made available annually for distribution in any State to nutrition programs for the elderly shall be valued at not less than 10 cents for each meal which the Commissioner on Aging estimates will be served within the State during the year. The amount shall be adjusted, effective on July 1, for changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. The adjustment shall be computed to the nearest one-fourth cent. * * *

4. In § 250.8, paragraph (h) is revised to read as follows:

§ 250.8 Eligible recipient agencies.

* * * * *

(h) *Nutrition programs for the elderly.* Nutrition programs for the elderly are eligible to receive foods under section 416, section 32, and section 709. The distributing agency may allocate such foods to nutrition programs for the elderly within a State in accordance with the needs as prescribed by the Commissioner on Aging. If a nutrition program for the elderly employs a food service company to conduct its feeding operation, the provisions of paragraph (b)(3) of this section shall be applicable.

(Catalog of Federal Domestic Assistance Program No. 10.550, National Archives Reference Service)

Dated: September 26, 1974.

JOHN DAMGARD,
Deputy Assistant Secretary.

[FR Doc.74-22769 Filed 9-30-74;8:45 am]

[Amdt. No. 36]

[7 CFR 272]

FOOD STAMP PROGRAM

Commodity Donations

Pursuant to the authority contained in the Food Stamp Act of 1964, as amended (78 Stat. 703, as amended; (7 U.S.C. 2011-2026)), notice is hereby given that the Food and Nutrition Service, Department of Agriculture proposes to amend Part 272 of the regulations governing the operation of the Food Stamp Program, 7 CFR 272.

The Food Stamp Program Regulations now provide that all meal services, to be eligible to accept food coupons from the elderly in payment for meals served, must not be receiving Federally donated foods from this Department for use in preparation of such meals. However, the regulations governing Food Distribution (Part 250 of this Chapter) provide for commodity donations to nutrition programs for the elderly conducted under Title VII of the Older Americans Act to the extent of their case load. In order to make the provisions of the regulations governing these programs consistent as they apply to participation therein of Title VII meal services, FNS proposes to amend § 272.1(c)(1) of the Food Stamp Program Regulations.

Pub. L. 93-351, approved July 12, 1974, established a minimum level of commodity assistance to Title VII programs for the elderly and directed that regulations clarifying the use of food stamps under such title be published within 90 days after its enactment. While it is the policy of this Department ordinarily to give 30 days for the submission of comments on notices of proposed rule making, only 15 days are provided for comments regarding this proposal in view of the need to meet the statutory deadline. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed amendment to P. Royal Shipp, Acting Director, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be sure of consideration, all submissions must be received not later than October 16, 1974. All comments, suggestions, or objections received by this date will be considered before the final regulations are issued.

All written comments, suggestions, or objections will be open to public inspection pursuant to 7 CFR 1.27(b) at the Office of the Director, Food Stamp Division, during regular business hours (8:30 a.m. to 5:00 p.m.) at 500 12th Street, SW., Washington, D.C., Room 650. The proposed amendment is as follows:

Section 272.1(c)(1) is revised to read as follows:

§ 272.1 Approval of retail food stores, wholesale food concerns and meal services.

* * * * *

(c) * * *

(1) It is not receiving federally donated foods from the Department for use in the preparation of meals to be exchanged for food coupons, unless it is funded under the provisions of Title VII of the Older Americans Act of 1965.

* * * * *

(78 Stat. 703, as amended; (7 U.S.C. 2011-2026))

(Catalog of Federal Domestic Assistance Programs, No. 10.551, National Archives Reference Services)

JOHN DAMGARD,
Deputy Assistant Secretary.

SEPTEMBER 26, 1974.

[FR Doc.74-22768 Filed 9-30-74;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1907]

[S-74-11]

ACCREDITATION OF TESTING LABORATORIES

Hearing on Proposed Revocation

On September 11, 1973, there was published in the FEDERAL REGISTER a new

Part 1907 of Title 29 of the Code of Federal Regulations containing criteria and procedure for accrediting testing laboratories (38 FR 25150). The regulation was adopted pursuant to section 8(g) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1600; (29 U.S.C. 657)), section 107 of the Contract Work Hours and Safety Standards Act (83 Stat. 96; (40 U.S.C. 333)) and Secretary of Labor's Order No. 12–71 (36 FR 8754).

The purpose of the accreditation regulation was to remove the uncertainty which has existed as to the identity of nationally recognized laboratories, within the meaning of the occupational safety and health standards, and to facilitate the enforcement of the standards requiring approval by providing an official register of testing laboratories accredited by the Department of Labor.

Interested persons were invited to comment in writing on the regulation by October 31, 1973, with a view to changing the regulation if the submissions had warranted it. Pursuant to requests received, the comment period was extended to December 14, 1973, and a public hearing was held on January 9, 1974, in order to assure that all interested parties had adequate opportunity to submit data, views and arguments concerning the regulation (38 FR 31421). The record was held open until February 9, 1974, for any additional written comments.

A review of the entire record of this proceeding indicated that a thorough reevaluation of the accreditation regulation was necessary. Accordingly, on June 3, 1974, there was published in the FEDERAL REGISTER (39 FR 19507) a notice proposing to revoke Part 1907, Accreditation of Testing Laboratories, of Title 29 of the Code of Federal Regulations. The notice invited interested persons to submit written data, views, and arguments concerning the proposed revocation of 29 CFR Part 1907.

Some comments were received supporting the proposed revocation of 29 CFR Part 1907, while other comments opposed the revocation and urged the Assistant Secretary of Labor to implement it. Some of the commenters supporting revocation suggested that the Occupational Safety and Health Administration utilize a national laboratory accreditation system when it is established. Those commenters opposed to revocation argued that revisions, changes, or modifications could be made to the existing regulation rather than starting completely anew. Many of these commenters further requested that a public hearing be afforded those interested parties who would be primarily affected by the proposed revocation.

Therefore, because of the numerous requests for a hearing and the concern expressed by interested parties who would be affected by the proposed revocation, it is concluded that a public hearing on this matter should be provided. The hearing will be limited to oral and written comments on the proposed revocation of 29 CFR Part 1907.

Accordingly, pursuant to authority in section 8(g) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1600; (29 U.S.C. 657)), section 107 of the Contract Work Hours and Safety Standards Act (83 Stat. 96; (40 U.S.C. 333)), 5 U.S.C. 552, and Secretary of Labor's Order No. 12–71 (36 FR 8754), an informal public hearing concerning the proposed revocation of 29 CFR Part 1907 will be held on November 13, 1974, in the Departmental Auditorium, Constitution Avenue NW., between 12th and 14th Streets, Washington, D.C. Beginning at 9:30 a.m. e.d.t., on November 13, 1974, the presiding Administrative Law Judge will hold a pre-hearing conference in order to establish the order and time for the presentations, and in order to settle any other matters relating to the proceedings. All persons intending to make presentations should attend the pre-hearing conference which is open to the public. The public hearing will immediately follow the pre-hearing conference.

Persons desiring to appear at the hearing must file a written notice of intention to appear along with four duplicate copies with J. Jimeno, OSHA Committee Management Office, Docket S–74–11, 1726 M Street, NW., Room 200, U.S. Department of Labor, Washington, D.C. 20210. Notices shall be filed on or before Friday, October 25, 1974.

The notice should state the name and address of the person wishing to appear, the capacity in which he will appear, and the approximate amount of time required for the presentation. The notice should also include, or be accompanied by, a brief statement of the position to be taken and the evidence to be adduced.

The oral proceedings will be reported verbatim. The use of prepared statements by witnesses is encouraged. An original and four copies of all documents to be used should be submitted at the hearing.

Persons who wish to submit data but who do not wish to attend the hearing may mail such written data, along with four duplicate copies, to J. Jimeno, Docket S–74–11, at the above address by October 25, 1974. Such data will be submitted to the Administrative Law Judge for inclusion in the hearing record.

The Administrative Law Judge shall have all the powers necessary or appropriate to conduct a fair and full informal hearing, including the powers:

(a) To regulate the course of the proceedings;

(b) To dispose of procedural requests, objections, and comparable matters;

(c) To confine the presentations to matters pertinent to the proposed revocation;

(d) To regulate the conduct of those present at the hearing by appropriate means;

(e) In his discretion, to question and permit questioning of any witness; and

(f) In his discretion, to keep the record open for a reasonable stated time to receive written information from any person who has participated in the oral proceeding.

Following the close of the hearing, the presiding Administrative Law Judge shall certify the record thereof to the Assistant Secretary of Labor for Occupational Safety and Health.

The proposed revocation will be reviewed in the light of all oral and written submissions received as part of the record in this proceeding and appropriate action will be taken.

(Sec. 8, Pub. L. 91–596, 84 Stat. 1600 (29 U.S.C. 657); Sec. 107, Pub. L. 91–54, 83 Stat. 96 (40 U.S.C. 333); 5 U.S.C. 552; Secretary of Labor's Order No. 12–71, 38 FR 8754)

Signed at Washington, D.C. this 24th day of September 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc. 74–22766 Filed 9–30–74;8:45 am]

Wage and Hour Division

[29 CFR Parts 516, 552]

EMPLOYMENT OF DOMESTIC SERVICE EMPLOYEES

Recordkeeping, Definitions and General Interpretations

The Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended (29 U.S.C. 201 et seq.)), as amended by the Fair Labor Standards Amendments of 1974 (Pub. L. 93–259, 88 Stat. 55) extends with certain exceptions the Act's minimum wage, overtime, equal pay and recordkeeping provisions to domestic service employees. To implement the 1974 Amendments, it is proposed to make certain changes in the recordkeeping requirements of 29 CFR Part 516 and to add a new 29 CFR Part 552 defining and delimiting, in Subpart A, the terms "domestic service employee," "employee employed on a casual basis in domestic service employment to provide babysitting services" and "employment to provide companionship services for individuals who (because of age or infirmity) are unable to care for themselves," and setting forth, in Subpart B, a statement of general policy and interpretation concerning the application of the Fair Labor Standards Act to domestic service employees. These amendments and additions are proposed pursuant to authority in sections 11(c) and 13(a)(15) of the Fair Labor Standards Act, as amended (29 U.S.C. 211(c) and 213(a)(15)), in section 29(b) of the Fair Labor Standards Amendments of 1974 (Pub. L. 93–259, 88 Stat. 55, 76), and in Reorganization Plans Nos. 2 of 1946 (60 Stat. 1095 (5 U.S.C. Appendix) and 6 of 1950 (64 Stat. 1263 (5 U.S.C. Appendix)).

Interested persons may submit written comments, suggestions, data or arguments concerning the following proposals to the Administrator, Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210, on or before November 4, 1974.

Chapter V of Title 29 of the Code of Federal Regulations is proposed to be amended as follows:

PART 516—RECORDS TO BE KEPT BY EMPLOYERS

1. Part 516 is amended by adding the following section:

§ 516.34 Domestic service employees.

(a) With respect to any person employed as a domestic service employee who is not exempt under section 13(a)(15) of the Act, the employer of such person shall maintain and preserve records containing for each such person the following:

(1) Name in full;
(2) Social security number;
(3) Address in full, including zip code;
(4) Total hours worked each week by such employee for the employer;
(5) Total cash wages paid each week to such employee by the employer;
(6) Weekly sums claimed by the employer for board, lodging or other facilities; and
(7) Extra pay for weekly hours worked in excess of 40 by such employee for the employer.

(b) No particular form of records is required, so long as the above information is recorded and the record is maintained and preserved for a period of 3 years.

(c) Where an employee works on a fixed schedule, the employer may maintain the schedule of daily and weekly hours the employee normally works, and (1) indicate by check mark, statement or other method that such hours were actually worked, and (2) when more or less than the scheduled hours are worked, show the exact number of hours worked.

(Sec. 11(c), 52 Stat. 1060, as amended (29 U.S.C. 211 (c)))

PART 552—APPLICATION OF THE FAIR LABOR STANDARDS ACT TO DOMESTIC SERVICE

2. Part 552 is added. Its title, table of contents and Subparts A and B read as follows.

Subpart A—General Regulations

Subpart B—Interpretations

AUTHORITY: Section 13(a)(15) of the Fair Labor Standards Act, as amended (29 U.S.C. 213(a)(15), 88 Stat. 62; sec. 29(b) of the Fair Labor Standards Amendments of 1974 (Pub. L. 93-259, 88 Stat. 76).

Subpart A—General Regulations

§ 552.1 Terms used in regulations.

(a) "Administrator" means the Administrator of the Wage and Hour Division, U.S. Department of Labor, or his authorized representative.

(b) "Act" means the Fair Labor Standards Act of 1938, as amended.

§ 552.2 Purpose and scope.

(a) This part provides necessary rules for the application of the Act to domestic service employment in accordance with the following amendments made by the Fair Labor Standards Amendments of 1974, 88 Stat. 55, et seq.

(b) Section 2(a) of the Act finds that the "employment of persons in domestic service in households affects commerce." Section 6(f) extends minimum wage protection under section 6(b) to employees employed as domestic service employees under either of the following circumstances: (1) If the employee's compensation for such services from his employer would constitute wages under section 209(g) of Title II of the Social Security Act, that is, if the compensation paid in cash during a calendar quarter totaled $50 or more, or (2) if the employee was employed in such domestic service work by one or more employers for more than 8 hours in the aggregate in any workweek. Section 7(l) extends generally the protection of the overtime provisions of section 7(a) to such domestic service employees. Section 13(a)(15) provides both a minimum wage and overtime exemption for "employees employed on a casual basis in domestic service employment to provide babysitting services" and for domestic service employees employed "to provide companionship services for individuals who (because of age or infirmity) are unable to care for themselves." Section 13(b)(21) provides an overtime exemption for domestic service employees who reside in the household in which they are employed.

(c) The definitions required by section 13(a)(15) are contained in §§ 552.3, 552.4, 552.5 and 552.6.

§ 552.3 Domestic service employment.

As used in section 13(a)(15) of the Act, the term "domestic service employment" refers to services of a household nature performed by an employee in or about a private home (permanent or temporary) of the person by whom he or she is employed. The term includes employees such as cooks, waiters, butlers, valets, maids, housekeepers, governesses, janitors, laundresses, caretakers, handymen, gardeners, footmen, grooms, and chauffeurs of automobiles for family use. It also includes babysitters employed on other than a casual basis. This listing is illustrative and not exhaustive.

§ 552.4 Babysitting services.

As used in section 13(a)(15) of the Act, the term "babysitting services" shall mean the custodial care and protection, during any part of the 24-hour day, of infants or children in or about the private home in which the infants or young children reside. Babysitting services may include the performance of some household work not related to caring for the children: *Provided, however,* That such work is incidental, i.e., does not exceed 20 percent of the total weekly hours worked. The term "babysitting services" does not include services relating to the care and protection of infants or children which require and are performed by trained personnel, such as registered or practical nurses.

§ 552.5 Casual basis.

As used in section 13(a)(15) of the Act, the term "casual basis," when applied to babysitting services, shall mean employment which is irregular or intermittent. For purposes of this section, employment in babysitting services shall be deemed to be on a "casual basis" whether performed for one or more employers so long as such employment by all such employers does not exceed 20 hours per week in the aggregate. Employment in excess of these hours can still be on a "casual basis" if the excessive hours of employment are without regularity or are for irregular or intermittent periods. Employment in babysitting services shall also be deemed to be on a "casual basis" (regardless of the number of weekly hours worked by the babysitter) in the case of students who accompany families for a vacation period to take care of the children if the duration of such employment does not exceed 6 weeks.

§ 552.6 Companionship services for the aged or infirm.

As used in section 13(a)(15) of the Act, the term "companionship services" shall mean those services which provide fellowship, care, and protection for a person who, because of advanced age or physical or mental infirmity, cannot care for his or her own needs. Such services may include household work related to the care of the aged or infirm person such as meal preparation, bed making, washing of clothes, and other similar services related to the care of the aged or infirm person. They may also include the performance of general household work; *Provided however,* That such work is incidental, i.e., does not exceed 20 percent of the total weekly hours worked, or 8 hours a week, whichever is less. The term "companionship services" does not include services relating to the care and protection of the aged or infirm which require and are performed by trained personnel, such as a registered or practical nurse.

§ 552.7 Petition for amendment of regulations.

Any person wishing a revision of any of the terms of the foregoing regulations may submit in writing to the Administrator a petition setting forth the changes desired, the reasons for proposing the specified changes, and his

or her interest in the matter. No particular form of petition is required. If, upon inspection of the petition, the Administrator believes that reasonable cause for amendment of the regulations is set forth, the Administrator will either schedule a hearing with due notice to interested parties, or will make other provision for affording interested parties an opportunity to present their views, either in support of or in opposition to the proposed changes.

Subpart B—Interpretations

§ 552.99 Basis for coverage of domestic service employees.

Congress in section 2(a) of the Act specifically found that the employment of persons in domestic service in households affects commerce. In the legislative history it was pointed out that employees in domestic service employment handle goods such as soaps, mops, detergents, and vacuum cleaners that have moved in or were produced for interstate commerce and also that they free members of the household to themselves engage in activities in interstate commerce (S. Rep. 93–690, pages 21–22). The Senate Committee on Labor and Public Welfare "took note of the expanded use of the interstate commerce clause by the Supreme Court in numerous recent cases (particularly "Katzenbach v. McClung", 379 U.S. 294 (1964))," and concluded "that coverage of domestic employees is a vital step in the direction of ensuring that all workers affecting interstate commerce are protected by the Fair Labor Standards Act" (S. Rep. 93–690, pp. 21–22).

§ 552.100 Application of minimum wage and overtime provisions.

(a)(1) Domestic service employees must receive for employment in any household a minimum wage of $1.90 an hour effective May 1, 1974, not less than $2.00 an hour during the year beginning January 1, 1975, not less than $2.20 an hour during the year beginning January 1, 1976, and not less than $2.30 an hour after December 31, 1976.

(2) In addition, domestic service employees who work more than 40 hours in any one workweek for the same employer must be paid overtime compensation at a rate not less than one and one-half times the employee's regular rate of pay for such excess hours, unless the employee is one who resides in the employer's household. In the case of employees who reside in the household where they are employed, section 13(b)(21) of the Act provides an overtime, but not a minimum wage, exemption. See § 552.102.

(b) In meeting the wage responsibilities imposed by the Act, employers may take appropriate credit for the reasonable cost or fair value, as determined by the Administrator, of food, lodging and other facilities customarily furnished to the employee by the employer such as drugs, cosmetics, drycleaning, etc. See S. Rep. 93–690, p. 19, and section 3(m) of the Act. Credit may be taken for the reasonable cost or fair value of these facilities only when the employees' acceptance of them is voluntary and uncoerced. See Regulations in Part 531.

(c) For enforcement purposes, the Administrator will accept a credit taken by the employer of $0.75 for breakfast (if furnished), $1.00 for lunch (if furnished), and $1.25 for dinner (if furnished), which meal credits do not exceed $3.00 a day. Nothing herein shall prevent employers from crediting themselves with the actual cost or fair value of furnishing meals, as determined in accordance with Part 531 of this chapter, if such cost or fair value is different from the meal credits specified above: *Provided, however,* That employers keep, maintain and preserve (for a period of 3 years) the records on which they rely to justify such different cost figures.

(d) In the case of lodging furnished to live-in domestic service workers, the Administrator will accept a credit taken by the employer of $15 a week. Nothing herein shall prevent employers from crediting themselves with the actual cost of fair value of furnishing lodging, as determined in accordance with Part 531 of this chapter, if such cost or fair value is different from the amount specified above. *Provided, however,* That employers keep, maintain, and preserve (for a period of 3 years) the records on which they rely to justify such different cost figures. In determining actual cost, it would be proper for the employer to compare, on a square footage basis, the room occupied by the domestic service worker with the size of the dwelling and then apply the percentage figure thus obtained to the monthly rent or mortgage payment, or in the case where the dwelling is paid for, a reasonable monthly allowance for depreciation, and to the monthly utility bill for heating and light. The employer cannot, however, include any amounts which are unrelated to the dwelling in which the domestic service worker resides, such as tennis courts, swimming pools, and so forth. Nor can the employer take credit for sums expended on any structural changes to the dwelling, such as adding a room, etc.

§ 552.101 Domestic service employment.

(a) The definition of "domestic service employment" contained in § 552.3 is derived from the regulations issued under the Social Security Act (20 CFR 404.1027(j)) and from "the generally accepted meaning" of the term. Accordingly, the term includes persons who are frequently referred to as "private household workers." See S. Rep. 93–690, p. 20. The domestic service must be performed in or about the private home of the employer whether that home is a fixed place of abode or a temporary dwelling as in the case of an individual or family travelling on vacation. A separate and distinct dwelling maintained by an individual or a family in an apartment house, condominium or hotel may constitute a private home.

(b) Employees employed in dwelling places which are primarily rooming or boarding houses are not considered domestic service employees. The places where they work are not private homes but commercial or business establishments.

§ 552.102 Live-in domestic service employees.

Domestic service employees who reside in the household where they are employed are entitled to the same minimum wage as domestic service employees who work by the day. However, section 13(b)(21) provides an exemption from the Act's overtime requirements for domestic service employees who reside in their employer's household. But this exemption does not excuse the employer from paying the live-in worker at the applicable minimum wage rate for all hours worked. In determining the number of hours worked by a live-in worker, the employee and the employer may exclude, by agreement between themselves, the amount of sleeping time, meal time and other periods of complete freedom from all duties when the employee may either leave the premises or stay on the premises for purely personal pursuits. For periods of free time (other than those relating to meals and sleeping) to be excluded from hours worked, the periods must be of sufficient duration to enable the employee to make effective use of the time. If the sleeping time, meal periods or other periods of free time are interrupted by a call to duty, the interruption must be counted as hours worked. See Part 785, § 785.23.

§ 552.103 Babysitting services in general.

The term "babysitting services" is defined in § 552.1. Babysitting is a form of domestic service, and babysitters other than those working on a casual basis are entitled to the same benefits under the Act as other domestic service employees.

§ 552.104 Babysitting services performed on a casual basis.

(a) Employees performing babysitting services on a casual basis, as defined in § 552.2, are excluded from the minimum wage and overtime provisions of the Act. The rationale for this exclusion is that such persons are usually not dependent upon the income from rendering such services for their livelihood. Such services are often provided by (1) teenagers during non-school hours or for a short period after completing high school but prior to entering other employment as a vocation, or (2) older persons whose main source of livelihood is from other means.

(b) If the person performing babysitting services on "casual" basis devotes more than 20 percent of his or her time to household work, the exemption for "babysitting services on a casual basis" does not apply, and the person must be paid in accordance with the Act's minimum wage and overtime requirements.

§ 552.105 Individuals performing babysitting services in their own homes.

It is clear from the legislative history that the Act's new coverage of domestic service employees is limited to those persons who perform such services in or about the private household of the employer. Accordingly, if such services are performed away from the employer's permanent or temporary household,

there is no coverage under sections 6(f) and 7(l) of the Act. A typical example would be an individual who cares for the children of others in her own home. This type of operation, however, could, depending on the particular facts, qualify as a preschool or day care center and thus be covered under section 3(s)(4) of the Act in which case the person providing the service would be required to comply with the applicable provisions of the Act.

§ 552.106 Companionship services for the aged or infirm.

The term "companionship services for the aged or infirm" is defined in § 552.6. Persons who provide care and protection for babies and young children, who are not physically or mentally infirm, are considered babysitters, not companions. The companion must perform the services with respect to the aged or infirm persons and not generally to other persons. The "casual" limitation does not apply to companion services.

§ 552.107 Yard maintenance workers.

Persons who mow lawns and perform other yard work in a neighborhood community generally provide their own equipment, set their own work schedule and occasionally hire other individuals. Such persons will be recognized as independent contractors who are not covered by the Act as domestic service employees. On the other hand, gardeners and yardmen employed primarily by one household are not usually independent contractors.

§ 552.108 Child labor provisions.

Congress made no change in section 12 as regards domestic service employees. Accordingly, the child labor provisions of the Act do not apply unless the underaged minor (a) is individually engaged in commerce or in the production of goods for commerce, or (b) is employed by an enterprise meeting the coverage tests of sections 3(r) and 3(s)(1) of the Act, or (3) is employed in or about a home where work in the production of goods for commerce is performed.

§ 552.109 Third party employment.

Employees who are engaged in providing babysitting and companionship services and who are employed by an employer other than the families or households using such services, are not exempt under section 13(a)(15) of the Act if the third party employer is a covered enterprise meeting the tests of sections 3(r) and 3(s)(1) of the Act. This results from the fact that their employment was subject to the Act prior to the 1974 Amendments and it was not the purpose of those Amendments to deny the Act's protection to previously covered domestic service employees.

§ 552.110 Recordkeeping requirements.

(a) The general recordkeeping regulations are found in Part 516 of this chapter and they require that every employer having covered domestic service employees shall keep records which show for each such employee (1) name in full, (2) social security number, (3) address in full, including zip code, (4) total hours worked each week by the employee for the employer, (5) total cash wages paid each week to the employee by the employer, (6) weekly sums claimed by the employer for board, lodging or other facilities, and (7) extra pay for weekly hours worked in excess of 40 by the employee for the employer. No particular form of records is required, so long as the above information is recorded and the record is maintained and preserved for a period of 3 years.

(b) In the case of an employee who resides on the premises, records of the actual hours worked are not required. Instead, the employer must maintain a copy of the agreement referred to in § 552.102. No records are required for casual babysitters.

(c) Where an employee works on a fixed schedule, the employer may maintain the schedule of daily and weekly hours the employee normally works, and (1) indicate by check marks, statement or other method that such hours were actually worked, and (2) when more or less than the scheduled hours are worked, show the exact number of hours worked.

Signed at Washington, D.C., this 25th day of September 1974.

BETTY SOUTHARD MURPHY,
Administrator, Wage and Hour Division, U.S. Department of Labor.

[FR Doc.74-22782 Filed 9-30-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 74-GL-36]

DESIGNATION OF 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 Sparta, Michigan.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received by October 31, 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.

An instrument approach procedure has been developed for the Sparta Airport, Sparta, Michigan. Accordingly, it is necessary to provide controlled airspace protection for aircraft executing this approach procedure by designating a transition area at Sparta, Michigan.

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

In Section 71.181 (39 FR 440), the following transition area is added:

SPARTA, MICHIGAN

That airspace extending upward from 700 feet above the surface within a seven-mile radius of the Sparta Airport (Latitude 43°07'45" N., Longitude 85°40'30" W.); excluding that airspace which overlies the Muskegan, Michigan transition area.

(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 September 13, 1974.

R. D. ZIEGLER,
Acting Director, Great Lakes Region.

[FR Doc.74-22683 Filed 9-30-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-GL-35]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation regulations so as to alter the transition area at Marion, Ohio.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received by October 31, 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 proposed contajH,tEttAltt____tion. 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 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 Marion Municipal Airport, Marion, Ohio. Additional controlled airspace is required to protect this procedure.

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 amended to read:

MARION, OHIO

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Marion Municipal Airport (Latitude 40° 36' 58" N., Longitude 83° 03' 51" W.); within three miles each side of the 067° bearing from the airport extending from the 6.5-mile radius area to 8.5 miles northeast of the airport; and within three miles each side of the 327° bearing from the airport extending from the 6.5-mile radius area to 8.5 miles northwest of the airport.

(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 September 13, 1974.

R. O. ZIEGLER,
Acting Director, Great Lakes Region.

[FR Doc.74-22684 Filed 9-30-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 74-GL-33]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation regulations so as to alter the transition area at Warsaw, Indiana.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received by October 31, 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.

A new instrument approach procedure has been developed and the present procedure revised for the Warsaw Municipal Airport. Accordingly, additional controlled airspace is required to protect these procedures.

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 amended to read:

WARSAW, INDIANA

That airspace extending upward from 700 feet above the surface within a seven-mile radius of the Warsaw Municipal Airport (Longitude 41°16" 45' N., Latitude 85°50"45' W.), excluding the airspace which overlies the Nappanee, Indiana, transition area.

(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 September 16, 1974.

R. O. ZIEGLER,
Acting Director, Great Lakes Region.

[FR Doc.74-22685 Filed 9-30-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 271-7]

STATE OF MARYLAND IMPLEMENTATION PLAN

Proposed Revision; Correction

The Regional Administrator on Thursday, August 29, 1974, (39 FR 31533) announced receipt and provided for a 30 day public comment period on proposed revisions to the State of Maryland's Implementation Plan. These revisions consist of regulations governing Gasoline Transfer Vapor Control, Control of Evaporative Losses from Vehicular Tanks, Control of Dry Cleaning Solvent Evaporation and Control and Prohibition of Sources of Photochemically Reactive Organic Solvents.

This notice is issued to correct a mistake in a section number cited to which these regulations apply. Section 52.1105 in (39 FR 31533) paragraph 1 column 3 is corrected to read § 52.1107.

Because of this error comments regarding these regulations will be accepted up to October 31, 1974.

Copies of the proposed revision are available for public inspection during normal business hours at the offices of EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania, 19106; in the office of the Maryland Bureau of Air Quality Control, 601 North Howard Street, Baltimore, Maryland, 21201; and the Freedom of Information Center, EPA, 401 M Street SW., Washington, D.C., 20460. All comments should be addressed to the Director, Air and Waste Management Division, Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania, 19106.

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

Dated: September 18, 1974.

A. R. MORRIS,
Acting Regional Administrator.

[FR Doc.74-22680 Filed 9-30-74;8:45 am]

[40 CFR Part 52]

[FRL 271-6]

VIRGINIA IMPLEMENTATION PLAN

Proposed Revision

On December 6, 1973, the Commonwealth of Virginia submitted to the Administrator a proposed revision to the Virginia Implementation Plan for the attainment and maintenance of national ambient air quality standards. The proposal is to revise Sections I and IV of the Virginia Regulations for the Control and Abatement of Air Pollution for AQCR VII (the Virginia portion of the National Capital Interstate AQCR).

Section I is the definition section of the Virginia Regulations. Virginia is proposing to add to Section I, definitions for a number of terms primarily related to hydrocarbon and photochemical oxidant control.

Section IV is the emission limitation section, and the changes Virginia proposes to make primarily concern Rule 4.705.03 of Section IV, the rule on stationary sources of hydrocarbons. The proposed revisions to Rule 4.705.03 (e), (f), and (j) relate, respectively, to the control of vapor loss during the transfer of gasoline between delivery trucks and underground storage tanks, the control of vapor loss during the transfer of gasoline from gasoline pumps to individual automobile, truck or other vehicle tanks, and to the control of use of photochemically reactive organic solvents in dry cleaning operations. These are the same subjects as are covered in 40 CFR 52.2438, 52.2439 and 52.2440, promulgated by the Administrator on December 6, 1973, (38 FR 33726-7), as part of the Transportation Control Plan for the Virginia portion of the National Capital Interstate AQCR. The revision proposed by Virginia, if approved, would enable EPA to rescind the above-cited federally promulgated rules. Persons interested in commenting on the proposed rules should note that, unlike the federally promulgated regulations, Virginia's proposed rules on vapor control during gasoline transfer, exempt stations at which the total average gasoline throughput is less than 26,000 gallons per month. There are also other differences between the federally promulgated rules and the Virginia proposal.

Also included in the Virginia revision are additional subsection additions and changes relating to effluent water separators (4.705.03(b)), storage of volatile

organic compounds (4.705.03(D)), submerged fill on storage vessels (4.705.03 (G)), liquid organic compounds (4.705.03 (j)), and architectural coatings (4.705.03 (k)).

Virginia's proposed revision also includes changes to rule 4.705.04(a) on carbon monoxide emissions from stationary sources, and to rule 4.705.05(b)(1) on nitrogen oxide emissions from fuel burning equipment. Both proposed changes provide that the Board can make the rules in question applicable where the pollutant levels exceed established ambient air quality standards. Under the existing versions, the Board can only make the rules applicable where the pollutant levels can be shown to have "adverse health or other effects".

On August 28, 1974, Virginia provided certification to the Administrator that, after having given adequate notice to the public, the Commonwealth conducted hearings on the changes included in the proposed revision on September 19, 1973, and November 26, 1973, in Richmond, Virginia, and on September 21, 1973, in Fairfax, Virginia.

The public is invited to submit comments on whether the above described proposed revision should be approved or disapproved as required by Section 110 of the Clean Air Act. Only comments received by October 31, 1974 will be considered. The Administrator's decision to approve or disapprove this proposed revision will be based on whether it meets the requirements of section 110(a)(2)(A)-(H) of the Act and EPA regulations in 40 CFR, Part 51.

Copies of the proposed revision are available for public inspection during normal business hours at the Offices of EPA, Region III, Curtis Building, 2nd Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania, 19106, and in the Office of the Virginia State Air Pollution Control Board, Room 1106, Ninth Street Office Building, Richmond, Virginia, 23219, and at the Freedom of Information Center, EPA, 401 M Street SW., Washington, D.C., 20460. All comments should be addressed to the Director, Air and Waste Management Programs Division, Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania, 19106.

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

Dated: September 18, 1974.

A. R. MORRIS,
Acting Regional Administrator.

[FR Doc. 74-22678 Filed 9-30-74;8:45 am]

POSTAL SERVICE

[39 CFR Part 111]

PREPAYMENT AND POSTAGE DUE

Change in Handling of Mail Without Postage

Under the provisions of 39 CFR 111.3 the Postal Service has decided to amend 146.12 (39 CFR 146.1(b)) of the Postal Service Manual to provide that any mail received by the Postal Service without any postage, with certain exceptions enumerated in 146.11 (39 CFR 146.1(a)), will be endorsed "Returned for postage" and returned to the sender without an attempt at delivery. If the mail bears no return address it will in most cases be sent to the dead letter office. For other disposition of undeliverable mail, see 159.4 of the Postal Service Manual (39 CFR 159.4). The change in procedures is expected to take effect on November 17, 1974.

At the present time mail without postage is delivered to addressees upon payment of the postage due. The present regulation was intended to take into account the fact that people occasionally forget to put a stamp on their mail and that stamps sometimes fall off the mail in the mail stream. In recent months a significant number of people have begun to abuse this regulation by deliberately omitting to put stamps on their business mail. Business houses, public utilities, and other creditors, in order to receive their mail, have been bearing an increasingly heavy postage-due burden. The costs to the Postal Service of collecting this postage due have likewise greatly increased.

This change in the regulations is made to counteract the abuses described above and to prevent an undue financial burden being placed on addressees and the Postal Service. It parallels the practices of some businesses which already have advised the Postal Service that they will no longer accept mail without postage. Such mail is returned to the sender for payment of postage, or sent to the dead letter office if there is no return address.

At the present time no additional fee will be collected from mailers when mail without postage is returned to them. It may be necessary, however, depending upon the amount of such mail and other cost considerations, to require payment of such a fee in the future.

The amount of mail that may have to be routed to the dead letter office under this regulation change will, we hope, be small. Mailers should understand, however, that processing mail that bears no return address is a manual operation that takes time, requiring the opening, examining, and readdressing of each item.

From the standpoints of all concerned, this change in Postal Service regulations will have maximum beneficial effects and minimum adverse consequences only if the change in procedures is given wide publicity. Accordingly, the Postal Service is giving a long period of advance notice prior to the effective date in order to encourage businesses, in particular, to notify their customers of this change. The Postal Service itself will be taking steps to assure wide public dissemination of information about this change. Businesses wishing to obtain information—including suggested language suitable for reprinting and distribution—on this change should contact the Manager, Mail Classification Division, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260.

Interested persons who wish to do so may submit written data, views or arguments concerning this change in Postal Service regulations to the Manager, Mail Classification Division, at the address stated above at any time before November 4, 1974. After consideration of all comments received, it is expected, as indicated above, that the Postal Service will promulgate the final regulation effective November 17, 1974. Accordingly, complying voluntarily with the advance notice requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking, the Postal Service intends to make the following amendments of the Postal Service Manual:

In 146.12 of the Postal Service Manual renumber .121 and .122 as .122 and .123 respectively, add new .121 and revise renumbered .122 to read as follows:

§ 146.1 Postage payment.

.11 * * *

.12 *Insufficient prepayment.*

.121 Mail of any class, including that for which special services are indicated, received at either the office of mailing or office of address without any postage will be endorsed "Returned for postage" and returned to the sender without an attempt at delivery. If no return address is shown the piece will be disposed of in accordance with 159.4.

.122 Mail of any class, including that for which special services are indicated (except registered mail—see 161.31), received at either the office of mailing or office of address without sufficient postage will be:

a. Marked to show the total deficiency of postage and fees.

b. Dispatched promptly to the addressee by means of the regular or special service indicated.

c. Delivered to addressee on payment of the charges marked on the mail. When quantity mailings of ten or more pieces are received at the office of mailing without sufficient postage, the mailer will be notified, without charge, preferably by telephone, in order that the postage charges may be adjusted before the mail is dispatched.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published on adoption of this change in policy.

(39 U.S.C. 401)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.74-22687 Filed 9-30-74;4:00 pm]

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

Office of the Secretary

[Public Debt Series—No. 11–74]

TREASURY NOTES OF SERIES J–1976

Redesignation of Interest

SEPTEMBER 25, 1974.

The Secretary of the Treasury announced on September 24, 1974, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 11–74, dated September 16, 1974, will be 8¼ percent per annum. Accordingly, the notes are hereby redesignated 8¼ percent Treasury Notes of Series J–1976. Interest on the notes will be payable at the rate of 8¼ percent per annum.

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

[FR Doc.74–22716 Filed 9–30–74;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON "TRAINING TECHNOLOGY"

Advisory Committee Meeting

A Defense Science Board Task Force on "Training Technology" will meet in closed session on 15–16 October 1974 at the Institute for Defense Analyses, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long range guidance in these areas to the Department of Defense.

The Task Force will provide an evaluation of the current effectiveness of DoD programs and management in the R&D area of Training Technology to serve as the basis for DoD policy decisions to reduce costs and increase effectiveness and efficiency of DoD Training.

In accordance with Pub. L. 92–463, section 10, paragraph (d), it has been determined that Defense Science Board meetings concern matters listed in section 552 (b) of title 5 of the United States code, particularly subparagraph (1) thereof, and that the public interest requires such meetings to be closed insofar as the requirements of subsections (a)(1) and (a)(3) of section 10, Pub. L. 92–463 are concerned.

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

SEPTEMBER 26, 1974.

[FR Doc.74–22693 Filed 9–30–74;8:45 am]

DEFENSE PANEL ON INTELLIGENCE

Establishment, Organization and Functions

Correction

In FR Doc. 74–22601 appearing on page 34692 of the issue of Friday, September 27, 1974, the date "September 25, 1974" in the last line ("Date charter filed") should be deleted. No date should be included.

DEPARTMENT OF JUSTICE

SABINE PARISH, LA.

Certification of the Attorney General Pursuant to Section 6 of the Voting Rights Act of 1965 (Pub. L. 89–110)

In accordance with section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d (Supp. V), I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the fifteenth Amendment to the Constitution of the United States in Sabine Parish, Louisiana. This parish is included within the scope of the determination of the Attorney General and the Director of the Census made on August 6, 1965, under section 4(b) of the Voting Rights Act of 1965 and published in the FEDERAL REGISTER on August 7, 1965 (30 F.R. 9897).

LAURENCE H. SILBERMAN,
Acting Attorney General of the United States.

SEPTEMBER 27, 1974.

[FR Doc.74–22922 Filed 9–27–74;5:14 pm]

DEPARTMENT OF THE INTERIOR

Geological Survey

ATLANTIC AREA

Intention To Develop OCS Orders

Pursuant to 39 FR 654, February 20, 1974, the Department of the Interior solicited comments concerning areas of the Outer Continental Shelf with the greatest potential for production of oil and gas. Responses to this solicitation indicated that the Atlantic Outer Continental Shelf is of interest as a target for the future development of frontier oil and gas areas.

Should a decision be made to conduct a lease sale on the Atlantic Outer Continental Shelf, it will be necessary to develop operating orders for this area prior to the commencement of drilling or producing operations. Such OCS Orders are currently in effect in the Pacific and Gulf of Mexico Areas.

Consistent with current procedures of the Geological Survey comments and suggestions are solicited as to the content of the following proposed, or any additional, OCS Orders for the Atlantic Area.

OCS Order No. 1, Marketing of Wells, Platforms, and Fixed Structures.
OCS Order No. 2, Drilling Procedures.
OCS Order No. 3, Plugging and Abandonment of Wells.
OCS Order No. 4, Suspensions and Determination of Well Producibility.
OCS Order No. 5, Installation of Subsurface Safety Device.
OCS Order No. 6, Procedure for Completion of Oil and Gas Wells.
OCS Order No. 7, Pollution and Waste Disposal.
OCS Order No. 8, Platforms and Structures.
OCS Order No. 9, Approval Procedures for Oil and Gas Pipelines.
OCS Order No. 11, Oil and Gas Production Rates, Prevention of Waste, and Protection of Correlative Rights.
OCS Order No. 12, Public Inspection of Records.
OCS Order No. 13, Production Measurement and Commingling.

Interested persons may submit written comments and suggestions to the Director, U.S. Geological Survey, National Center, Mail Stop 101, 12201 Sunrise Valley Drive, Reston, Virginia 22092, on or before November 1, 1974.

HENRY W. COULTER,
Acting Director.

[FR Doc.74–22719 Filed 9–30–74;8:45 am]

Office of Hearings and Appeals

[Docket No. M 75–12]

BISHOP COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Bishop Coal Company has filed a petition to modify the application of 30 CFR 75.1704(2)(e) to its Bishop Nos. 33–37 and No. 36 mines located in Pocahontas, Virginia.

30 CFR 75.1704(2)(e) provides:

Practice escapway drills shall be conducted so that all miners are kept informed of the route of escape, any necessary ventilation changes, the location of fire doors, check curtains, or smoke retarding doors, and plans for diverting smoke from escapeways. Such practice drills shall ensure that each miner travels the escapeways through his respective working section up to the main escapeways at least once every ninety days, and that at least two miners, including the supervisor, on each producing section travel through the main escapeway up to the portal at least once every six weeks.

In support of its petition, Petitioner states:

Petitioner has purchased a large number of reflector signs, made of masonite with white reflective paint and taped arrows (green for intake escapeway and red for return) which measure approximately 2 feet by 1 foot.

Petitioner has installed said signs in the center of each intersection, at every turn, and at frequent intervals in the straight roadbed. These signs are visible for fourteen breakthroughs. The number of signs installed in a given mine varies according to the length of the road and the number of turns.

Petitioner is of the opinion that the installation of said signs is a safer method of ensuring the miners' knowledge about the escapeways since the signs are almost constantly in view of the miners while they are working. The proposed alternative achieves the result intended by § 75.1704(2)(e) and will at all times guarantee no less than the same measure of protection afforded the miners in said mines by such standard.

Petitioner's Plan for an Alternative System. Petitioner proposes to install and maintain reflective signs at the center of each intersection, at every turn and at frequent intervals on the straight roadbed in lieu of conducting escapeway drills for all miners.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before October 31, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

SEPTEMBER 20, 1974.

[FR Doc.74-22748 Filed 9-30-74;8:45 am]

[Docket No. M 75-5]

CANNELTON INDUSTRIES, INC.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Cannelton Industries, Inc. has filed a petition to modify the application of 30 CFR 75.1105 to its Mine No. 105, Cannelton, West Virginia.

30 CFR 75.1105 provides:

Underground transformer stations, battery-charging stations, substations, compressor stations, shops and permanent pumps shall be housed in fireproof structures or areas. Air currents used to ventilate structures or areas enclosing electrical installations shall be coursed directly into the return. Other underground structures installed in a coal mine as the Secretary may prescribe shall be of fireproof construction.

In support of its petition, Petitioner states:

Petitioner presently has six (6) pumps on intake air currents in the East Mains within 3,000 feet of the mine opening. There are no return air courses in this 3,000 foot distance.

Cannelton's Mine No. 105 is an old mine, opened in 1948. There are in excess of seven miles of mainline air currents. Three fans are used to ventilate the entire mine. Worked out areas along the first 3,000 feet of mainline entries are sealed to prevent accumulation of dangerous gases from entering the mainline intake air currents. The pumping system currently in use has been in service over a period of 24 years. Additional pumps having been added as needed to handle mine drainage.

Along the first 3,000 feet of mainline airway, Petitioner uses all of the entries to provide intake air for mining sections. The entries themselves are cluttered with falls of roof material with the exception of the trolley-track haulage entry. This entry has been maintained with long roof bolts, straps, headers, large diameter posts and yieldable arches as needed to maintain a safe entrance and exist for men, supplies and coal haulage. The rehabilitation of one of the intake airways to provide a return airway, for only six (6) low-horsepower pumps would be hazardous and would reduce the intake air quantity now being provided to other areas of the mine. It would also require the rehabilitation of a portal and installation of an additional fan which would rob the present intake air currents of additional fresh air now being used for ventilating other areas of the mine. Additionally, Petitioner currently inspects these pumps daily; workmen along the mainline check for any irregularity on each shift. Petitioner feels that the safety of the miners would be diminished by removing the pumps or providing a return airway.

Petitioner needs these pumps to prevent accumulation of mine water that would cause hazards with the 250 volt direct current powered trolley-track haulage system. The hazards that could be caused by removal of the pumps are: Poor bonding which could induce electrical arcing and electrical shock; deterioration of rails which would lead to derailment and serious injuries associated with wrecks; interruption of intake air currents due to reduction of the size of the opening due to presence of water; and higher intake air velocity due to reduction of the size of the intake airways. Each pump involved has less than ten (10) horsepower.

In order to make the present system of pumps safer, Petitioner proposes to house the pumps in a fireproof building and to install fire suppression equipment to extinguish any possible fire.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before October 31, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

SEPTEMBER 18, 1974.

[FR Doc.74-22742 Filed 9-30-74;8:45 am]

[Docket No. M 75-16]

H. AND S. COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), H. and S. Coal Company has filed a petition to modify the application of 30 CFR 75.1405 to its No. 1 Mine, LaFollette, Tennessee.

30 CFR 75.1405 provides:

All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic coupler which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970.

In support of its petition, Petitioner states:

1. The supply cars used in the subject mine are of vintage manufacture and do not have automatic couplers.

2. Manufacture of cars equipped with automatic couplers would not be technologically and financially feasible.

3. The cars have a coupling pin attached to a lever which extends to the side of the car and the pin remains in the bumper hole, thus making it unnecessary for any person to be required to go between the ends of the cars. A chain and lever lock is provided to keep the lever in place when it is in an uncoupled position.

4. The coupling link end has a rod attached permanently to the coupling link of the other car and analing
of the other car and an aligning rod which extends out to the side of the car, thus making it unnecessary for any person to go between the ends of the cars.

5. Petitioner asserts that its present coupling procedure provides no less than the same measure of protection afforded by the application of the mandatory standard.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before October 31, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

SEPTEMBER 20, 1974.

[FR Doc.74-22750 Filed 9-30-74;8:45 am]

[Docket No. M 75-11]

ITMANN COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c), (1970), Itmann Coal Company has filed a petition to modify the application of 30 CFR 75.1704(2) (e) to its Itmann Nos. 1, 2 and 3 mines located in Pocahontas, Virginia.

30 CFR 75.1704(2) (e) provides:

Practice escapeway drills shall be conducted so that all miners are kept informed of the route of escape, any necessary ventilation changes, the location of fire doors, check curtains, or smoke retarding doors, and plans for diverting smoke from escapeways. Such practice drills shall ensure that each miner travels the escapeways through his respective working section up to the main escapeways at least once every ninety days, and that at least two miners, including the supervisor, on each producing section travel through the main escapeway up to the portal at least once every six weeks. In support of its petition, Petitioner states:

Petitioner has purchased a large number of reflector signs, made of masonite with white reflective paint and taped arrows (green for intake escapeway and red for return) which measure approximately 2 feet by 1 foot.

Petitioner has installed said signs in the center of each intersection, at every turn, and at frequent intervals in the straight roadbed. These signs are visible for fourteen breakthroughs. The number of signs installed in a given mine varies according to the length of the road and the number of turns.

Petitioner is of the opinion that the installation of said signs is a safer method of ensuring the miners' knowledge about the escapeways since the signs are almost constantly in view of the miners while they are working. The proposed alternative achieves the result intended by § 75.1704(2) (e) and will at all times guarantee no less than the same measure of protection afforded the miners in said mines by such standard.

Petitioner's Plan for an Alternative System. Petitioner proposes to install and maintain reflective signs at the center of each intersection, at every turn and at frequent intervals on the straight roadbed in lieu of conducting escapeway drills for all miners.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before October 31, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

SEPTEMBER 20, 1974.

[FR Doc.74-22747 Filed 9-30-74;8:45 am]

[Docket No. M75-14]

KENTLAND-ELKHORN COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Kentland-Elkhorn Coal Corporation has filed a petition to modify the application of 30 CFR 75.1405 to its Feds Creek No. 1 Mine, Pike County, Kentucky.

30 CFR 75.1405 provides:

All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped with 4 years after March 30, 1970.

To be read concurrently with 30 CFR 75.1405 is 30 CFR 75.1405-1 which provides:

The requirement of § 75.1405 with respect to automatic couplers applies only to track haulage cars which are regularly coupled and uncoupled.

In support of its petition, Petitioner states:

The mine cars used for hauling coal and supplies are all rotary dumping cars. These coal haulage cars are delivered to each operating section in strings of 15 to 30 cars. At the loading point where the shuttle cars discharge coal off the ramp into the mine cars, the front car is hooked onto a cable which is affixed to a stationary hoisting device which is electrically operated and which is used to position the cars in turn for loading under the ramp from which the shuttle cars discharge their load of coal. Once loaded, the mine cars are then hauled to a dispatching point by electric locomotive and then by tram a distance of about two miles to the outside dump where, without being uncoupled, they are pulled onto the rotary dump electrically and then positioned automatically and dumped at the dumping station.

There are currently in use at this mine approximately 280 mine cars used in coal haulage. These are Enterprise cars and their ages range up to 24 years, representing the capital expenditures for addition or replacement by Petitioner over the years. All of the mine cars are fitted with standard pin-and-link coupling devices.

Investigation of the possibility of installation of automatic couplers on the coal cars has been conducted, but serious safety problems have been presented which suggest a diminution of safety over the present method. Many of the haulage rail switches leading from the main line were first being developed and are of shorter radius than those which would be needed to accommodate cars joined together with automatic couplers. These switches cannot be replaced with wider radius switches without removing portions of the adjacent coal pillars which help provide roof support. The relative lack of flexibility of automatic couplers both vertically and horizontally could cause derailments and require that workers position themselves between mine cars to re-track and re-couple affected mine cars.

Recently, mine management has become aware of the existence of an alternate method which does not possess the disadvantages of the automatic coupler and which achieves the same measure of protection to miners sought to be achieved by use of the automatic coupler. (See March 14, 1974, decision by Administrative Law Judge Kennedy in Docket No. MORG 74-22.)

Safety standard with respect to which modification is being requested. It is Petitioner's understanding that the Mining Enforcement and Safety Administration has further interpreted the phrase "regularly coupled and uncoupled" as exprovided the pin, when in coupling position, is secured by a suitable lock pin, nut or other locking device so that the cars thus coupled cannot be uncoupled simply by lifting the pin. Thus, a string of coal cars which have been coupled together by link and fixed pin arrangements are not required to have automatic couplers, except on the end of the exterior car of the string which is from time to time (irregularly) coupled to some other piece of haulage equipment. This interpretation has not been published.

Petitioner submits that the application of the foregoing provision of the Act and the foregoing regulations and interpretations, if applied to Petitioner's mine, would result in a diminution of safety over the present system in effect. Beyond this, however, in order to better achieve the purposes sought to be achieved by the Act and regulations and thus to provide a standard which provides a better measure of protection to the miners in said mine, Petitioner proposes an alternate method, as set forth hereinafter.

Alternative method. Approval of this alternate system as a satisfactory replacement of 30 CFR 75.1405 is subject to the following understandings and conditions which are incorporated as parts of the alternate system:

A. All cars in use for transporting coal and supplies at the captioned mine will be coupled together in units or strings of cars using pin-and-link couplings. Each pin will be fixed in position by welding a stop on the mine car to prevent the link from being disengaged. The coupling end of all haulage electric locomotives and the rear end of the last car of each string will be fitted with a coupling lever so designed as to permit an employee to lift or drop the pin through the car bumper to secure or release a link that has been inserted from another haulage unit without positioning himself between the units being coupled or uncoupled. If it becomes necessary in the coupling operation to position the link, this also will be done without the employee going between the units himself; he will effectuate this alignment by using a specially designed hand link aligner tool which shall be part of the equipment on all haulage crews.

The front end of the haulage locomotives (that is the end opposite the deck end) will be fitted with similar coupling levers.

B. All employees at the captioned mine will be trained and instructed in the proper operation and use of the coupling lever and the hand link aligners and their proper use will be a mandatory requirement for coupling and uncoupling of all mine car coal haulage units at this mine. More specifically in this regard:

(1) All present employees at this mine will be instructed on the function and use of the coupling lever and hand link aligners.

(2) Thereafter, any new employee hired at this mine will be given instruction on the function and use the coupling lever and hand link aligners as part of his orientation before he commences actual work.

(3) This instruction of all employees will be repeated at six-month intervals. Employees absent from work during the normal reinstruction period will be reinstructed after they return to work.

(4) The company will maintain a permanent record of the names and dates when each mine employee received this instruction and reinstruction.

(5) The requirement that, upon conversion of coal haulage mine cars at this mine, coupling and uncoupling be done by means of coupling levers and hand link aligners shall be a mandatory safety rule at this mine and a notice to this effect shall be posted on the regular company and union bulletin boards at the mine.

(6) Should the alternative methods be approved, as each electric haulage locomotive and multiple mine car unit is converted and placed into operation, such locomotive and multiple car unit will be subject to the modified standard set forth in this petition. Effective upon a date agreeable with all of the parties hereto, all electric haulage locomotives and all multiple mine car units in operation at this mine must have been converted and the modified standard will become fully operative, except for any extension of time stipulated to by the parties or by order of an administrative law judge of the Interior Department Office of Hearings and Appeals. In the event shortages and/or unavailability of materials or other conditions beyond the control of management prevent completion of full conversion by such agreed upon date, the Petitioner will endeavor to arrange by stipulation with the other parties for a mutually agreeable period of extension. Failing such agreement, the Petitioner may request from the Office of Hearings and Appeals the assignment of an administrative law judge and conduct a hearing for the purposes of determining whether an extension of time should be granted and, if granted, the duration of such extension. The parties by stipulation, or the assigned administrative law judge by order following notice to all parties and conduct of a hearing, shall have authority to provide for an appropriate extension if the circumstances make it reasonable to do so.

Safety considerations. The alternate method set forth above will provide no less than the same measure of protection to miners at the Feds Creek mine than that sought to be afforded by section 314(f) of the Act and Interior Department Regulations 30 CFR 75.1405 and 75.1405–1. Under the circumstances at this mine it will actually provide greater protection and thus avoid the diminution of safety that would result if automatic couplers were used, because:

A. Automatic couplers lack the flexibility of permitting mine cars to negotiate some of the rail curves in this mine. If this were attempted, the result would be derailments with possible roof falls and other sources of injury to mine personnel. The radius of these rail curves cannot be enlarged without removing some of the coal from the adjacent coal pillars. Such removal would reduce the protection from roof falls, a serious and over-riding cause of concern in underground coal mines.

B. Any modification of the present mine cars with automatic couplers would have to be accomplished by affixing coupler units to the bumpers of the present cars. The point where such couplers are affixed to the present chassis would be subject to severe strain and stress that would be much more likely to cause coupling misalignment and failure, than in the case of the pin-link arrangement or in the case of new car units where the automatic coupler has been designed as part of the car chassis. The prospect of derailments and runaway cars, with the attendant dangers to employees, is less likely if pin and link couplings were used.

C. This type of mine car, particularly under the haulage layout at the mine, requires a much more flexible coupler arrangement than is possible with the relatively rigid automatic couplers, posing the danger of derailments and runaway cars. Furthermore, dips occur along the main haulageway which could possibly cause uncoupling of automatic couplers. The coupling arrangement proposed in this alternate system, involving the flexible pin and link coupling, with safeguards, provides a much safer operation.

D. No imminent danger is presently involved. Petitioner proposes his alternate method with the sincere conviction that it provides a safer method than the use of automatic couplers.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before October 31, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

SEPTEMBER 20, 1974.

[FR Doc.74-22749 Filed 9-30-74;8:45 am]

[Docket No. M 75-17]

KENTLAND-ELKHORN COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Kentland-Elkhorn Coal Corporation has filed a petition to modify the application of 30 CFR 75.1405 to its Kentland No. 2 Mine, Pike County, Kentucky.

30 CFR 75.1405 provides:

> All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970.

To be read concurrently with 30 CFR 75.1405 is 30 CFR 75.1405–1 which provides:

> The requirement of § 75.1405 with respect to automatic couplers applies only to track haulage cars which are regularly coupled and uncoupled.

In support of its petition, Petitioner states:

The mine cars are solely for hauling supplies and are seven in number with three locomotives. These are Enterprise cars and their ages range up to 24 years, representing the capital expenditures for addition or replacement by Petitioner over the years. All of the mine cars are fitted with standard pin-and-link coupling devices.

Investigation of the possibility of installation of automatic couplers on the coal cars has been conducted, but serious safety problems have been presented which suggest a diminution of safety over the present method. Many of the haulage rail switches leading from the main line were first being developed and are of shorter radius than those which would be needed to accommodate cars joined together with automatic couplers. These switches cannot be replaced with wider-radius switches without removing portions of the adjacent coal pillars which help provide roof support. The relative lack of flexibility of automatic couplers both vertically and horizontally could cause derailments and require that workers position themselves between mine cars to re-track and recouple affected mine cars.

Recently, mine management has become aware of the existence of an alternate method which does not possess the disadvantages of the automatic coupler and which achieves the same measure of protection to miners sought to be achieved by use of the automatic coupler. (See March 14, 1974, decision by Administrative Law Judge Kennedy in Docket No. MORG 74–22.)

Safety standard with respect to which modification is being requested. It is petitioner's understanding that the Mining

Enforcement and Safety Administration has further interpreted the phrase "regularly coupled and uncoupled" as excluding mine cars which are coupled together by pin-and-link arrangements provided the pin, when in coupling position, is secured by a suitable lock pin, nut or other locking device so that the cars thus coupled cannot be uncoupled simply by lifting the pin. Thus, a string of coal cars which have been coupled together by link and fixed pin arrangements are not required to have automatic couplers, except on the end of the exterior car of the string which is from time to time (irregularly) coupled to some other piece of haulage equipment. This interpretation has not been published.

Petitioner submits that the application of the foregoing provision of the Act and the foregoing regulations and interpretations, if applied to Petitioner's mine, would result in a diminution of safety over the present system in effect. Beyond this, however, in order to better achieve the purposes sought to be achieved by the Act and regulations and thus to provide a standard which provides a better measure of protection to the miners in said mine, Petitioner proposes an alternate method, as set forth hereinafter.

Alternative method. Approval of this alternate system as a satisfactory replacement of 30 CFR 75.1405 is subject to the following understandings and conditions which are incorporated as parts of the alternate system:

A. All cars in use for transporting coal and supplies at the captioned mine will be coupled together in units or strings of cars using pin-and-link couplings. Each pin will be fixed in position by welding a stop on the mine car to prevent the link from being disengaged. The coupling end of all haulage electric locomotives and the rear end of the last car of each string will be fitted with a coupling lever so designed as to permit an employee to lift or drop the pin through the car bumper to secure or release a link that has been inserted from another haulage unit without positioning himself between the units being coupled or uncoupled. If it becomes necessary in the coupling operation to position the link, this also will be done without the employee going between the units himself; he will effectuate this alignment by using a specially designed hand link aligner tool which shall be part of the equipment on all haulage crews. The front end of the haulage locomotives (that is the end opposite the deck end) will be fitted with similar coupling levers.

B. All employees at the captioned mine will be trained and instructed in the proper operation and use of the coupling lever and the hand link aligners and their proper use will be a mandatory requirement for coupling and uncoupling of all mine car coal haulage units at this mine. More specifically in this regard:

(1) All present employees at this mine will be instructed on the function and use of the coupling lever and hand link aligners.

(2) Thereafter, any new employee hired at this mine will be given instruction on the function and use the coupling lever and hand link aligners as part of his orientation before he commences actual work.

(3) This instruction of all employees will be repeated at six-month intervals. Employees absent from work during the normal reinstruction period will be reinstructed after they return to work.

(4) The company will maintain a permanent record of the names and dates when each mine employee received this instruction and reinstruction.

(5) The requirement that, upon conversion of coal haulage mine cars at this mine, coupling and uncoupling be done by means of coupling levers and hand link aligners shall be a mandatory safety rule at this mine and a notice to this effect shall be posted on the regular company and union bulletin boards at the mine.

(6) Should the alternative methods be approved, as each electric haulage locomotive and multiple mine car unit is converted and placed into operation, such locomotive and multiple car unit will be subject to the modified standard set forth in this petition. Effective upon a date agreeable with all of the parties hereto, all electric haulage locomotives and all multiple mine car units in operation at this mine must have been converted and the modified standard will become fully operative, except for any extension of time stipulated to by the parties or by order of an administrative law judge of the Interior Department Office of Hearings and Appeals. In the event shortages and/or unavailability of materials or other conditions beyond the control of management prevent completion of full conversion by such agreed upon date, the Petitioner will endeavor to arrange by stipulation with the other parties for a mutually agreeable period of extension. Failing such agreement, the Petitioner may request from the Office of Hearings and Appeals the assignment of an administrative law judge and conduct a hearing for the purposes of determining whether an extension of time should be granted and, if granted, the duration of such extension. The parties by stipulation, or the assigned administrative law judge by order following notice to all parties and conduct of a hearing, shall have authority to provide for an appropriate extension if the circumstances make it reasonable to do so.

Safety considerations. The alternate method set forth above will provide no less than the same measure of protection to miners at the Feds Creek mine than that sought to be afforded by section 314 (f) of the Act and Interior Department Regulations 30 CFR 75.1405 and 75.1405–1. Under the circumstances at this mine it will actually provide greater protection and thus avoid the diminution of safety that would result if automatic couplers were used, because:

A. Automatic couplers lack the flexibility of permitting mine cars to negotiate some of the rail curves in this mine. If this were attempted, the result would be derailments with possible roof falls and other sources of injury to mine personnel. The radius of these rail curves cannot be enlarged without removing some of the coal from the adjacent coal pillars. Such removal would reduce the protection from roof falls, a serious and over-riding cause of concern in underground coal mines.

B. Any modification of the present mine cars with automatic couplers would have to be accomplished by affixing coupler units to the bumpers of the present cars. The point where such couplers are affixed to the present chassis would be subject to severe strain and stress that would be much more likely to cause coupling misalignment and failure, than in the case of the pin-link arrangement or in the case of new car units where the automatic coupler has been designed as part of the car chassis. The prospect of derailments and runaway cars, with the attendant dangers to employees, is less likely if pin and link couplings were used.

C. This type of mine car, particularly under the haulage layout at the mine, requires a much more flexible coupler arrangement than is possible with the relatively rigid automatic couplers, posing the danger of derailments and runaway cars. Furthermore, dips occur along the main haulageway which could possibly cause uncoupling of automatic couplers. The coupling arrangement proposed in this alternate system, involving the flexible pin and link coupling, with safeguards, provides a much safer operation.

D. No imminent danger is presently involved. Petitioner proposes his alternate method with the sincere conviction that it provides a safer method than the use of automatic couplers.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before October 31, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

SEPTEMBER 20, 1974.

[FR Doc.74-22751 Filed 9-30-74;8:45 am]

[Docket No. M 75-18]

KENTLAND-ELKHORN COAL CORP.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Kentland-Elkhorn Coal Corporation has filed a petiton to modify the application of 30 CFR 75.1405 to its Kentland No. 3 Mine, Pike County, Kentucky.

30 CFR 75.1405 provides:

All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970.

To be read concurrently with 30 CFR 75.1405 is 30 CFR 75.1405–1 which provides:

The requirement of § 75.1405 with respect to automatic couplers applies only to track haulage cars which are regularly coupled and uncoupled.

In support of its petition, Petitioner states:

The mine cars are used solely for hauling supplies. There are currently in use at this time approximately six mine cars and three locomotives used in supply haulage. These are Enterprise cars and their ages range up to 24 years, representing the capital expenditures for addition or replacement by Petitioner over the years. All of the mine cars are fitted with standard pin-and-link coupling devices.

Investigation of the possibiilty of installation of automatic couplers on the coal cars has been conducted, but serious safety problems have been presented which suggest a diminution of safety over the present method. Many of the haulage rail switches leading from the main line were first being developed and are of shorter radius than those which would be needed to accommodate cars joined together with automatic couplers. These switches cannot be replaced with wider-radius switches without removing portions of the adjacent coal pillars which help provide roof support. The relative lack of flexibility of automatic couplers both vertically and horizontally could cause derailments and require that workers position themselves between mine cars to re-track and re-couple affected mine cars.

Recently, mine management has become aware of the existence of an alternate method which does not possess the disadvantages of the automatic coupler and which achieves the same measure of protection to miners sought to be achieved by use of the automatic coupler. (See March 14, 1974, decision by Administrative Law Judge Kennedy in Docket No. MORG 74–22.)

Safety standard with respect to which modification is being requested. It is Petitioner's understanding that the Mining Enforcement and Safety Administration has further interpreted the phrase "regularly coupled and uncoupled" as excluding mine cars which are coupled together by pin-and-link arrangements provided the pin, when in coupling position, is secured by a suitable lock pin, nut or other locking device so that the cars thus coupled cannot be uncoupled simply by lifting the pin. Thus, a string of coal cars which have been coupled together by link and fixed pin arrangements are not required to have automatic couplers, except on the end of the exterior car of the string which is from time to time (irregularly) coupled to some other piece of haulage equipment. This interpretation has not been published.

Petitioner submits that the application of the foregoing provision of the Act and the foregoing regulations and interpretations, if applied to Petitioner's mine, would result in a diminution of safety over the present system in effect. Beyond this, however, in order to better achieve the purposes sought to be achieved by the Act and regulations and thus to provide a standard which provides a better measure of protection to the miners in said mine, Petitioner proposes an alternate method, as set forth hereinafter.

Alternative method. Approval of this alternate system as a satisfactory replacement of 30 CFR 75.1405 is subject to the following understandings and conditions which are incorporated as parts of the alternate system:

A. All cars in use for transporting coal and supplies at the captioned mine will be coupled together in units or strings of cars using pin-and-link couplings. Each pin will be fixed in position by welding a stop on the mine car to prevent the link from being disengaged. The coupling end of all haulage electric locomotives and the rear end of the last car of each string will be fitted with a coupling lever so designed as to permit an employee to lift or drop the pin through the car bumper to secure or release a link that has been inserted from another haulage unit without positioning himself between the units being coupled or uncoupled. If it becomes necessary in the coupling operation to position the link, this also will be done without the employee going between the units himself; he will effectuate this alignment by using a specially designed hand link aligner tool which shall be part of the equipment on all haulage crews. The front end of the haulage locomotives (that is the end opposite the deck end) will be fitted with similar coupling levers.

B. All employees at the captioned mine will be trained and instructed in the proper operation and use of the coupling lever and the hand link aligners and their proper use will be a mandatory requirement for coupling and uncoupling of all mine car coal haulage units at this mine. More specifically in this regard:

(1) All present employees at this mine will be instructed on the function and use of the coupling lever and hand link aligners.

(2) Thereafter, any new employee hired at this mine will be given instruction on the function and use the coupling lever and hand link aligners as part of his orientation before he commences actual work.

(3) This instruction of all employees will be repeated at six-month intervals. Employees absent from work during the normal reinstruction period will be reinstructed after they return to work.

(4) The company will maintain a permanent record of the names and dates when each mine employee received this instruction and reinstruction.

(5) The requirement that, upon conversion of coal haulage mine cars at this mine, coupling and uncoupling be done by means of coupling levers and hand link aligners shall be a mandatory safety rule at this mine and a notice to this effect shall be posted on the regular company and union bulletin boards at the mine.

(6) Should the alternative methods be approved, as each electric haulage locomotive and multiple mine car unit is converted and placed into operation, such locomotive and multiple car unit will be subject to the modified standard set forth in this petition. Effective upon a date agreeable with all of the parties hereto, all electric haulage locomotives and all multiple mine car units in operation at this mine must have been converted and the modified standard will become fully operative, except for any extension of time stipulated to by the parties or by order of an administrative law judge of the Interior Department Office of Hearings and Appeals. In the event shortages and/or unavailability of materials or other conditions beyond the control of management prevent completion of full conversion by such agreed upon date, the Petitioner will endeavor to arrange by stipulation with the other parties for a mutually agreeable period of extension. Failing such agreement, the Petitioner may request from the Office of Hearings and Appeals the assignment of an administrative law judge and conduct a hearing for the purposes of determining whether an extension of time should be granted and, if granted, the duration of such extension. The parties by stipulation, or the assigned administrative law judge by order following notice to all parties and conduct of a hearing, shall have authority to provide for an appropriate extension if the circumstances make it reasonable to do so.

Safety considerations. The alternate method set forth above will provide no less than the same measure of protection to miners at the Feds Creek mine than that sought to be afforded by section 314(f) of the Act and Interior Department Regulations 30 CFR 75.1405 and 75.1405–1. Under the circumstances at this mine it will actually provide greater protection and thus avoid the diminution of safety that would result if automatic couplers were used, because:

A. Automatic couplers lack the flexibility of permitting mine cars to negotiate some of the rail curves in this mine. If this were attempted, the result would be derailments with possible roof falls and other sources of injury to mine personnel. The radius of these rail curves cannot be enlarged without removing some of the coal from the adjacent coal pillars. Such removal would reduce the protection from roof falls, a serious and over-riding cause of concern in underground coal mines.

B. Any modification of the present mine cars with automatic couplers would have to be accomplished by affixing coupler units to the bumpers of the present cars. The point where such couplers are affixed to the present chassis would be

subject to severe strain and stress that would be much more likely to cause coupling misalignment and failure, than in the case of the pin-link arrangement or in the case of new car units where the automatic coupler has been designed as part of the car chassis. The prospect of derailments and runaway cars, with the attendant dangers to employees, is less likely if pin and link couplings were used.

C. This type of mine car, particularly under the haulage layout at the mine, requires a much more flexible coupler arrangement than is possible with the relatively rigid automatic couplers, posing the danger of derailments and runaway cars. Furthermore, dips occur along the main haulageway which could possibly cause uncoupling of automatic couplers. The coupling arrangement proposed in this alternate system, involving the flexible pin and link coupling, with safeguards, provides a much safer operation.

D. No imminent danger is presently involved. Petitioner proposes his alternate method with the sincere conviction that it provides a safer method than the use of automatic couplers.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before October 31, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

SEPTEMBER 20, 1974.

[FR Doc.74-22752 Filed 9-30-74;8:45 am]

[Docket No. M 74-199]

PEABODY COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Peabody Coal Company has filed a petition to modify the application of 30 CFR 75.1405 to the following mines:

Mine	*Location*
Eagle No. 2	Gallatin County, Ill.
Simco underground	Coshocton County, Ohio.
Sunnyhill underground	Perry County, Ohio.
Ken underground	Ohio County, Ky.
River Queen underground	Muhlenberg County, Ky.

30 CFR 75.1405 provides:

All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970.

To be read concurrently with 30 CFR 75.1405 is 30 CFR 75.1045-1 which provides:

The requirement of § 75.1405 with respect to automatic couplers applies only to track haulage cars which are regularly coupled and uncoupled.

In support of its petition, Petitioner states:

1. Prior to the enactment in 1969 of the Coal Mine Health and Safety Act, all of Petitioner's underground mines, railroad cars were equipped with the link and pin type of coupler. Since enactment of the Act and specifically the section cited above, all mines that were developed thereafter have been equipped with the automatic type of coupler.

2. The transportation of coal in the underground mines cited herein is by the belt haulage system. Rail equipment is used only to transport personnel, supplies and heavy mining equipment not transported by the "lowboy" heavy equipment carriers which are the subject matter of another petition for modification filed concurrently with this petition. Need for coupling and uncoupling rail equipment when used for the purposes stated is minimal and not comparable with the need for coupling and uncoupling where the transportation of coal is involved.

3. Automatic coupling is not possible where the cars are situated on a bank curve track, on a dip in the track or on a roll in the track. Under these circumstances coupling must be done by hand alignment.

4. Where coupling of automatic couplers must be done by hand this must be accomplished by the miner standing astride the coupling and holding it in place. The inherent problems present in such a situation and the weight and mass of the automatic coupler is self-evident.

5. Petitioner's safety department records reflect that during the period commencing January 1, 1971, to date there have been two accidents involving the coupling of rail equipment in underground mines. Both of these accidents involved automatic coupling and neither involved hand and pin coupling. The alternative proposal hereinafter described by Petitioner provides at least equal protection to the miner and, in fact, provides a greater degree of protection.

Petitioner's alternative. Petitioner proposes to meet the safety standard enunciated in 30 CFR 75.1405 and 75.1405-1 on its rail equipment as follows:

1. Use the link and pin method of coupling and provide members of the transportation crew with coupling hooks which will allow couplings to be made without endangering the safety of the person performing the operation.

2. Instruct all transportation crew employees in the proper use of the coupling hooks and review such instructions periodically.

3. Petitioner has been advised that the link and pin coupling apparatus on certain types of mine cars can be modified so that the employee performing the coupling can move a lever located at the side of the car which in turn will raise and lower the coupling pin. Investigations are currently being conducted to determine if the coupling devices on the mine cars at the above-stated mines can be modified in such a fashion.

4. Petitioner has a regular instructional safety program for its employees which is designed to educate and train in safety techniques and to eliminate any exposure of its employees to the problems inherent in the coupling of cars.

5. Petitioner further will continue to make job safety analysis studies; continue to assure that haulage practices comply with company policy, as well as with federal and state requirements; continue to discuss with the individual employees job safety analysis studies, as well as federal and state regulations and continue its safety program as described above.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before October 31, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

SEPTEMBER 20, 1974.

[FR Doc.74-22743 Filed 9-30-74;8:45 am]

[Docket No. M74-200]

PEABODY COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Peabody Coal Company has filed a petition to modify the application of 30 CFR 75.1405 to the following mines:

Mine	*Location*
Alston Mine No. 3	Ohio County, Ky.
Alston Mine No. 4	Do.
Ken underground	Do.
River Queen underground	Muhlenberg County, Ky.
Star	Do.
Sunnyhill underground	Perry County, Ohio.
Baldwin No. 1	Randolph County, Ill.
Camp No. 1	Union County, Ky.
Camp No. 2	Henderson, Union, and Webster Counties, Ky.
Eagle No. 2	Gallatin County, Ill.
River King underground	St. Clair County, Ill.
Deer Creek	Carbon and Emery Counties, Utah.
Mine No. 10	Christian, Montgomery, and Sangamon Counties, Ill.
Simco underground.	Coshocton County, Ohio.

30 CFR 75.1405 provides:

All haulage equipment acquired by an operator of a coal mine on or after March 30, 1971, shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on March 30, 1970, shall also be so equipped within 4 years after March 30, 1970.

To be read concurrently with 30 CFR 75.1405 is 30 CFR 75.1405–1 which provides:

The requirement of § 75.1405 with respect to automatic couplers applies only to track haulage cars which are regularly coupled and uncoupled.

In support of its petition, Petitioner states:

1. "Lowboy" heavy equipment carriers are used to transport heavy mining equipment in and out of the mines. The frequency of such carriage is not daily, but is dependent upon the need for the transportation of the equipment.

2. The nature of the equipment transported necessitates that the "lowboy" carriers be equipped with a long drawbar tongue 12 to 15 feet in length and approximately 6 inches in diameter.

3. Automatic coupling is not possible due to the nature of the design of the long drawbar tongue. Thus, coupling must be done by hand alignment.

4. In order to couple the "lowboy" cars the miner must lift and direct the tongue to the coupling system on the other car or engine.

5. The mounting of an automatic coupler on the end of the tongue increases substantially the weight which the miner must lift and control in attempting to couple by hand.

6. Petitioner's safety department records reflect that during the period commencing January 1, 1971, to date there have been two accidents involving the coupling of rail equipment in underground mines. Both of these accidents involved automatic coupling and neither involved hand and pin coupling.

7. The alternative proposal hereinafter described by Petitioner provides at least equal protection to the miner and in fact provides a greater protection.

Petitioner's alternative. Petitioner proposes to meet the safety standard enunciated in 30 CFR 75.1405 and 75.1405–1 on "lowboy" heavy equipment carriers as follows:

1. A hole is located at the end of the tongue. The miner performing the coupling aligns the tongues and then places the pin through the holes. This act may be accomplished without endangering the miner's safety, as the length of the tongue prevents the miner from being caught between the cars.

2. Petitioner has a regular instructional safety program for its employees which is designed to educate and train in safety techniques and to eliminate exposure of its employees to the problems inherent in the coupling of cars.

3. Petitioner further will continue to make job safety analysis studies; continue to assure that haulage practices comply with company policy, as well as with federal and state requirements; continue to discuss with individual employees job safety analysis studies, as well as federal and state regulations and continue its safety program as described above.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before October 31, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

SEPTEMBER 20, 1974.

[FR Doc.74–22744 Filed 9–30–74;8:45 am]

[Docket No. M 75–10]

POCAHONTAS FUEL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Pocahontas Fuel Company has filed a petition to modify the application of 30 CFR 75.1704(2) (e) to the following mines located in Pocahontas, Virginia:

Mines

Buckeye Colliery.	No. 6 Cook Mine.
Crane Creek No. 11 Mine.	No. 5 Eagle Mine.
Eckman No. 11 Mine.	Hernshaw No. 2 Mine.
Eckman No. 2 Mine.	Modoc Mine.
Lynco Colliery No. 2.	Turkey Gap Mine.

30 CFR 7517.04(2) (e) provides:

Practice escapeway drills shall be conducted so that all miners are kept informed of the route of escape, any necessary ventilation changes, the location of fire doors, check curtains, or smoke retarding doors, and plans for diverting smoke from escapeways. Such practice drills shall ensure that each miner travels the escapeways through his respective working section up to the main escapeways at least once every ninety days, and that at least two miners, including the supervisor, on each producing section travel through the main escapeway up to the portal at least once every six weeks.

In support of its petition, Petitioner states:

Petitioner has purchased a large number of reflector signs, made of masonite with white reflective paint and taped arrows (green for intake escapeway and red for return) which measure approximately 2 feet by 1 foot.

Petitioner has installed said signs in the center of each intersection, at every turn, and at frequent intervals in the straight roadbed. These signs are visible for fourteen breakthroughs. The number of signs installed in a given mine varies according to the length of the road and the number of turns.

Petitioner is of the opinion that the installation of said signs is a safer method of ensuring the miners' knowledge about the escapeways since the signs are almost constantly in view of the miners while they are working. The proposed alternative achieves the result intended by § 75.1704(2) (e) and will at all times guarantee no less than the same measure of protection afforded the miners in said mines by such standard.

Petitioner's Plan for an Alternative System. Petitioner proposes to install and maintain reflective signs at the center of each intersection, at every turn and at frequent intervals on the straight roadbed in lieu of conducting escapeway drills for all miners.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before October 31, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

SEPTEMBER 20, 1974.

[FR Doc.74–22746 Filed 9–30–74;8:45 am]

[Docket No. M75–7]

VESTA-SHANNOPIN COAL DIVISION

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Vesta-Shannopin Coal Division has filed a petition to modify the application of 30 CFR 75.305 to its Vesta No. 5 Mine, Pittsburgh, Pennsylvania.

30 CFR 75.305 provides:

In addition to the preshift and daily examination required by this Subpart D, examinations for hazardous conditions, including tests for methane, and for compliance with the mandatory health or safety standards, shall be made at least once each week by a certified person designated by the operator in the return of each split of air where it enters the main return, on pillar falls, at seals, in the main return, at least one entry of each intake and return aircourse in this entirety, idle workings, and insofar as safety considerations permit, abandoned areas. Such weekly examinations need not be made during any week in which the mine is idle for the entire week, except that such examinations shall be made before any other miner returns to the mine. The person making such examinations and tests shall place his initials and the date and time at the places examined, and if any hazardous condition is found, such condition shall be reported to the operator promptly. Any hazardous condition shall be corrected immediately. If such condition creates an imminent danger, the operator shall withdraw all persons from the area effected by such condition to a safe area, except those persons referred to in section 104(d) of the Act, until such danger is abated. A record of these examinations, tests, and actions taken shall be recorded in ink or indelible pencil in a book approved by the Secretary kept for such purpose in an area on the surface of the mine chosen by the

mine operator to minimize the danger of destruction by fire or other hazard, and one record shall be open for inspection by interested persons.

In support of its petition, Petitioner states:

Vesta 5 Mine is an old mine with many worked-out areas. Most of the return air entries for the locations in question, from Kefover Shaft to the Vestaburg Drift Mouth, were developed approximately 45 years ago before the advent of roof bolting to control the roof. The timbers that have been installed for roof support during the mining cycle have deteriorated. Thus, there have been numerous roof falls in those return airways. The roof falls that have been encountered in attempts to travel these return air courses are extremely high and, in some areas, very tight. These areas were not traveled prior to the Federal Coal Mine Health and Safety Act of 1969 because of the above-mentioned conditions. However, air and methane readings can be taken in certain areas along the return airways to assure that the return air is traveling in its proper course and usual volume, so that methane does not accumulate beyond legal limits. The return air courses in question are located in a non-coal producing area of the mine. Only a belt haulage entry and a supply track haulage entry which are presently being developed will be located in this area.

These return air courses are not capable of being traveled today. To restore these returns to a travelable condition would be an almost impossible task requiring exorbitant expenditures of money and years of work. Of the alternate methods available, there is only one that is both practical and feasible. This alternate method would, at all times, guarantee the miners at the Vesta 5 Mine no less than the same measure of protection afforded by the mandatory standard.

Alternate method. A practical and feasible alternate method to the mandatory safety standard would be the establishment of air measuring stations from Kefover Shaft to the Vestaburg Drift Mouth. The air measuring stations would assure that the criteria outlined in Section 75–305 would be satisfied. The return air in question would at no time have any effect on the present workings.

Guidelines would be as follows:

1. Methane and air readings will be made by a certified person.

2. Methane will not be allowed to accumulate in these return airways beyond legal limits.

3. The eight (8) measuring stations will at all times be maintained in good working condition.

4. A date board or book will be located at each measuring station and air and methane readings will be taken and recorded.

5. Examinations will be made at each measuring station daily by a properly qualified person.

6. The number of employees who work in this area will be minimal. Each man is able to reach a separate split of air in a reasonable period of time. Each man working in this area is required to carry a one-hour, self-rescuing device on his person at all times.

7. A diagram showing the direction of air flows in this area will be posted at the measuring stations and at other strategic locations.

Measure of protection. The measuring stations will assure that the criteria in Section 75–305 will be satisfied. The effect will be that the mandatory safety standard will be met as though the returns were capable of being traveled. This alternate will at all times guarantee no less than the same measure of protection afforded the miners at the Vesta 5 Mine as provided by the mandatory standard.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before October 31, 1974. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

JAMES R. RICHARDS,
Director, Office of Hearings and Appeals.

SEPTEMBER 20, 1974.

[FR Doc.74-22745 Filed 9-30-74;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, and Corrections

By notice in the FEDERAL REGISTER of February 19, 1974, Part II, there was published a list of the properties included in the National Register of Historic Places. This list has been amended by a notice in the FEDERAL REGISTER of March 5 (pp. 8357–8362), April 2 (pp. 12042–12046), May 7 (pp. 16173–16177), June 4 (pp. 19791–19796), July 2 (pp. 24383–24388), August 6 (pp. 28295–28301), and September 3 (pp. 31930–31936). Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agecnies to take cognizance of the properities included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470.

The following properties have been added to the National Register since September 3, 1974:

Alabama

Coffee County

Enterprise, *Seaboard Coastline Depot*, Railroad and West College (8–7–74).

Montgomery County

Montgomery, * *Dexter Avenue Baptist Church*, 454 Dexter Avenue (7–1–74).

Arizona

Cochise County

Sierra Vista, *Garden Canyon Petroglyphs*, Garden Canyon Road (7–30–74).

Coconino County

Grand Canyon, *Hermits Rest Concession Building*, Grand Canyon National Park (8–7–74).

Pinal County

Florence, *First Florence Courthouse*, Fifth and Main Streets (7–30–74).

Arkansas

Crawford County

Van Buren, *Wilhauf House*, 109 North Third Street (8–27–74).

Pulaski County

North Little Rock, *Fort Logan H. Roots Military Post*, Scenic Hill Drive (9–4–74).

Washington County

Fayetteville, *Old Post Office*, City Square (8–27–74).

California

Alameda County

Berkeley, *St. John's Presbyterian Church*, 2640 College Avenue (8–7–74).

San Diego County

Pine Valley vicinity, *Bear Valley Archaeological Site*, South of Pine Valley (7–30–74).

Santa Clara County

San Jose, *Winchester House*, 525 South Winchester Blvd. (8–7–74).

Colorado

Conejos County

Antonito, *Warshauer Mansion*, 515 River Street (8–30–74).

Jefferson County

Morrison, *Morrison School House*, 226 Spring Street (9–4–74).

Lake County

Twin Lakes vicinity, *Interlaken Resort District*, east of Twin Lakes off Colorado 82 (8–7–74).

Connecticut

New Haven County

Hamden, *Whitney, Eli, Gun Factory Site*, 915–940 Whitney Avenue (8–13–74).
Wallingford, *Barker, John, House*, 898 Clintonville Road (8–23–74).

Florida

Dade County

Coconut Grove, *El Jardin*, 3747 Main Highway (8–30–74).

Hillsborough County

Tampa, *Stovall House*, 4621 Bayshore Boulevard (9–4–74).
Tampa, *Ybor City Historic District*, irregular pattern on both sides of East Broadway between 12th and 22nd Sts. (8–28–74).

Georgia

Clarke County

Athens, *Old Presbyterian Manse*, 185 North Hull Street (8–19–74).

Harris County

West Point, *White Hall*, off U.S. 29 (8–19–74).

Guam

Agana, *Fort Santa Agueda*, Route 7 (8–30–74).
Asan, *Memorial Beach Park*, Route 1 (8–7–74).

Umatac, *Fort Santo Angel*, northwest corner of Umatac Bay (8–30–74).
Umatac, *San Dionisio Church Ruins*, Route 2 (8–30–74).

Hawaii

Hawaii County

Hawaii Volcanoes National Park, *Ainapo Trail*, east of Mauna Loa (8–30–74).
Hawaii Volcanoes National Park, *1790 Footprints*, Hawaii 11 (8–7–74).
Kailua-kona vicinity, *Kuamo'o Burials*, west of Hawaii 11 (8–13–74).
North Kona, *Ahua A Umi Heiau*, between Hualalai and Mauna Loa (8–13–74).

Honolulu County

Lualualei, *Waialua Agricultural Company Engine No. 6*, off Hawaii 78 (8–19–74).

Idaho

Ada County

Boise, *Union Pacific Mainline Depot*, 1701 Eastover Terrace (8–7–74).

Illinois

Cook County

Chicago, **Wells-Barnett, Ida B., House*, 3624 South Martin Luther King Drive (7–1–74).
Chicago, *Jewelers' Building*, 15–19 South Wabash (8–7–74).

Indiana

Marion County

Indianapolis, *Michigan Road Toll House*, 4702 Michigan Road, Northwest (8–7–74).

Iowa

Ida County

Ida Grove, *Moorehead Stagecoach Inn*, off U.S. 59 (8–27–74).

Johnson County

Iowa City, *Wentz, Jacob, House*, 219 North Gilbert Street (8–27–74).

Muscatine County

Muscatine, *McKibben, S. M., House*, Walnut Street between Front and Second (8–27–74).

Polk County

Des Moines, **Fort Des Moines Provisional Army Officer Training School.*

Kansas

Douglas County

Clinton vicinity, *Steele, J. C., House*, east of Clinton (8–7–74).

Wilson County

Neodesha, *Norman No. 1 Oil Well Site*, east Mill Street (8–28–74).

Kentucky

Adair County

Columbia, *Adair County Courthouse*, 500 Public Square (8–27–74).

Campbell County

Bellevue, *Sacred Heart Church*, 337 Taylor Avenue (8–13–74).

Clark County

Winchester, *Clark County Courthouse*, Main Street (8–7–74).

Laurel County

London, *Federal Building-Courthouse*, Main and Third Streets (8–19–74).

Lawrence County

Louisa, *Vinson, Fred M., Birthplace*, East Madison and Vinson Boulevard (9–4–74).

Mason County

Maysville, *Old Library Building*, 221 Sutton Street (8–30–74).

Louisiana

East Feliciana Parish

Port Hudson, **Port Hudson.*

Jefferson Parish

Grand Isle vicinity, *Fort Livingston*, northeast of Grand Isle on western tip of Grande Terre Island (8–30–74).

Maine

Cumberland County

Portland, *Marine Hospital*, 331 Veranda Street (8–21–74).

Hancock County

Bucksport, *Emery, James, House*, Main Street (8–13–74).
Ellsworth, *Jordan, Col. Meltiah, House (Ellsworth Public Library)*, State Street (8–13–74).

Knox County

Rockport, *Spite House*, Deadman's Point (8–13–74).

Penobscot County

Bangor, *Bangor Standpipe*, Jackson Street (8–30–74).

Maryland

Charles County

Newport vicinity, *Sarum*, southeast of Newport off Maryland 234 (8–13–74).

Prince Georges County

Bladensburg, *Washington, George, House*, Baltimore Avenue at Upshur Street (8–7–74).
Laurel vicinity, *Snow Hill*, south of Laurel off Maryland 197 (8–13–74).

Somerset County

Princess Anne, *Beckford*, Beckford Avenue (8–13–74).
Shelltown vicinity, *Reward*, southwest of Shelltown on Williams Point Road (8–13–74).

Talbot County

Easton vicinity, *Myrtle Grove*, northwest of Easton on Goldsborough Neck Road (8–13–74).

Massachusetts

Bristol County

Westport, **Cuffe, Paul, Farm*, 1504 Drift Road.

Norfolk County

Sharon, *Cobb's Tavern*, 41 Bay Road (8–7–74).

Plymouth County

Marshfield, **Webster, Daniel, Law Office*, Careswell and Webster Streets.
Plymouth, *National Monument to the Forefathers*, Allerton Street (8–30–74).

Michigan

Mackinac County

Mackinac Island vicinity, *Round Island Lighthouse*, south of Mackinac Island in Hiawatha National Forest (8–21–74).

St. Clair County

Port Huron, *Federal Building*, 526 Water Street (8–7–74).

Wayne County

Grosse Ile, *East River Road Historic District*, East River Road (8–13–74).

Minnesota

Itasca County

Inger vicinity, *Old Cut Foot Sioux Ranger Station*, south of Inger off Minnesota 46 (8–7–74).
Inger vicinity, *Turtle Oracle Mound*, off Minnesota 35 (8–27–74).

Redwood County

Belview, *Odeon Theater*, off Minnesota 273 (8–30–74).

Mississippi

Jackson County

Pascagoula, *Louisville & Nashville Railroad Depot*, Railroad Avenue (8–27–74).

Warren County

Youngton vicinity, *Federal Fortifications along Bear Creek*, southwest of Youngton (8–30–74).

Missouri

Mississippi County

East Prairie vicinity, *Mueller Archeological Site*, southeast of East Prairie (8–13–74).

Nebraska

Butler County

Bellwood vicinity, *Bellwood Archeological Site*, northeast of Bellwood (8–13–74).

Douglas County

Omaha, *Astro Theater*, 2001 Farnam Street (8–13–74).
Omaha, *Burlington Station*, 925 South 10th Street (8–7–74).
Omaha, *Cornish, Joel N., House*, 1404 South 10th Street (8–13–74).
Omaha, *Storz, Gottlieb, House*, 3708 Farnam Street (8–7–74).
Omaha, *Trinity Cathedral*, 113 North 18th Street (8–7–74).

Nance County

Genoa vicinity, *Pawnee Mission and Burnt Village Archeological Site*, southwest of Genoa (8–7–74).

New Hampshire

Merrimack County

West Franklin, **Webster, Daniel, Family Home (The Elms)*, South Main Street.

New Mexico

De Baca County

Fort Sumner vicinity, *Fort Sumner Ruins*, southeast of Fort Sumner off NM 212 (8–13–74).

Santa Fe County

Santa Fe, *Federal Building*, Cathedral Place at Palace (8–15–74).

Socorro County

Socorro, *Baca, Severo A., House*, Park and Church Streets (8–13–74).
Socorro, *Garcia Opera House*, Terry Avenue and California Street (8–13–74).

Taos County

Taos vicinity, *Picuris Pueblo*, south of Taos (8–13–74).

New York

Cayuga County

Auburn, **Tubman, Harriet, Home for the Aged*, 180–182 South Street.

Erie County

East Aurora, **Fillmore, Millard, House*, 24 Shearer Avenue.

Kings County

Brooklyn, *Casemate Fort, Whiting Quadrangle*, Ft. Hamilton, off New York 27 (8–7–74).
Brooklyn, **Perry, Matthew C., House*, Quarters A, U.S. Naval Facility.

Livingston County

Geneseo, *The Homestead*, New York 39 and U.S. 20A (8–30–74).

Monroe County

Pittsford, *Phoenix Building*, South Main and State Streets (8–7–74).
Rochester, *Genesee Lighthouse*, 70 Lighthouse Street (8–13–74).

New York County

New York, *Federal Office Building*, 641 Washington Street (8–30–74).

Rensselaer County

Troy, *Second Street Historic District*, both sides of Second Street from Washington Street to Broadway (8–7–74).

Suffolk County

Smithtown, *Halliock Inn*, 263 East Main Street (8–7–74).

Westchester County

Somers vicinity, *Somers Town House (Elephant Hotel)*, junction of U.S. 202 and New York 100 (8–7–74).

North Carolina

Cumberland County

Linden vicinity, *Ellerslie*, west of Linden on State Road 1607 at junction with State Road 1606 (8–7–74).
Wade vicinity, *Old Bluff Presbyterian Church*, north of Wade on State Road 1709 (8–7–74).

Lee County

Cumnock vicinity, *Endor Iron Furnace*, southeast of Cumnock (8–13–74).

Lincoln County

Catawba Springs vicinity, *Vesuvius Furnace*, on State Road 1382 north of North Carolina 73 (8–13–74).

Perquimans County

Hertford vicinity, *Cove Grove*, east of Hertford near junction of State Road 1301 and 1302 (8–7–74).

Warren County

Manson vicinity, *Duke, Green, House*, southeast of Manson off State Road 1100 (8–7–74).

Ohio

Ashtabula County

Jefferson, **Giddings, Joshua Reed, Law Office*, 112 North Chestnut Street.

Champaign County

Mechanicsburg vicinity, *Potter, Carl, Mound*, southwest of Mechanicsburg (8–13–74).

Clark County

Springfield vicinity, *Brewer Log House*, 2665 Old Springfield Road (8–13–74).

Cuyahoga County

Bay Village, *Bay View Hospital*, 23200 Lake Road (8–27–74).
Cleveland, *North Union Shaker Site*, in Shaker and Cleveland Heights between North Park and South Park boulevards (8–13–74).
Cleveland, *The Temple (Tijereth Israel Society)*, University Circle at Silver Park (8–30–74).
Independence, *Kuenzer, Joseph II, House*, 2345 Rockside Road (8–13–74).

Greene County

Wilberforce, **Young, Colonel Charles, House*, Columbus Pike between Clifton and Stevenson roads.

Franklin County

Central College vicinity, *Squire's Glen Farm*, 6770 Sunbury Road (8–13–74).

Geauga County

Claridon, *Claridon Congregational Church*, U.S. 322 (8–13–74).

Hamilton County

Cincinnati vicinity, *Miller-Leuser Log House*, Clough Pike and Newtown Road (8–30–74).

Jefferson County

Mt. Pleasant, **Lundy, Benjamin, House*, Union and Third streets.

Lorain County

Oberlin, *Congregational Church of Christ*, West Lorain and North Main streets (8–13–74).

Mahoning County

Youngstown, *Arlington Avenue District*, 304–373 Arlington Avenue (8–13–74).
Youngstown, *Mahoning County Courthouse*, 120 Market Street (8–13–74).

Montgomery County

Dayton, *Smith, Edwin, House*, 131 West Third Street (8–13–74).

Pickaway County

Tarlton vicinity, *Horn Mound*, southeast of Tarlton (8–7–74).

Portage County

Aurora, *Howard, C. R., House*, 411 East Garfield (8–13–74).
Kent vicinity, *Ferrey, Aaron, House (Winan Snyder House)*, 5058 Sunny Brook Road (8–13–74).

Summit County

Akron, *Perkins, Colonel Simon, Mansion*, 550 Copley Road (8–13–74).
Northfield Center, *Palmer House*, 9370 Olde Eight Road (8–13–74).
Peninsula, *Peninsula Village Historic District*, irregular pattern along both sides of Ohio 303 (8–23–74).

Wayne County

Orrville vicinity, *Barnett-Hoover Log House*, northwest of Orrville (8–13–74).

Oklahoma

Oklahoma County

Oklahoma City, *Post Office, Courthouse and Federal Office Building*, Robinson at 3d (8–30–74).

Oregon

Marion County

West Stayton vicinity, *Pleasant Grove Presbyterian Church*, northwest of West Stayton (8–7–74).

Pennsylvania

Lebanon County

Lebanon, *St. Lukes Episcopal Church*, Sixth and Chestnut Streets (9–4–74).

Rhode Island

Newport County

Portsmouth, **Battle of Rhode Island Site.*

South Carolina

Beaufort County

Beaufort, **Smalls, Robert, House*, 511 Prince Street.
Beaufort vicinity, *Charles Forte*, south of Beaufort on Parris Island (8–7–74).
Hilton Head Island vicinity, *Green's Shell Enclosure*, Northwest of Hilton Head Island off U.S. 278 (8–7–74).

Charleston County

Charleston, *McLeod Plantation*, 325 Country Club Drive (8–13–74).
Charleston, *Nicholson, James, House (Ashley Hall School)*, 172 Rutledge Avenue (8–30–74).
Charleston, *U.S. Post Office and Courthouse*, 83 Broad Street (8–13–74).
Edisto Island vicinity, *Spanish Mount Point (The Mound)*, off South Carolina 174 (8–30–74).
Rantowles vicinity, **Stono River Slave Rebellion Site.*

Chester County

Lockhart vicinity, *McCollum Fish Weir*, southeast of Lockhart on Broad River (8–28–74).

Dillon County

Latta vicinity, *Allen, Joel, House*, northwest of Latta (8–13–74).

Edgefield County

Edgefield vicinity, *Darby Plantation*, southeast of Edgefield off U.S. 25 (8–13–74).

Fairfield County

Winnsboro vicinity, *Blair Mound*, northwest of Winnsboro (8–23–74).
Winnsboro vicinity, *McMeekin Rock Shelter*, west of Winnsboro (8–23–74).

Georgetown County

Plantersville vicinity, *Prince Frederick's Chapel Ruins*, southeast of Plantersville on Route 52 (8–28–74).

Union County

Union, *Episcopal Church of the Nativity*, Church and Pinckney Streets (8–30–74).
Union, *Union County Jail*, Main Street (8–30–74).

South Dakota

Stanley County

Fort Pierre, *LaVerendrye Site*, off U.S. 83 (8–7–74).

Tennessee

Cheatham County

Ashland City vicinity, *Indian Town Bluff*, west of Ashland City off Tennessee 49 (8–30–74).

Davidson County

Nashville vicinity, *Devon Farm*, south of Nashville on Tennessee 100 (8–28–74).

Monroe County

Vonore vicinity, *McGhee Mansion*, east of Vonore on Fort Loudon Road (8–28–74).

Shelby County

Memphis, *Fowlkes-Boyle House*, 208 Adams Avenue (8–7–74).
Memphis, *St. Mary's Catholic Church*, 155 Market Street (8–7–74).

Texas

Brewster County

Big Bend National Park, *Rancho Estelle*, on Rio Grande (8–3–74).

Harris County

Houston, *U.S. Customhouse*, San Jacinto at Rusk Street (8-28-74).

Hunt County

Greenville, *Post Office Building*, Lee at King Street (8-7-74).

Travis County

Austin, *Little Campus*, bounded by 18th, Oldham, 19th, and Red River Streets (8-13-74).

Walker County

Huntsville, **Houston, Sam, House* (*Woodland*), Avenue L.

Vermont

Washington County

Northfield vicinity, *Northfield Falls Covered Bridge*, north of Northfield off Vermont 12 (8-13-74).
Warren, *Warren Covered Bridge*, off Vermont 100 (8-7-74).

Windsor County

Hartford, *Strong, Jedediah II, House*, Clubhouse and Deweys Mills Roads (8-13-74).

Virginia

Fluvanna County

Columbia vicinity, *Point of Fork Plantation*, west of Columbia off Virginia 624 (8-13-74).

Henrico County

Glen Allen vicinity, *Meadow Farm*, Mountain and Courtney Roads (8-13-74).

Lexington (independent city)

**Virginia Military Institute.*

Louisa County

Green Springs, **Green Springs Historic District.*

Staunton (independent city)

Stuart Hall (main building), 235 West Frederick (8-13-74).

Wythe County

Fosters Falls vicinity, *Martin Site*, northeast of Fostsers Falls off Virginia 618 (8-13-74).

Washington

King County

Seattle, *Moore Theatre and Hotel Building*, 1932 2d Avenue (8-30-74).
Seattle, *Union Station*, 4th Street and South Jackson (8-30-74).

Wahkiakum County

Deep River vicinity, *Deep River Pioneer, Lutheran Church*, north of Deep River (8-7-74).

West Virginia

Hardy County

Mathias vicinity, *Lee, Lighthorse Harry, Cabin*, west of Mathias in Lost River State Park (7-30-74).

Kanawha County

Charleston, *Holly Grove Mansion*, 1710 East Kanawha Boulevard (8-28-74).

Monongalia County

Ringgold vicinity, *Hamilton Farm Petroglyphs*, southeast of Ringgold off U.S. 119 (8-7-74).

Wisconsin

Chippewa County

Chippewa Falls, *Cook-Rutledge House*, 509 West Grand Avenue (8-7-74).

Dodge County

Beaver Dam, *Williams Free Library*, 105 Park Avenue (8-7-74).

Marathon County

Wausau, *Stewart, Hiram C., House*, 521 Grant Street (8-30-74).

Winnebago County

Neenah, *Babcock, Havilah, House*, 537 East Wisconsin Avenue (8-7-74).

Wyoming

Carbon County

Elk Mountain vicinity, *Allen, Garrett, Prehistoric Site*, northwest of Elk Mountain off I-80 (8-7-74).

The following are corrections for properties previously listed in the Federal Register:

Delaware

Kent County

Dover, *Old State House*, The Green (2-24-71).

District of Columbia

Washington

Meridian House (Washington International Center), 1630 Crescent Place NW. (5-8-73).

Florida

Wakulla County

Wakulla Beach vicinity, *Bird Hammock*, about 2 miles north of Wakulla Beach (12-15-72).

Georgia

Bibb County

Macon, *Cowles House*, 988 Bond Street (6-21-71).

Iowa

Washington County

Washington, *Conger, Jonathan Clark, House*, 903 East Washington Street (6-28-74).

Kansas

Chase County

Strong City vicinity, *Spring Hill Farm and Stock Ranch House*, 3 miles north of Strong City on Kansas 177 (4-16-71).

Douglas County

Lecompton, **Lecompton Constitution Hall*, Elmore Street between Woodson and Third streets (5-14-71).

Linn County

Trading Post vicinity, **Marais des Cygnes Massacre Site*, 5 miles northeast of Trading Post (6-21-71).

Louisiana

Natchitoches Parish

Melrose, **Melrose Plantation*, Louisiana 119 (6-13-72).

Mississippi

Harrison County

Biloxi, **Beauvoir (Jefferson Davis Shrine)*, 200 West Beach Boulevard (11-7-73).

New Jersey

Somerset County

Somerville, *Old Dutch Parsonage*, 65 Washington Place (1-25-71).

North Carolina

McDowell County

Marion vicinity, *Carson House*, west of Marion on U.S. 70 (9-15-70).

Moore County

Glendon vicinity, *Alston House*, southeast of Glendon on State Road 1624 (2-26-70).

Ohio

Clermont County

Neville vicinity, *Snead Mound*, off U.S. 52 (7-30-74).

Fairfield County

Carroll vicinity, *Old Maid's Orchard Mound*, west of Carroll (7-15-74).

Fayette County

Washington Court House, *Fayette County Courthouse*, 517 Columbus Avenue (7-2-73).

Franklin County

Columbus, *Old, Old Post Office (U.S. Post Office and Courthouse)*, 121 East State Street (11-28-73).

Miami County

Piqua, *Fort Piqua Hotel (Plaza Hotel, The Favorite Hotel)*, 114 West Main Street (2-15-74).

Ross County

Bainbridge vicinity, *Seip Earthworks and Dill Mounds District*, east of Bainbridge (11-10-70).

Wood County

Perrysburg vicinity, *Spafford House*, 27338 West River Road (7-15-74).

Oklahoma

Cherokee County

Park Hill, **Murrell House (Hunter's House)* (6-22-70).

Pennsylvania

Philadelphia County

Philadelphia, **Mother Bethel A.M.E. Church*, 419 South Sixth Street (3-16-72).
Philadelphia, **Musical Fund Society Hall*, 808-810 Locust Street (3-11-71).

South Carolina

Richland County

Columbia, *Chestnut Cottage*, 1718 Hampton Street (5-6-71).

Spartanburg County

Moore vicinity, *Price House (Price's Post Office)*, southeast of Moore at junction of County Roads 86, 199, 200 (10-28-69).

Tennessee

Hamilton County

Chattanooga, *Ross' Landing*, 101 Market Street (6-27-74).

Knox County

Knoxville vicinity, *Marble Springs*, south of Knoxville on Neubert Springs Road (5-6-71).

Lauderdale County

Fort Pillow, **Fort Pillow*, Tennessee 87 (4-11-73).

Rutherford County

Smyrna vicinity, *Davis, Sam, House*, northeast of Smyrna off Tennessee 102 (12-23-69).

Texas

Galveston County

Galveston, *Ashton Villa (El Mina Shrine Temple)*, 2328 Broadway (10-28-69).

Virginia

Hampton (independent city)

Chesterville Plantation Site, Langley Research Center (NASA) (8–14–73).

West Virginia

Ohio County

Wheeling, *Shepherd Hall (Monument Place)*, Monument Place and Kruger Street (12–18–70).

Wisconsin

Fond du lac County

Ripon, **Little White Schoolhouse*, Blackburn and Blossom Streets (8–14–73).

The following property was omitted from the February 19, 1974 Federal Register:

Massachusetts

Middlesex County

Arlington, *Old Schwamb Mill*, 17 Mill Lane and 29 Lowell Street (10–7–71).

Historic properties which are either (1) eligible for nomination to the National Register of Historic Places or (2) nominated but not yet listed are entitled to protection under Executive Order 11593. Before an agency of the Federal Government may undertake any project which may have an effect on such a property, the Advisory Council on Historic Preservation shall be given an opportunity to comment on the proposal. Authorization for such comment are in section 1(3) and section 2(b) of Executive Order 11593.

The Secretary of the Interior has determined that the following properties may be eligible for inclusion in the National Register of Historic Places and are therefore entitled to protection under section 1(3) and section 2(b) of Executive Order 11593 and other applicable Federal legislation. All determinations of eligibility are made under the Secretary of the Interior's authorities in sections 2(b) and 3(f) of Executive Order 11593. This list is not complete. As required by Executive Order 11593, an agency head shall refer any questionable actions to the Secretary of the Interior for an opinion respecting the property's eligibility for inclusion in the National Register.

Alabama

Dallas County

Selma, *Gill House*, 1109 Selma Avenue.

Madison County

Huntsville, *Lee House*, Red Stone Arsenal.

Alaska

Northwestern District

Little Diomede Island, *Iyapana, John, House.*

Arizona

Cochise County

Sierra Vista vicinity, *Old Fort Huachuca*, west of Sierra Vista.

Coconino County

Grand Canyon, *El Tovar Hotel*, Park Route.
Grand Canyon, *Grand Canyon Railroad Station*, Park Route 8a.
Grand Canyon National Park, *Old Post Office.*
Grand Canyon National Park, *O'Neill, Buckey, Cabin.*
Grand Canyon National Park, *Ranger's Dormitory.*
Grand Canyon National Park, *Stables-Blacksmith Shop Complex.*
Grand Canyon National Park, *Superintendent's Residence.*
Grand Canyon National Park, *Water Disposal Plant.*
Sedona vicinity, *Mayhew's Lodge*, north of Sedona on U.S. 89A in Coconino National Forest.

Pima County

Tucson vicinity, *Old Santan*, northwest of Tucson.

Yuma County

Wickenburg vicinity, *Harquahala Peak Observatory*, southwest of Wickenburg.
Yuma, *Southern Pacific Depot.*

Arkansas

Ouachita County

Camden, *Old Post Office*, Washington Street.

California

Imperial County

Glamis vicinity, *Chocolate Mountain Archeological District.*

Marin County

Point Reyes, *Point Reyes Light Station.*

Modoc County

Alturas vicinity, *Rail Spring*, about 30 miles north of Alturas in Modoc National Forest.
Alturas vicinity, *Yellowjackets Landing*, northwest of Alturas in Modoc National Forest.
Canby vicinity, *Sevenmile Flat*, northwest of Canby in Modoc National Forest.

Monterey County

Big Sur, *Point Sur Light Station.*
King City vicinity, *Painted Cave*, southwest of King City on Hunter Liggett Military Reservation.
Pacific Grove, *Point Pinos Light Station.*

Riverside County

Blythe vicinity, *Blythe Intaglios, Indian Intaglios*, north of Blythe on U.S. 95.

San Diego County

San Diego, Initial Point.

San Luis Obispo County

San Luis Obispo, *San Luis Obispo Light Station.*

San Mateo County

Ano Nuevo vicinity, *Pigeon Point Light Station.*
Hillsborough, *Point Montara Light Station.*

Shasta County

Whiskeytown, *Irrigation System (165 and 166)*, Whiskeytown National Recreation Area.

Sonoma County

Dry Creek-Warm Springs Valley Archeological District.
Santa Rosa, *Santa Rosa Post Office.*

Colorado

Denver County

Denver, *Eisenhower Memorial Chapel*, Building No. 27, Reeves Street, on Lowry AFB.

Eagle County

Wolcott, *Wolcott Stage Station.*

Rio Blanco County

Meeker vicinity, *Thornburgh Monument*, northeast of Meeker on Thornburgh Road 9 miles from junction Colorado 13 and 789.
Rangely vicinity, *Canon Pintado*, south of Rangely on Highway 139.
Rangely vicinity, *Carrot Men Pictograph Site*, southwest of Rangely and west of Rangely Dragon Road.

Connecticut

Hartford County

Hartford, *Church of the Good Shepherd and Parish House*, intersection of Wyllys Street and Van Block Avenue.
Hartford, *Colt Factory Housing*, Huyshope Avenue between Sequassen and Weehasset Streets.
Hartford, *Colt Factory Housing ("Potsdam Village")*, Curcombe Street between Hendrickxsen Avenue and Locust Street.
Hartford, *Colt Park*, bounded by Weathersfield Avenue, Stonington, Wawarme, Curcombe, and Marseek Streets and by Huyshope and Van Block Avenues.
Hartford, *Colt, Colonel Samuel, Armory, and related factory buildings*, Van Dyke Avenue.
Hartford, *Flat-iron Building (Motto Building)*, intersection of Congress Street and Maple Avenue.
Hartford, *Houses on both sides of Congress Street.*
Hartford, *Houses on Charter Oak Place.*
Hartford, *Houses on Wethersfield Avenue*, between Morris and Wyllys Streets, particularly Nos. 97–81, 65.

Middlesex County

Middletown, *Mather-Douglas-Santangelo House*, 11 South Main Street.

New Haven County

New Haven, *Tannery Building and appended office*, 202 George Street.

New London County

New London, *Thames Shipyard*, west bank of Thames River north of the U.S. Coast Guard Academy.

Delaware

Suffolk County

Lewes, *Delaware Breakwater.*
Lewes, *Harbor of Refuge Breakwater.*

District of Columbia

Auditors' Building, 201 14th Street SW.
Riggs Bank, 800 17th Street NW.

Florida

Hillsborough County

Tampa, *Firehouse No. 10*, Ybor City.

Georgia

Bryan County

Fort Stewart, *Site of Old Fort Argyle*, NE of Headquarters via GA 144, east Georgia 67 N., east to Ogeechee River.

Chatham County

Archeological Site, north end of Skidway Island.

Clay County

Archeological Site WGC–73, downstream from Walter F. George Dam.

Fulton County

Fort McPherson, *Forscom Command Sergeant Major's Quarters (Bldg. No. 532).*

Heard County

Philpott Homesite and Cemetery, on bluff above Chattahoochee River where Grayson Trail leads into river.

Stewart County

Rood Mounds.

Sumter County

Americus, *Aboriginal Chert Quarry*, Souther Field.

Hawaii

Moanalua Valley.

Hawaii County

Hawaii Volcanoes National Park, *Mauna Loa Trail.*

Maui County

Hana vicinity, *Kipahulu Historic District*, southwest of Hana on Route 31.

Idaho

Ada County

Boise, *Ada Theater*, 700 Main Street.
Boise, *Alexanders*, 826 Main Street.
Boise, *Falks Department Store*, 100 North Eighth Street.
Boise, *Idaho Building*, 216 North Eighth Street.
Boise, *Simplot Building* (*Boise City National Bank*), 805 Idaho Street.
Boise, *Union Building*, 712½ Idaho Street.

Clearwater County

Orofino vicinity, *Canoe Camp—Site 18*, west of Orofino on U.S. 12 in Nez Perce National Historical Park.

Custer County

Challis, *Challis Bison Jump.*

Idaho County

Kamiah vicinity, *East Kamiah—Site 15*, southeast of Kamiah on U.S. 12 in Nez Perce National Historical Park.

Lemhi County

Tendoy, *Lewis and Clark Trial, First Flag Unfurling.*
Tendoy, *Lewis and Clark Trial, Pattee Creek Camp.*

Lewis County

Jacques Spur vicinity, *St. Joseph's Mission* (*Slickpoo*), southeast of Jacques Spur on Mission Creek off U.S. 95.

Nez Perce County

Lapwai, *Fort Lapwai Officer's Quarters*, Phinney Drive and C Street in Nez Perce National Park.
Lapwai, *Spalding.*

Illinois

Cook County

Chicago, *McCarthy Building* (*Landfield Building*), northeast corner of Dearborn and Washington.
Chicago, *Methodist Book Concern* (later Stop and Shop Warehouse), 12 West Washington.
Chicago, *Ogden Building*, 130 West Lake Street.
Chicago, *Oliver Building*, 159 North Dearborn Street.
Chicago, *Springer Block* (Bay, State, and Kranz Buildings), 126–146 North State.
Chicago, *Unity Building*, 127 North Dearborn Street.

De Kalb County

De Kalb, *Haish Barbed Wire Factory*, corner of Sixth and Lincoln Streets.

Lake County

Fort Sheridan, *Water Tower*, Building 49, Leonard Wood Avenue.

Indiana

Monroe County

Bloomington, *Carnegie Library.*

Kentucky

Jefferson County

Louisville, *Old Louisville Historic District*, bounded on north by Broadway; on the west by Seventh and the Louisville/Nashville R.R. tracks; on the east by Interstate 65 and Brook Street; on the south by Eastern Parkway and Gaulbert Avenue.

Maryland

Anne Arundel County

Annapolis, *Thomas Point Shoals Light Station*, on Kent Island in Chesapeake Bay.
Chestertown, *Bloody Point Bar Light*, on Chesapeake Bay.
Skidmore, *Sandy Point Shoal Light*, on Chesapeake Bay.

Baltimore County

Fort Howard, *Craighill Channel Upper Range Front Light*, on Chesapeake Bay.
Sparrows Points, *Craighill Channel Range Front Light*, on Chesapeake Bay.

Cecil County

Perryville, *Perry Point Mansion House*, Veterans Administration Hospital Grounds.
Perryville, *Perry Point Mill*, Veterans Administration Hospital Grounds.
Sassafras Elk Neck, *Turkey Point Light*, at Elk River and Chesapeake Bay.

Dorchester County

Hoopersville, *Hooper Island Light*, Chesapeake Bay—Middle Hooper Island.

Harford County

Havre De Grace, *Havre De Grace Light.*

St. Marys County

Piney Point, *Piney Point Light Station.*
St. Inigoes, *St. Inigoes Manor House*, Naval Electronic Systems Test and Evaluation Detachment.
St. Marys City, *Point No Point Light*, on Chesapeake Bay.

Talbot County

Tilgman Island, *Sharps Island Light*, on Chesapeake Bay.

Michigan

Livingston County

Fenton, *Fenton Downtown Historic District*, east and west sides of Leroy Street in two blocks bounded by Ellen on the south and Silver Lake on the north, north side of Caroline Street and east side of River Street.

Minnesota

Cook County

Grand Marais vicinity, *Height of Land*, northwest of Grand Marais in Superior National Forest.

Winona County

Winona, *Second Street Commercial Block.*

Missouri

Leslie, *Noser's Mill and adjacent Miller's House*, Rural Route 1.

Buchanan County

St. Joseph, *Hall Street Historic District*, bounded by 4th Street on west, Robidoux on South, 10th on east, and Michel, Corby, and Ridenbaugh on north.

Clay County

Smithville, *Aker Cemetery.*

Dent County

Lake Spring, *Hyer, John, House.*

Montana

Carbon County

Barry's Landing, *Bad Pass Trail* (*Sioux Trail*), Big Horn Canyon National Recreation Area.
Hardin, *Pretty Creek Site* (*Hough Creek Site*), Big Horn Canyon National Recreation Area.

Lewis and Clark County

Marysville, *Marysville Historic District.*

Park County

Mammouth, *Chapel at Fort Yellowstone*, Yellowstone National Park.

Ravalli County

Conner vicinity, *Alta Ranger Station*, south of Conner in Bitterroot National Forest.

Nebraska

Madison County

Norfolk, *Federal Building* (*U.S. Post Office and Courthouse*), corner of Fourth Street and Madison Avenue.

Nevada

Nye County

Las Vegas vicinity, *Emigrant's Trail, about* 75 miles northwest of Las Vegas on U.S. 95.

Storey County (also in Washoe County)

Sparks vicinity, *Derby Diversion Dam*, on the Truckee River 19 miles east of Sparks, along Interstate 80.

Washoe County

Derby Diversion Dam. See Storey County.

New Hampshire

Grafton County

Bedell Covered Bridge.

New Jersey

Middlesex County

New Brunswick, *Delaware and Raritan Canal*, between Albany Street Bridge and Landing Lane Bridge.

Sussex County (also in Warren County)

Old Mine Road Historic District.

Warren County

Old Mine Road Historic District. See Sussex County.

New Mexico

Dona Ana County

El Paso vicinity, *International Boundary Monument No. 1.*

New York

Bronx County

New York, *North Brothers Island Light Station*, in center of East River.

Greene County

New York, *Hudson City Light Station*, in center of Hudson River.

Richmond County

New York, *Romer Shoal Light Station*, located in lower bay area of New York Harbor.

Suffolk County

New York, *Fire Island Light Station*, U.S. Coast Guard Station.
New York, *Little Gull Island Light Station*, off North Point of Orient Point, Long Island.
New York, *Plum Island Light Station*, off Orient Point, Long Island.
New York, *Race Rock Light Station*, south of Fishers Island, 10 miles north of Orient Point.

Ulster County

Kingston vicinity, *Esopus Meadows Light Station*, middle of Hudson River.
New York, *Rondout North Dike Light*, center of Hudson River at junction of Rondout Creek and Hudson River.
New York, *Saugerties Light Station*, Hudson River.

Westchester County

Port Washington vicinity, *Execution Rocks Light Station*, lower southwest portion of Long Island Sound.
White Plains, *Westchester County Courthouse Complex*, corner of Main and Court Streets.

North Carolina

U.S.S. Monitor, Outer Continental Shelf, about 15 miles off coast of North Carolina.

Brunswick County

Southport, *Fort Johnston*, Moore Street.

Cumberland County

Fayetteville, *Veterans Administration Hospital Confederate Breastworks*, 23 Ramsey Street.

Dare County

Buxton, *Cape Hatteras Light*, Cape Hatteras National Seashore.

Hyde County

Ocracoke, *Ocracoke Lighthouse*.

New Hanover County

Wilmington, *Market Street Mansions District*, both sides of Market Street between 17th and 18th Streets.

Ohio

Clermont County

Neville vicinity, *Maynard House*, 2 miles east of Neville off U.S. 52.

Pickaway County

Williamsport vicinity, *The Shack (Daugherty, Harry, House)*, 5.5 miles northwest of Williamsport.

Seneca County

Tiffin, *Old U.S. Post Office*, 215 South Washington Street.

Oklahoma

Haskell County

Keota vicinity, *Otter Creek Archeological Site (34HS25)*, southwest of Keota.

Kay County

Newkirk vicinity, *Bryson Archeological Site*, northeast of Newkirk.

Oregon

Coos County

Charleston, *Cape Arago Light Station*.

Curry County

Port Orford, *Cape Blanco Light Station*.
Wolf Creek, *Rogue River Ranch*, Star Route, Box 78.

Douglas County

Winchester Bay, *Umpqua River Lighthouse*.

Josephine County

Whisky Creek Cabin.

Klamath County

Crater Lake National Park, *Crater Lake Lodge*.

Lane County

Roosevelt Beach, *Heceta Head Lighthouse*.
Roosevelt Beach, *Heceta Head Light Station*.

Lincoln County

Agate Beach, *Yaquina Head Lighthouse*.

Sherman County

Grass Valley Vicinity, *Mack Canyon Archeological Site*, at end of BLM access road adjacent to Deschutes River north of Maupin.

Tillamook County

Tillamook, *Cape Meares Lighthouse*.

Pennsylvania

Brumbaugh Homestead, Raystown Lake Project.

Adams County

Gettysburg, *Barlow's Knoll*, adjacent to Gettysburg National Military Park.
Gettysburg, *Gettysburg Battlefield Historic District*.

Allegheny County

Bruceton, *Experimental Mine*, U.S. Bureau of Mines, off Cochran Mill Road.

Clinton County

Lockhaven, *Apsley House*, 302 East Church Street.
Lockhaven, *Harvey, Judge, House*, 29 North Jay Street.
Lockhaven, *McCormick, Robert, House*, 234 East Church Street.
Lockhaven, *Mussina, Lyons, House*, 23 North Jay Street.

Mercer County

Greenville vicinity, *Kidd's Mills Historical Area* (Shenango River Lake), 5 miles south of Greenville.
Greenville vicinity, *New Hamburg Historical Area*, south of Greenville on both banks of the Shenango River, off Pennsylvania 58.

Northampton County

Dorneyville, *King George Inn and two other stone houses*, intersection of Hamilton and Cedar Crest Boulevards.

Westmoreland County

Blairsville vicinity, *Western Division-Pennsylvania Canal* (Conemaugh River Lake), east of Blairsville.

Texas

Galveston County

Galveston, *U.S. Customhouse*, bounded by Avenue B, 17th, Water, and 18th Streets.

Potter County

Lake Meredith Recreation Area, *McBride Ranch House*.

Utah

Tooele County

Wendover vicinity, *Wendover Air Force Base*, south of Wendover.

Vermont

Franklin County

Highgate Falls, *Lenticular or Parabolic Truss Bridge*, over Missisquoi River.

Windsor County

Weathersfield, *Historic Crown Point Road*.
Windsor, *Post Office Building*.

Washington

Clallam County

Seguim, *New Dungeness Light Station*.

Clark County

Vancouver, *Officers Row*, Fort Vancouver Barracks.

Grays Harbor County

Westport, *Grays Harbor Light Station*.

King County

Burton, *Point Robinson Light Station*.
Seattle, *Alki Point Light Station*.
Seattle, *West Point Light Station*.

Kitsap County

Hansville, *Point No Point Light Station*.

Pacific County

Ilwaco, *Cape Disappointment Light Station*.
Ilwaco, *North Head Light Station*.

Pierce County

Fort Lewis Military Reservation, *Captain Wilkes July 4, 1841, Celebration Site*.

San Juan County

San Juan Islands, *Pathos Island Light Station*.

Snohomish County

Mukilteo, *Mukilteo Light Station*.

West Virginia

Cabell County

Huntington, *Old Bank Building*, 1208 Third Avenue.

Wood County

Parkersburg, *Wood County Courthouse*.

Wisconsin

Door County

Chambers Island, *Chambers Island Lighthouse Dwelling*, northern tip Chambers Island, Green Bay, Lake Michigan.

Wyoming

Goshen County

Torrington, *Union Pacific Depot*.

Puerto Rico

Mona Island, *Sardinero Site and Ball Courts*.

ERNEST A. CONNALLY,
Associate Director, Professional Services.

[FR Doc.74-22442 Filed 9-30-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

GRAIN STANDARDS

Texas Grain Inspection Point

Statement of considerations. The Sherman Grain and Cotton Exchange, Sherman, Texas, has requested that effective November 30, 1974, its designation under section 7(f) of the U.S. Grain Standards Act (7 U.S.C. 79(f)) to operate as an official inspection agency at Sherman, Texas, be canceled because the volume of inspections performed by its grain inspection department does not support the costs of operating the department. Accordingly, the Agricultural Marketing Service proposes to cancel the designation of the Sherman Grain and Cotton Exchange to operate as an official inspection agency at Sherman.

Interested persons are hereby given opportunity to submit views and comments with respect to the proposed cancellation. All such views and comments should be submitted in writing to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250. All materials submitted should be in duplicate and mailed to the Hearing Clerk not later than October 31, 1974. All materials submitted 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)). Consideration will be given to the views and comments so filed with the Hearing Clerk and to all other information available to the U.S. Department of Agriculture before final determination is made with respect to this matter.

Done in Washington, D.C., on September 25, 1974.

E. L. PETERSON,
Administrator,
Agricultural Marketing Service.

[FR Doc.74-22711 Filed 9-30-74;8:45 am]

Commodity Credit Corporation

PRICE SUPPORT PROGRAMS; 1973 AND SUBSEQUENT CROPS

Announcement of Interest Rate

This is a revision of the announcement by Commodity Credit Corporation published in the issue of Thursday, April 18, 1974, at page 13906, of the rate of interest applicable to price support programs on 1973 and subsequent crops or production. The revised announcement increases the rate of interest applicable to certain loans on 1974 crop or production and includes the interest rate applicable to financing the purchase or construction of farm storage facilities and drying equipment. The revised announcement reads:

A. *Price Support Programs.* 1. Loans (including the amounts paid by Commodity Credit Corporation under cooperative loan agreements) made on all commodities shall bear interest as follows:

(a) For 1973 crop, loans shall bear interest at the per annum rate of 5.5 percent from the date of disbursement.

(b) For 1974 crop for which applications are received prior to October 1, 1974, loans shall bear interest at the per annum rate of 7.25 percent from the date of disbursement.

(c) For 1974 crop for which applications are received on or after October 1, 1974, loans shall bear interest at the per annum rate of 9.375 percent from the date of disbursement to the date of any subsequent change in the interest rate announced by Commodity Credit Corporation.

2. Notwithstanding the foregoing if there has been fraudulent representation in the loan documents, in obtaining the loan, or in connection with settlement or delivery under the loan, or there has been a willful conversion of any part of the commodity under loan, the loan indebtedness and related charges shall bear interest from the date of disbursement thereof as follows: (a) At the per annum rate of 6 percent with respect to 1969 and prior crops or production; (b) at the per annum rate of 12 percent with respect to 1970 through 1973 crops or production; and (c) at the per annum rate of 18 percent with respect to 1974 and subsequent crops or production.

3. If there has been a fraudulent representation in connection with settlement or delivery under the purchase provisions of a price support program, or in connection with any documents thereunder, any amount paid by CCC on such purchase shall bear interest from the date of disbursement thereof as follows: (a) At the rate of 6 percent per annum with respect to 1969 and prior crops or production; (b) at the rate of 12 percent per annum with respect to 1970 through 1973 crops or production; and (c) at the per annum rate of 18 percent with respect to 1974 and subsequent crops or production.

B. *Farm Storage and Drying Equipment Loan Program.* Loans made for the purchase, construction, erection, or installation of farm storage facilities or drying equipment shall bear interest as follows: Loan disbursed by CCC on applications filed on or after October 1, 1974, shall bear interest at the per annum rate of 9.375 percent from the date of disbursement to the date of any subsequent change in the interest rate announced by CCC.

Signed at Washington, D.C., on September 26, 1974.

GLENN A. WEIR,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc.74-22712 Filed 9-30-74;8:45 am]

Federal Crop Insurance Corporation

[Notice No. 87]

WHEAT—HOUSTON COUNTY, GEORGIA

Extension of the Closing Date for Filing of Applications for the 1975 Crop Year

Pursuant to the authority contained in § 401.103 of Title 7 of the Code of Federal Regulations, the time for filing applications for wheat crop insurance for the 1975 crop year in the Georgia county listed below is hereby extended until the close of business on November 15, 1974. Such applications received during this period will be accepted only after it is determined that no adverse selectivity will result.

GEORGIA

Houston

[SEAL] HOWARD H. SJOGREN,
Acting Manager,
Federal Crop Insurance Corporation.

[FR Doc.74-22709 Filed 9-30-74;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I (Supp. II, 1972)) and Office of Management and Budget Circular A-63 (Revised), Advisory Committee Management, effective May 1, 1974, notice was given (39 FR 34086) of a meeting of the Licensing Procedures Subgroup of the Computer Systems Technical Advisory Committee to be held Thursday, October 3, 1974, at 9:30 a.m. in Room 5230, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230. The Notice of Determination, approved by the Assistant Secretary of Commerce for Administration and the delegate of the General Counsel of the Department of Commerce on May 16, 1974 and May 17, 1974 respectively, to close a portion of such meeting to the public, was not included in the published Notice of the Meeting. In accordance with paragraph (4) of the Order of the United States District Court for the District of Columbia in "Aviation Consumer Action Project, et al. v. C. Langhorne Washburn, et al." of September 10, 1974, as amended, September 23, 1974, (Civil Action No. 1838-73), the complete Notice of Determination to close portions of the meetings of the Computer Systems Technical Advisory Committee and formal subgroups thereof is hereby published.

Dated: September 27, 1974.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

NOTICE OF DETERMINATION

In response to written requests of representatives of a substantial segment of the computer industry, the Computer Systems Technical Advisory Committee was established by the Secretary of Commerce on January 3, 1973, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, to advise the Department of Commerce with respect to questions involving technical matters, worldwide availability, and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee, which currently has fifteen members representing industry and ten members representing government agencies, will terminate no later than January 3, 1975, unless extended by the Secretary of Commerce. All members of the Committee have the appropriate security clearance.

The Committee's activities are conducted in accordance with the provisions of Section 5(c)(1) of the Export Administration Act of 1969, as amended, the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. II, 1972), and Office of Management and Budget Circular A-63 (Revised), Advisory Committee Management, effective May 1, 1974. Section 10 of the Federal Advisory Committee Act provides, among other things, that the meetings of advisory committees are to be open to the public, and to public participation, unless the head of the agency (or his delegate) to which the committee reports determines in writing that all, or some portion, of the agenda of the meeting of the committee is concerned with matters listed in section 552(b) of Title 5 of the United States Code.

Section 552(b)(1) of Title 5, United States Code, provides that information may be withheld from the public if it concerns matters specifically required by Executive Order to be kept secret in the interest of the national defense or foreign policy.

Notices of Determination authorizing the closing of those portions of the Computer Systems Technical Advisory Committee dealing with security classified matters were approved March 5, 1973; June 15, 1973; July 17, 1973, and December 20, 1973. The latter Determination covered the closure of a series of meetings of the Committee and formal subgroups thereof for the period January 1, 1974, to April 30, 1974.

The Committee currently is engaged in preparing a report to the Office of Export Administration (OEA), based on work assignments issued by the Chairman. It is anticipated that this report will include information on the foreign availability and market potential of computer systems, and advice on new means for using performance characteristics to define technical parameters for export control purposes and on appropriate safeguard levels. Much of this material will carry the security classification of confidential. The OEA, in conjunction with other agencies, will use this report in establishing the U.S. submission for the international review of the COCOM control list scheduled to begin in Paris in September, 1974. Prior to the list review negotiations and for an indeterminate period after the negotiations get underway, the OEA intends to seek the advice of the Committee on questions concerning the initial U.S. negotiating position relative to the continued international control of computer systems and related technical data, on the submissions of other COCOM-participating countries for continued control of such equipment and data, and on technical problems arising during the negotiations. In order to obtain the best advice possible, the Committee will be presented with security classified material.

The portions of the series of meetings of the Committee and of formal subgroups hereof leading to the submission of its report and of the subsequent series of meetings dealing with COCOM negotiations on the continued international control of computer systems that will involve discussions of matters carrying the security classification of confidential in the interest of the national defense [1] of the United States must be closed to the public. The remaining portions of the series of meetings will be open to the public.

It is anticipated that the COCOM list review negotiations will continue into the first part of 1975. When matters relating to computer systems will be resolved is impossible to predict, but it is likely that the OEA will require the advice of the Computer Systems Technical Advisory Committee on these matters up to its current termination date of January 3, 1975.

Accordingly, I hereby determine, pursuant to section 10(d) of the Federal Advisory Committee Act that those portions of the series of meetings of the Committee and of any formal subgroups thereof, dealing with the aforementioned classified material shall be exempt, for the period May 1, 1974, to January 3, 1975, from the provisions of section 10(a)(1) and (a)(3), relating to open meetings and public participation therein, because the Committee and subgroup discussions will be concerned with matters listed in section 552(b)(1) of Title 5, United States Code. The remaining portions of the meetings will be open to the public.

Dated: May 16, 1974.

HENRY B. TURNER,
Assistant Secretary for Administration.

Dated: May 17, 1974.

ALFRED MEISNER,
Acting General Counsel.

[FR Doc.74-22864 Filed 9-30-74;8:45 am]

[1] Or foreign policy.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Filing of Annual Reports

Notice is hereby given that pursuant to section 13 of Pub. L. 92-463, the Annual Reports for the following Alcohol, Drug Abuse, and Mental Health Administration Committees have been filed with the Library of Congress:

Alcohol Training Review Committee
Alcoholism and Alcohol-Problems Review Committee
Board of Scientific Counselors, NIMH
Clinical Program-Projects Research Review Committee
Clinical Projects Research Review Committee
Clinical Psychopharmacology Research Review Committee
Continuing Education Training Review Committee
Crime and Delinquency Review Committee
Epidemiologic Studies Review Committee
Experimental and Special Training Review Committee
Experimental Psychology Research Review Committee
Juvenile Problems Research Review Committee
Mental Health Services Research Review Committee
Mental Health Small Grant Committee
Metropolitan Mental Health Problems Review Committee
Narcotic Addiction and Drug Abuse Review Committee
National Advisory Council on Alcohol Abuse and Alcoholism
National Advisory Mental Health Council
Neuropsychology Research Review Committee
Personality and Cognition Research Review Committee
Preclinical Psychopharmacology Research Review Committee
Social Problems Research Review Committee
Social Sciences Research Review Committee

Copies are available to the public for inspection at the Library of Congress or weekdays between 9 a.m. and 4:30 p.m. at the Department of Health, Education, and Welfare, Department Committee Management Office, North Building, Room 4036, 330 Independence Avenue SW., Washington, D.C. 20201, telephone (202) 245-7545.

Dated: September 25, 1974.

JAMES D. ISBISTER,
Acting Administrator, Alcohol, Drug Abuse and Mental Health Administration.

[FR Doc.74-22609 Filed 9-30-74;8:45 am]

Food and Drug Administration

CARDIOVASCULAR AND RENTAL ADVISORY COMMITTEE AND BIOMETRIC AND EPIDEMIOLOGICAL METHODOLOGY ADVISORY COMMITTEE

Public Meeting Regarding Rauwolfia and Reserpine Preparations and Increased Incidence of Breast Cancer in Hypertensive Female Patients

The Cardiovascular and Renal Advisory Committee, established for the purpose of reviewing and evaluating all available data concerning the safety and effectiveness of drugs employed in the field of cardiovascular and renal disorders and the advances, changing concepts, and trends in the therapy of these disorders; and the Biometric and Epidemiological Methodology Advisory Committee, established for the purpose of reviewing and evaluating extramural and intramural research in the area of epidemiological and biometrical methodology, will meet in joint open session at 9 a.m. on October 15 and 16, 1974, in Conference Rooms G and H, 3rd Floor, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20852. Dr. Noble D. Fowler will chair the meeting.

This meeting is being called to discuss data which have been reported to demonstrate a significant positive association between the long-term administration of rauwolfia and reserpine preparations and increased incidence of breast cancer in hypertensive female patients.

These data were presented in three epidemiological studies published in Lancet on September 21, 1974. The articles listed by title and author are: (1) "Reserpine and Breast Cancer," a report from the Boston Collaborative Drug Surveillance Program, Boston University Medical Center; (2) "A Retrospective Study of the Association Between Use of Rauwolfia Derivatives and Breast Cancer in English Women," Bruce Armstrong, Nancy Stevens, and Richard Doll; and (3) "Reserpine Use in Relation to Breast Cancer," O. P. Heinonen, Liisa Tuominen, M. I. Turanen, and S. Shapiro.

Copies of the above articles are available for public review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, during working hours, Monday through Friday.

The Commissioner of Food and Drugs has concluded that all interested persons should have an opportunity to present data, comments, or suggestions relative to this important matter. Any interested person who wishes to present data or information at the meeting must so inform Ms. Joan Standaert, Executive Secretary, Cardiovascular and Renal Advisory Committee, Division of Cardio-Renal Drug Products (HFD-110), 5600 Fishers Lane, Rockville, MD 20852, telephone No. 301-443-4730, of that intention and of the amount of time requested for the presentation, by close of business on Thursday, October 10, 1974. Ms. Standaert will then promptly inform each person requesting an opportunity to be

heard the amount of time to be allocated for his presentation. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations in view of the limitations of time.

Any interested person may also present written data or information, which shall be considered. Three copies of such presentations shall be furnished to Ms. Standaert at the above address on or before October 15.

Following this meeting, the two committees, after considering all information presented, will make final recommendations on this matter to the Commissioner. The Commissioner will then make a decision as to what further action, if any, is warranted with respect to rauwolfia and reserpine preparations. A notice of the Commissioner's decision will be published in the FEDERAL REGISTER.

A transcript of the meeting and all written data or information submitted in response to this notice of meeting will be made available for public review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, during working hours, Monday through Friday.

Dated: September 25, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74–22697 Filed 9–30–74;8:45 am]

National Institutes of Health

VIRUS CANCER PROGRAM ADVISORY COMMITTEES

Notice of Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the National Institutes of Health announces the establishment by the Director, National Cancer Institute, on August 20, 1974, of the following Public Advisory Committee:

Designation: Virus Cancer Program Advisory Committee.

Purpose. The Committee provides to the Director, NCI, the Director, Division of Cancer Cause and Prevention, and the Associate Director for Viral Oncology, DCCP, advice on the search for viruses or virus genetic information which may be etiologically related to human cancer and the development of therapeutic and preventive measures for control of human cancers when such causative agents are found. Authority for this Committee will expire August 20, 1976, unless the Director, NCI, formally determines that continuance is in the public interest.

Dated: September 24, 1974.

ROBERT S. STONE,
Director, National Institutes of Health.

[FR Doc.74–22714 Filed 9–30–74;8:45 am]

AD HOC ADVISORY GROUP ON VAGINAL CYTOLOGY

Notice of Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the National Institutes of Health announces the establishment by the Director, National Cancer Institute, on August 29, 1974, of the following Public Advisory Committee:

Designation: Ad Hoc Advisory Group on Vaginal Cytology.

Purpose: The Committee provides to the Director, NCI, and the Director, Division of Cancer Biology and Diagnosis, advice on all matters relating to the vaginal cytology of cervical cancer and assists in the technical and scientific review of contract proposals in this area. Authority for this Committee will expire February 1, 1975.

Dated: September 24, 1974.

ROBERT S. STONE,
Director, National Institutes of Health.

[FR Doc.74–22715 Filed 9–30–74;8:45 am]

Office of Education

COMPARABILITY DETERMINATIONS UNDER TITLE I, ESEA FOR FISCAL YEAR 1975

Date as of Which Data Shall Be Collected

Section 141(a)(3)(C) of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 241e(a)(3)(C)), requires that a State educational agency approve a project application only upon the agency's determination that the services the applicant local educational agency is providing in project areas with State and local funds are at least comparable to the services that agency is providing in areas not designated for projects under Title I. Regulations in 45 CFR 116.26, as revised and published in the FEDERAL REGISTER as 38 FR 17126 on June 28, 1973, govern such determinations.

The data required for determinations of comparability are set forth in paragraph (b) of 45 CFR 116.26. Paragraph (b) of 45 CFR 116.26 also provides that, for fiscal year 1974 and succeeding fiscal years, the Commissioner of Education will specify the date not later than November 1, as of which such data must be secured. Accordingly, I hereby designate October 1 as the date for this purpose for fiscal year 1975.

(Catalog of Federal Domestic Assistance Program No. 13.428, Educationally Deprived Children—Local Educational Agencies (Title I, ESEA))

Dated: September 26, 1974.

T. H. BELL,
U.S. Commissioner of Education.

[FR Doc.74–22793 Filed 9–30–74;8:45 am]

Office of the Secretary

PRESIDENT'S COMMITTEE ON MENTAL RETARDATION

Notice of Meeting

The President's Committee on Mental Retardation was established to provide advice and assistance in the area of mental retardation to the President including evaluation of the adequacy of the national effort to combat mental retardation; coordination of activities of Federal agencies; provision of adequate liaison between Federal activities and related activities of State and local governments, foundations and private organizations; develop information designed for dissemination to the general public. The Committee will meet on Wednesday, October 16, 7:30 to 9 p.m., Thursday, October 17, 9 to 5 p.m., and Friday, October 18, from 9 to 12 noon. The meeting will be held at the Malibu Airport Inn, 6160 Smith Road, Denver, Colorado 80216. The meeting will consist of a Regional Public Forum which will include the following States: Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. These meetings are open to the public.

Dated: September 19, 1974.

FRED J. KRAUSE,
Executive Director, President's Committee on Mental Retardation.

[FR Doc.74–22767 Filed 9–30–74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

MICROWAVE LANDING SYSTEM ADVISORY COMMITTEE

Notice of Meeting

Pursuant to section 10(a)(2) of Pub. L. 92–463, notice is hereby given that the Microwave Landing System (MLS) Advisory Committee will hold a meeting on October 15, 1974 beginning at 8:30 a.m. e.d.t., in the Hall of States Room, Skyline Inn, South Capitol and I Streets, SW., Washington, D.C. The meeting will be principally devoted to a first progress report on the MLS Technique Selection process.

Anyone desiring further information on this meeting should contact Mr. Jules I. Kanter, Executive Director, Microwave Landing System Advisory Committee, Federal Aviation Administration, 2100 2d Street SW., Washington, D.C. 20590, Telephone 202–426–3406. The meeting will be open to the public.

Issued in Washington, D.C., on September 25, 1974.

JULES I. KANTER,
Executive Director, Microwave Landing System Advisory Committee.

[FR Doc.74–22686 Filed 9–30–74;8:45 am]

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

COMMITTEE ON AGENCY ORGANIZATION AND PERSONNEL

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Agency Organization and Personnel of the Administrative Conference of the United States, to be held at 1:30 p.m., October 17, 1974 at the offices of the Administrative Conference, 2120 L Street NW., Washington, D.C.

The Committee will meet to consider a report regarding the role of the chairman in independent regulatory agencies.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least one day in advance. The Committee Chairman may, if he deems it appropriate permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this Committee meeting contact Richard K. Berg, (phone 202–254–7065). Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

September 25, 1974.

[FR Doc.74–22741 Filed 9–30–74;8:45 am]

COMMITTEE ON GRANT AND BENEFIT PROGRAMS

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Grant and Benefit Programs of the Administrative Conference of the United States, to be held at 9:30 a.m. on October 18, 1974 in the Office of the Chairman, Suite 500, 2120 L Street NW., Washington, D.C. 20037.

The Committee will meet to consider:

(1) Professor Jan Vetter's Report and Recommendation on Affirmative Action Procedures under E.O. 11246;

(2) Professor William Popkin's Study on Representation of Claimants before Federal Disability Claims Adjudication Procedures and other matters of Committee business.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least one day in advance. Space will be assigned on a first come basis. The Committee Chairman may, if he deems it appropriate, permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this Committee meeting contact William R. Shaw (phone 202–254–7065). Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

SEPTEMBER 24, 1974.

[FR Doc.74–22739 Filed 9–30–74;8:45 am]

ADVISORY COUNCIL ON HISTORIC PRESERVATION

CONSTRUCTION ADVERSELY EFFECTING HISTORIC AREAS

Public Information Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463) and § 800.5(c) of the Advisory Council's procedures for the protection of historic and cultural properties (36 CFR 800) that on Tuesday, October 8, 1974, at 7 p.m., a public information meeting will be held at the auditorium of Lock Haven High School, West Church Street, Lock Haven, Pennsylvania so that representatives of national, State, and local units of government, representatives of public and private organizations, and interested citizens can receive information and express their views on a proposed undertaking of the Federal Highway Administration, U.S. Department of Transportation, that will have an adverse effect upon a property issued in the National Register of Historic Places and upon additional properties determined by the Secretary of the Interior to be eligible for inclusion in the National Register of Historic Places. The proposed undertaking is the Federal Highway Administration financial assistance to the Pennsylvania Department of Transportation for construction of a section of the Appalachian Corridor "P" near Lock Haven Bypass L.R. 1044–AD4 and for the concurrent construction of an interchanging spur route L.R. 58, Spur G, to an intersection with Walnut Street in Lock Haven, Pennsylvania. The property included in the National Register is the Water Street Historic District The properties which have been determined eligible for inclusion in the National Register are the Apsley House, the Judge Harvey House, the Robert McCormick House, and the Lyons Mussina House.

A summary of the agenda of the public information meeting is as follows:

I. Explanation of the procedures and purposes of the meeting by representatives of the Executive Director of the Advisory Council.

II. Explanation of the project by representatives of the Federal Highway Administration, U.S. Department of Transportation.

III. Statement by the Pennsylvania Historic Preservation Officer on the project.

IV. Statements from the public on the project.

Speakers will be permited to present their views on the project and should limit their statements to approximately five minutes. Statements should be limited to the undertaking, its effects on historic and cultural properties, and alternate courses of action. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting and for two weeks thereafter. Due to special circumstances requiring expeditious consideration of this matter, the Council must depart from its normal guidelines of 15 days notice for its public information meetings. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 K Street, NW., Washington, D.C. 20005 (202–254–3974).

Dated: September 27, 1974.

ANN WEBSTER SMITH,
Director, Office of Compliance.

[FR Doc.74–22920 Filed 9–30–74;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50–247]

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

Issuance of Facility License Amendment

Notice is hereby given that the U.S. Atomic Energy Commission (the Commission) has issued Amendment No. 8 to Facility Operating License No. DPR–26 issued to Consolidated Edison Company of New York, Inc. which revised Technical Specifications for operation of the Indian Point Nuclear Generating Station, Unit 2, located in Westchester County, New York. The amendment is effective as of its date of issuance.

The amendment permits a change to the Technical Specifications to revise the setpoints for the high steam line flow limits and redefines conditions for cold shutdown.

The application for the amendment complies witih the standards and requirements of the Atomic Energy Act, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment.

For further details with respect to this action, see (1) the application for amendment dated November 7, 1973, (2) Amendment No. 8 to License No. DPR–26, and any attachments, and (3) the Commission's related Safety Evaluation. All of these are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Hendrick Hudson Free Library, 31 Albany Post Road, Montrose, New York.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing-Regulation.

Dated at Bethesda, Md., this 23d day of September 1974.

For the Atomic Energy Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch #3, Directorate of Licensing.

[FR Doc.74–22755 Filed 9–30–74;8:45 am]

[Docket No. 50-331]

IOWA ELECTRIC LIGHT & POWER CO., CENTRAL IOWA POWER COOP. AND CORN BELT POWER COOP.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Atomic Energy Commission (the Commission) has issued Amendment No. 5 to Facility Operating License No. DPR-49 issued to Iowa Electric Light & Power Company, Central Iowa Power Cooperative and Corn Belt Power Cooperative which revised Technical Specifications for operation of the Duane Arnold Energy Center, located in Linn County, near Palo, Iowa. The amendment is effective as of its date of issuance.

The amendment permits a change in the total developed head requirements of the Residual Heat Removal Service Water Pumps.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment.

For further details with respect to this action, see (1) the application for amendment dated September 17, 1974, (2) Amendment No. 5 to License No. DPR-49, with any attachments, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Reference Service, Cedar Rapids Public Library, 426 Third Avenue, SE., Cedar Rapids, Iowa.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing—Regulation.

Dated at Bethesda, Md., this 20th day of September 1974.

For the Atomic Energy Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch #3, Directorate of Licensing.

[FR Doc.74-22754 Filed 9-30-74;8:45 am]

[Docket No. 50-245]

NORTHEAST NUCLEAR ENERGY CO., CONNECTICUT LIGHT AND POWER CO., HARTFORD ELECTRIC LIGHT CO., AND WESTERN MASSACHUSETTS ELECTRIC CO.

Issuance of Amendment to Facility License

Notice is hereby given that the U.S. Atomic Energy Commission ("the Commission") has issued Amendment No. 2 to Facility Operating License No. DRP-21 issued to Connecticut Light and Power Company, The Hartford Electric Light Company, Western Massachusetts Electric Company and Northeast Nuclear Energy Company, which revised Technical Specifications for operation of the Millstone Nuclear Power Station Unit 1 located in Waterford, Connecticut.

The amendment adds a definition of surveillance interval and includes the change in company name from The Millstone Point Company to Northeast Nuclear Energy Company.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act, as amended ("the Act"), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act, and the Commission's rules and regulations in 10 CFR Ch. I, which are set forth in the license amendment.

For further details with respect to this action, see (1) the application for amendment dated May 8 and June 30, 1974, and supplement dated June 6, 1974, (2) Amendment No. 2 to License No. DPR-21, and Change No. 17, and (3) the Commission's related Safety Evaluation. All of these are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut.

A copy of items (2) and (3) may be obtained upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing—Regulation.

Dated at Bethesda, Md., this 19th day of September 1974.

For the Atomic Energy Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch #3, Directorate of Licensing.

[FR Doc.74-22756 Filed 9-30-74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 25513, Agreement C.A.B. 24644; Order 74-9-41]

PASSENGER FARE MATTERS

Agreement Adopted by the Joint Conferences of the International Air Transport Association

Correction

In FR Doc. 74-21778 appearing at page 33729 in the issue of Thursday, September 19, 1974, the entry in brackets should read as set forth above.

[Docket No. 25280, Agreement C.A.B. 24643, R-1 and R-2, Agreement C.A.B. 24646; Order No. 74-9-42]

SPECIFIC COMMODITY RATES

Agreements Adopted by the Joint Traffic Conferences of the International Air Transport Association

Correction

In FR Doc. 74-21775 appearing at page 33729 in the issue of Thursday, September 19, 1974, the entry in brackets should read as set forth above.

[Docket No. 24684; Order No. 74-9-93]

ALL NIPPON AIRWAYS COMPANY, LTD.

Air Carrier Permit

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 26th day of September, 1974.

By Order 72-8-84, served August 21, 1972, the Board directed all interested persons to show cause why the Board should not, subject to the approval of the President, issue an order canceling the foreign air carrier permit held by All Nippon Airways Company, Ltd. (All Nippon) which authorized the carrier to engage in foreign air transportation between Japan and Naha, Okinawa and to perform charter trips pursuant to Part 212 of the Board's Economic Regulations.[1] The order pointed out that effective May 15, 1972, the United States had relinquished to Japan full responsibility and authority with regard to Okinawa, that since All Nippon's operations between Okinawa and Japan therefore no longer constituted air transportation subject to the jurisdiction of the Board, cancellation of All Nippon's permit was in the public interest. The order required that any interested persons having objections to the issuance of an order making final the proposed findings and conclusions set forth therein, file such objections within twenty days after service.

On October 4, 1972, All Nippon filed an objection to the finalization of Order 72-8-84.[2] In support of its objection, All Nippon asserted that termination of its permit would be prejudicial to the operation of off-route charters by All Nippon to certain points in the Western Pacific; such flights were in the planning stages prior to issuance of the order and could most easily be operated under All Nippon's existing off-route charter authority. Because of this, and the possibility that additional requests for foreign air carrier permit authority might be forthcoming on behalf of All Nippon, the carrier requested that no further action be taken on the show cause order at that time and, in any event, that All Nippon be afforded the opportunity for an evidentiary hearing on the matter prior to final Board action.

As indicated above, Order 72-8-84 proposed the cancellation of All Nippon's permit on public interest grounds because Okinawa had reverted to Japan. The carrier's objections were predicated on the order and were intended to show that cancellation was not in the public interest. However, it now appears that the Board need not resolve the issues presented by the carrier's objections,[3] be-

[1] The permit was issued by Order E-21898, approved March 11, 1965.

[2] An extension of time for filing responses to the show cause order was granted to All Nippon by the Associate Chief Administrative Law Judge.

[3] In any event, the factors cited by All Nippon in response to Order 72-8-84 would not have warranted continuation of the effectiveness of its permit. The performance of off-route charters provides no basis for continuance of a route permit; British Caledonian

cause All Nippon's permit has already, in fact, terminated by its own terms. The permit issued to All Nippon by Order E–21898 contains the following termination clause:

Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention, or agreement, this permit shall terminate (1) upon the effective date of any treaty, convention, or agreement, or amendment thereto, which shall have the effect of eliminating the route hereby authorized from the routes which may be operated by airlines designated by the Government of Japan * * * .

In addition to other arrangements between the Governments of the United States and Japan at the time of Okinawa's reversion, the Air Transport Agreement between the two countries was amended by Exchange of Notes dated May 9, 1972 (TIAS 7333). That amendment, effective May 15, 1972, inter alia, eliminated the Japan-Okinawa route from the schedule of routes which might be operated by airlines designated by the Government of Japan. Thus, pursuant to its terms, the foreign air carrier permit issued to All Nippon automatically terminated on the effective date of the above amendment.

Accordingly the Board finds that (1) pursuant to the above-quoted termination clause, All Nippon's foreign air carrier permit terminated on May 15, 1972, the effective date of the Exchange of Notes amending the bilateral agreement to delete the Japan-Okinawa route from the routes which may be operated by airlines designated by the Government of Japan, and (2) it is in the public interest to issue an order indicating that the permit has terminated pursuant to its terms.

Accordingly, *it is ordered*, That:

1. Notice is hereby given that the foreign air carrier permit held by All Nippon Airways Company, Ltd. has terminated; and

2. Copies of this order shall be served on All Nippon Airways Company, Ltd. and the Ambassador of Japan.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74–22763 Filed 9–30–74;8:45 am]

[Docket No. 25280; Order No. 74–9–86; Agreement C.A.B. 24647]

CARGO RATE MATTERS

Agreement Adopted

Issued under delegated authority September 25, 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 Traffic Conferences of the International Air Transport Association (IATA). The agreement, which was adopted by mail vote, has been assigned the above-designated C.A.B. agreement number.

This agreement would increase cargo rates between Canada and points in Traffic Conference 2 an average of 5 percent due to fuel cost increases. This agreement involves air transportation as defined by the Act only to the extent it affects general cargo rates which are combinable with general rates to/from United States points.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the following resolution which is incorporated in Agreement C.A.B. 24647 is adverse to the public interest or in violation of the Act:

JT12 Mail 853) 003JJ

Accordingly, *it is ordered*, that:

Agreement C.A.B. 24647 be and hereby is approved.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74–22759 Filed 9–30–74;8:45 am]

[Docket No. 25280; Order No. 74–9–85; Agreement C.A.B. 24664, R–1 and R–2]

COMMODITY RATES

Agreement Adopted

Issued under delegated authority September 25, 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), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement as set forth below names an additional specific commodity rate reflecting a reduction from general cargo rates and the cancellation of another rate; and was adopted pursuant to an unprotested notice to the carriers and promulgated in an IATA letter dated September 18, 1974.

Agreement C.A.B.	Specific commodity item No.	Description and rate
24664:		
R–1	8227	Wood-wind instruments, 147 cents per kg., minimum weight 200 kgs. From Tel Aviv to New York.
R–2	9991	Building and display materials and exhibition articles for Asian Trade Fair at Delhi,[1] 302 cents per kg., minimum weight 100 kgs. From New York to Delhi. *Cancellation.*

[1] Not for resale.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions hereinafter ordered.

Accordingly, *it is ordered*, That:

Agreement C.A.B. 24664, R–1 and R–2, be and hereby is approved, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; provided further that tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74–22762 Filed 9–30–74;8:45 am]

[Docket No. 25280; Order No. 74–9–67; Agreement C.A.B. 24655]

COMMODITY RATES

Agreement Adopted

Issued under delegated authority September 19, 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), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement names an additional specific commodity rate, as set forth be-

Airways Limited, Order 73–3–33. Moreover, despite the fact that more than a year has passed since the permit expired by its terms, no application has been received for appropriate permit authority to perform the contemplated charters.

low, reflecting a reduction from general cargo rates, and was adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated September 11, 1974.

Specific commodity item No.	*Description and rate*
9516--------	Handicraft products.[1] 80 cents per kg., minimum weight 100 kgs. 67 cents per kg., minimum weight 300 kgs. From Warsaw to New York/Montreal.

[1] See tariffs for complete commodity item description.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions hereinafter ordered.

Accordingly, *it is ordered*, That:

Agreement C.A.B. 24655 be and hereby is approved, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications, provided further that tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-22760 Filed 9-30-74;8:45 am]

[Docket No. 25280; Order No. 74-9-87; Agreement C.A.B. 24648]

CURRENCY MATTERS

Issued under delegated authority September 25, 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 Traffic Conference 2 of the International Air Transport Association (IATA). The agreement, which was adopted by mail vote, has been assigned the above-designated C.A.B. agreement number.

The agreement has the effect of revalidating through September 30, 1975, currency-related surcharges on cargo rates from the United Kingdom and Ireland to Africa and applies in air transportation as defined by the Act only to the extent it involves general cargo rates, which are combinable with general cargo rates to/from United States points.

Pursuant to authority duly delegated by the Board in the Board's regulations 14 CFR 385.14:

It is not found that Resolution 200 (Mail 218) 022m, which is incorporated in Agreement C.A.B. 24648 and which has indirect application in air transportation as defined by the Act, is adverse to the public interest or in violation of the Act.

Accordingly, *it is ordered*, That:

Agreement C.A.B. 24648 be and hereby is approved.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.74-22761 Filed 9-30-74;8:45 am]

[Docket No. 27019]

LISSONE LINDEMAN, U.S.A. INC., D/B/A LISLAND INTERNATIONAL

Foreign Indirect Air Carrier Permit (Dutch)

Notice is hereby given that a prehearing conference in this proceeding is assigned to be held on October 15, 1974, at 10 a.m. (local time), in Room 1031, North Universal Building, 1875 Connecticut Avenue, NW., Washington, D.C., before Administrative Law Judge William H. Dapper.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before October 8, 1974.

Ordinary transcript will be adequate for the proper conduct of this proceeding.

Dated at Washington, D.C., September 25, 1974.

[SEAL] ROBERT L. PARK,
Chief Administrative Law Judge.

[FR Doc.74-22758 Filed 9-30-74;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN COLOMBIA

Entry or Withdrawal From Warehouse for Consumption

SEPTEMBER 26, 1974.

On May 3, 1974, there was published in the FEDERAL REGISTER (39 FR 15528), as amended on May 14, 1974 (39 FR 17284), a letter dated April 30, 1974, from the Chairman of the Committee for the Implementation of Textile Agreements, prohibiting entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products, produced or manufactured in Colombia and exported from Colombia, for which the Government of Colombia had not issued a visa. One of the requirements is that each visa include the signature of an official authorized to issue visas. The Government of Colombia has requested that Reinaldo Aleman-Palencia and Jose Ducardo Patino-Vargas be authorized to issue visas replacing Humberto Gomez-Diaz and Raul Farello P.

Accordingly, there is published below a letter of September 26, 1974, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs amending the directive of April 30, 1974, effective as soon as possible.

Facsimiles of the signatures of the two newly-designated officials are filed as part of the original document with the Office of the Federal Register.

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

SEPTEMBER 26, 1974.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive of April 30, 1974, from the Chairman, Committee for the Implementation of Textile Agreements, that directed you to prohibit, under certain specified conditions, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1 through 64, produced or manufactered in Colombia for which the Government of Colombia had not issued an appropriate visa. One of the requirements is that each visa include the signature of a Colombian official authorized to issue visas.

Under the provisions of the Bilateral Cotton Textile Agreement of June 15, 1971, as amended, between the Governments of the United States and Colombia, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, the directive of April 30, 1974 is amended, effective as soon as possible, to authorize Reinaldo Aleman-Palencia and Jose Ducardo Patino-Vargas to issue visas in place of Humberto Gomez-Diaz and Raul Farello P., who will no longer sign.

The actions taken with respect to the Government of Colombia and with respect to imports of cotton textiles and cotton textile products from Colombia have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-

making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

SINCERELY,

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.74-22774 Filed 9-30-74;8:45 am]

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF KOREA

Entry or Withdrawal From Warehouse for Consumption

SEPTEMBER 26, 1974.

On December 30, 1971, the United States Government concluded a new comprehensive bilateral agreement with the Government of the Republic of Korea concerning exports of cotton textiles and cotton textile products from Korea to the United States. The agreement was subsequently amended to limit the product coverage of the specific export limitation for Category 31 to shop towels (also known as wiping cloths), and to delete the specific export limitation for Category 63. Among the provisions of the agreement, as amended, are those establishing specific export limitations on Categories 7, 9/10, 18/19/26 (printcloth), 22/23, 26 (duck fabric), 26/27 (other than duck fabric and printcloth), 31 (shop towels), 34/35, 38, 39, 45, 46/47, 48, 49, 50, 52, 53, 54, 55, 60, and parts of 64 (tablecloths, napkins, and zipper tapes only), for the agreement year beginning October 1, 1974.

There is published below a letter of September 26, 1974, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amounts of cotton textiles and cotton textile products in the above categories, produced or manufactured in the Republic of Korea, which may be entered or withdrawn from warehouse for consumption in the United States for the twelve-month period beginning on October 1, 1974, and extending through September 30, 1975, be limited to certain designated levels. This letter and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, as amended, but are designed to assist only in the implementation of certain of its provisions.

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

SEPTEMBER 26, 1974.

DEAR MR. COMMISSIONER: Pursuant to the Bilateral Cotton Textile Agreement of December 30, 1971, as amended, between the Governments of the United States and the Republic of Korea, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective October 1, 1974, and for the twelve-month period extending through September 30, 1975, entry into the United States for consumption and withdrawal from warehouse for consumption, of cotton textiles and cotton textile products in Categories 7, 9/10, 18/19/26 (printcloth only), 22/23, 26 (duck fabric), 26/27 (other than duck fabric and printcloth), part of 31, 34/35, 38, 39, 45, 46/47, 48, 49, 50, 51, 52, 53, 54, 55, 60, and parts of 64 (tablecloths, napkins, and zipper tapes only), produced or manufactured in the Republic of Korea in excess of the following twelve-month levels of restraint:

Category		12-month level of restraint
7	square yards	839,425
9/10	do	5,078,514
18/19/26 (printcloth only) [1]	square yards	3,231,245
22/23	do	2,224,475
26 (duck fabric) [2]	do	18,467,315
26/27 (other than duck fabric and printcloth) [3]	square yards	2,434,865
31 (only T.S.U.S.A. No. 366.2740)	pieces	1,596,586
34/35	do	291,579
38	pounds	193,916
39	dozen pairs	185,889
45	dozen	50,366
46/47	square yards equivalent	1,872,271
48	dozen	15,989
49	do	41,971
50	do	70,515
51	do	95,695
52	do	50,366
53	do	15,989
54	do	75,549
55	do	15,989
60	do	43,653
64 (only T.S.U.S.A. Nos.: 366.4500, 366.4600, and 366.4700)	pounds	767,234
64 (only T.S.U.S.A. No. 347.3340)	pounds	94,015

[1] In Category 26, the T.S.U.S.A. Nos. for printcloth are:

320.--34	322.--34	327.--34
321.--34	326.--34	328.--34

[2] The T.S.U.S.A. Nos. for duck fabric are:

320.--01 through 04, 06, 08
321.--01 through 04, 06, 08
322.--01 through 04, 06, 08
326.--01 through 04, 06, 08
327.--01 through 04, 06, 08
328.--01 through 04, 06, 08

[3] In Category 26, all T.S.U.S.A. Nos. not included in footnotes 1 and 2.

In carrying out this directive, entries of cotton textiles and cotton textile products in the above categories produced or manufactured in the Republic of Korea, which have been exported to the United States from the Republic of Korea prior to October 1, 1974, shall, to the extent of any unfilled balances be charged against the levels of restraint established for such goods for the twelve-month period beginning October 1, 1973, and extending through September 30, 1974. In the event that the levels of restraint for the twelve-month period ending September 30, 1974 have been exhausted by previous entries, such goods shall be subject to the levels of restraint set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of December 30, 1971, as amended, between the Governments of the United States and the Republic of Korea which provide, in part, that within the aggregate limit, the limits of certain categories may be exceeded by not more than five percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above, will be made to you by further letter. A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 25, 1974 (39 FR 3430).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton textiles and cotton textile products from the Republic of Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance, U.S. Department of Commerce.

[FR Doc.74-22776 Filed 9-30-74;8:45 am]

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN PERU

Entry or Withdrawal From Warehouse for Consumption

SEPTEMBER 26, 1974.

On November 23, 1971, the United States Government concluded a comprehensive bilateral cotton textile agreement with the Government of Peru concerning exports of cotton textiles and cotton textile products from Peru to the United States over a five-year period beginning on October 1, 1971, and extending through September 30, 1976. Among the provisions of the agreement are those establishing an aggregate limit for the 64 categories and within the aggregate limit specific limits on Categories 22, 56, 57, 58, and 60 for the agreement year beginning October 1, 1974.

Accordingly, there is published below a letter of September 26, 1974, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amounts of cotton textiles and cotton textile products in the above categories, produced or manufactured in Peru, which may be entered or withdrawn from warehouse for consumption in the United States for the twelve-month period beginning October 1, 1974, and extending through September 30, 1975, be limited to the designated levels. The letter published below and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, but are designed to

assist only in the implementation of certain of its provisions.

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

SEPTEMBER 26, 1974.

DEAR MR. COMMISSIONER: Pursuant to the Bilateral Cotton Textile Agreement of November 23, 1971, between the Governments of the United States and Peru, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective October 1, 1974 and for the twelve-month period extending through September 30, 1975, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 22, 56, 57, 58, and 60, produced or manufactured in Peru, in excess of the following levels of restraint:

Category		12-month level of restraint
22	square yards	2,025,844
56	dozen	56,623
57	do	46,305
58	do	104,186
60	do	16,710

In carrying out this directive, entries of cotton textiles and cotton textile products in the above categories, produced or manufactured in Peru, which have been exported to the United States from Peru prior to October 1, 1974, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period October 1, 1973 through September 30, 1974. In the event that the levels of restraint established for such goods for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of November 23, 1971, between the Governments of the United States and Peru which provide, in part, that within the aggregate limit, the limits of certain categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above will be made to you by further letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 25, 1974 (39 FR 3430).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Peru and with respect to imports of cotton textiles and cotton textile products from Peru have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.74-22775 Filed 9-30-74;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1974

Additions to List

Notice of proposed additions to Procurement List, 1974, November 29, 1973 (38 FR 33038) were published in the FEDERAL REGISTER on September 20, 1973 (38 FR 26401), and October 26, 1973 (38 FR 29641).

Pursuant to the above notices the following commodities are added to Procurement List 1974.

	Price Each
Class 8345:	
Case, Flag, Interment (IB), 8345-00-782-3010	$0.94
Class 8465:	
Pocket, Ammunition Magazine (IB), 8465-00-782-2239	0.80
Protector, Trousers, Pistol Holster (IB), 8465-00-682-6741	0.77

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.74-22704 Filed 9-30-74;8:45 am]

PROCUREMENT LIST 1974

Addition to List

Notice of proposed addition to Procurement List 1974, November 29, 1973 (38 FR 33038) was published in the FEDERAL REGISTER on April 17, 1974 (39 FR 13804).

Pursuant to the above notice the following commodities are added to Procurement List 1974.

Class 7520	Regions	Price each
Box, filing (RF):		
7520-00-285-3144	1-8	$2.51
7520-00-285-3145	1, 2, 3, 9, 10	5.07
7520-00-285-3146	1, 2, 3, 9, 10	8.16
7520-00-285-3148	1, 2, 3, 6, 7, 8, 9, 10	8.21

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.74-22705 Filed 9-30-74;8:45 am]

DEFENSE MANPOWER COMMISSION

NOTICE OF MEETING

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that the Commissioners of the Defense Manpower Commission will meet on October 18, 1974, at 1 p.m. in Room 301F, 1111 18th Street NW., Washington, D.C. 20036.

The purpose of the meeting will be to review staff progress and to discuss the Commission Study Plan.

The meeting will be open to the public. Since meeting space is limited, interested persons wishing to attend should telephone by close of business Friday, October 11, 1974.

PAUL C. KEENAN, Jr.,
Acting Executive Director.

SEPTEMBER 23, 1974.

[FR Doc.74-22162 Filed 9-30-74;8:45 am]

FEDERAL POWER COMMISSION

[Project Nos. 2356, 2377, 2378, 2383, and 2384]

CLEVELAND CLIFFS IRON CO.

Order To Show Cause

SEPTEMBER 24, 1974.

It appearing to the Commission that:

(a) Cleveland Cliffs Iron Company is the applicant for license for Project Nos. 2356, 2377, 2378, 2383, and 2384;

(b) The following bases for Commission jurisdiction exist: (1) applicant substantially reconstructed Project No. 2356 after August 26, 1935, without first filing a Declaration of Intention of such action and obtaining an express finding by the Commission that such construction would not affect the interests of interstate or foreign commerce, (2) the Dead River at the sites of Project Nos. 2377 and 2378, the Escanaba River at the site of Project No. 2383, and the Au Train River at the site of Project No. 2384 are navigable streams of the United States on the basis of their past use to transport logs, and (3) Project Nos. 2356, 2377, and 2378, 2383, and 2384 are connected to an interconnected transmission system which transmits power across state lines;

(c) Applicant has failed to participate actively in the licensing process involving Project Nos. 2356, 2377, 2378, 2383, and 2384 and has failed to respond to staff requests for information needed for that process;

(d) While applicant has in the past suggested an intention to request the withdrawal of its pending applications for license of Project Nos. 2356, 2377, 2378, 2383, and 2384, such requests for withdrawal have not been filed to date;

The Commission on its own Motion, orders that the Cleveland Cliffs Iron Company (applicant) shall, under oath, show cause, if any there be, within 60 days of the issuance of this order:

(1) Why the Commission should not assert jurisdiction over Projection Nos. 2356, 2377, 2378, 2383, and 2384; and

(2) Why applicant has failed to respond to staff requests for information necessary in the licensing procedure for Project Nos. 2356, 2377, 2378, 2383, and 2384 under the terms of the Federal Power Act; and

(3) Why the Commission should not issue such other and further order as it may find appropriate, expedient and in the public interest to facilitate the timely

licensing of Project Nos. 2356, 2377, 2378, 2383, and 2384, under the term of the Federal Power Act.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-22720 Filed 9-30-74;8:45 am]

[Docket No. RP73-65]

COLUMBIA GAS TRANSMISSION CORP.

Compliance Filing

SEPTEMBER 25, 1974.

Take notice that Columbia Gas Transmission Corporation (Columbia), on September 10, 1974, tendered for filing changes in its FPC Gas Tariff, Original Volume No. 1, to be effective on September 1, 1974, and September 2, 1974.

Columbia states that the purpose of the revised tariff sheets is to comply with the Commission's order of August 30, 1974, in this proceeding. Revised tariff sheets to be effective September 1, 1974, reflect a PGA increase exclusive of costs related to small producers, emergency purchases, and Ohio intrastate producer suppliers above the national rate and the anticipated producer increases that were not filed and made effective by September 1, 1974. Tariff sheets to be effective September 2, 1974, include costs related to small producers, emergency purchases, and Ohio intrastate producer suppliers which are currently being paid and which exceed the national rate.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, Union Center Plaza Building, 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 and 1.10). All such petitions or protests should be filed on or before October 1, 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 filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-22727 Filed 9-30-74;8:45 am]

[Docket Nos. RP72-157 and RP75-5]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes in FPC Gas Tariff

SEPTEMBER 24, 1974.

Take notice that Consolidated Gas Supply Corporation (Consolidated), on September 16, 1974, tendered for filing proposed changes to its FPC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA clause and R&D cost adjustment clause for rates to be effective November 1, 1974.

Consolidated states that its filing reflects changes under § 12.3 and 12.6 of its PGA clause to change its surcharge to reflect the Unrecovered Purchased Gas Cost account and flow through of supplier refunds. Consolidated states that the proposed surcharge of 0.23¢/Mcf, to be in effect November 1, 1974 through April 30, 1975, includes the amounts accumulated in the Unrecovered Purchased Gas Account for the period February, 1974, through July, 1974, the jurisdictional portion of refunds received by Consolidated from its suppliers for the same six-month period and a carry-over balance from the surcharge filed September 14, 1973 effective November 1, 1973 through April 30, 1974.

Additionally, Consolidated states that it includes a rate change to reflect a R&D Cost Adjustment of 0.05¢ per Mcf. Consolidated states that the proposed R&D Cost Adjustment would generate approximately $0.3 million annually in additional jurisdictional revenues.

Consolidated states that copies of this filing were served upon Consolidated's jurisdictional customers, as well as interested state commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street 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 October 8, 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 filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-22721 Filed 9-30-74;8:45 am]

[Docket No. E-9019]

GEORGIA POWER CO.

Change in Rate Schedule

SEPTEMBER, 25, 1974.

Take notice that on September 12, 1974, Georgia Power Company (Georgia) tendered for filing a proposed change in its rate schedule[1] for service to Crisp County Power Commission (Crisp). Georgia states that the reasons for the proposed changes are to provide the new delivery point and additional capacity requested by Crisp, and to give Georgia a more adequate rate of return. Georgia further states that the overall rate of return from the proposed service will be 3.47 percent.

Georgia requests that an effective date of June 1, 1974, be assigned to the proposed rate since, according to the Company, both parties have agreed upon that date and Georgia has begun preparation for construction of the new delivery point provided for in the contract.

Georgia states that copies of the proposed rate schedule have been mailed to Crisp.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street 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 October 2, 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.74-22722 Filed 9-30-74;8:45 am]

[Docket No. RP72-140]

GREAT LAKES GAS TRANSMISSION CO.

Proposed Changes in FPC Gas Tariff Under Purchased Gas Adjustment Clause Provisions

SEPTEMBER 25, 1974.

Take notice that Great Lakes Gas Transmission Company (Great Lakes), on September 16, 1974, tendered for filing Thirteenth Revised Sheet No. 57 (Twelfth Revised PGA-1) to its FPC Gas Tariff, First Revised Volume No. 1, proposed to be effective November 1, 1974.

Great Lakes states that its sole supplier of natural gas, TransCanada Pipe Lines Limited (TransCanada), has applied to the National Energy Board of Canada (NEB) for increased rates to be effective November 1, 1974. Great Lakes filed the Thirteenth Revised Sheet No. 57 in anticipation that the NEB will grant the increase applied for by TransCanada under its Manitoba Zone CD-75 Rate Schedule and that the FPC will authorize Great Lakes to pay the resulting increase in the border price.

Great Lakes is also including in the revised tariff sheet a purchased gas cost surcharge adjustment. The surcharge adjustment results from maintaining an unrecovered purchased gas cost account for the period commencing March 1, 1974 and ending August 31, 1974.

Great Lakes also states that copies of this filing have been served upon its customers and the Public Service Commissions of Michigan and Wisconsin.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the

[1] Georgia Power Rate Schedule FPC No. 747.

Commission's rules of practice and procedure (18 CFR 1.8, 110). All such petitions or protests should be filed on or before October —, 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 filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-22723 Filed 9-30-74;8:45 am]

[Docket Nos. CI75-153 and CI75-154]

GULF OIL CORP.

Notice of Application

SEPTEMBER 24, 1974.

Take notice that on September 12, 1974, Gulf Oil Corporation (Applicant), P.O. Box 1589, Tulsa, Oklahoma 74102, filed in Docket No. CI75-153 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the sale of natural gas in interstate commerce to Texaco Inc. (Texaco) from a portion of the P. Walker et al., lease (Walker lease) in Ward County, Texas. Take further notice that concurrently Applicant filed an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas to Northern Natural Gas Company (Northern) from the East Quito Unit (which includes portions of the Walker lease), Quito Fields, Ward County, Texas. Applicant's proposals are fully set forth in the applications which are on file with the Commission and open to public inspection.

Applicant states that it entered into a percentage-type contract with Texaco for the sale of gas from Applicant's production interest in the Walker lease which gas is processed in Texaco's south Kermit Gasoline Plant and resold by Texaco to Northern.[1] Applicant relates that by an agreement dated November 7, 1972, Texaco has agreed to amend said percentage-type contract so as to release all formations below the base of the Delaware formation underlying the Walker lease.[2] Applicant claims that since no wells had been completed on the Walker lease below the base of the Delaware formation and it was uneconomical for Applicant to drill wells to such depths under the percentage-type contract, the release was made with the understanding that the acreage involved, along with other acreage, would provide sufficient incentive for Applicant to drill additional wells on the East Quito Unit which includes the Walker lease below the base of the Delaware formation.

In accordance with the above-mentioned understanding among Applicant, Texaco and Northern, Applicant states that it has entered into a contract with Northern, dated July 19, 1974, which provides for the sale of gas to Northern from the East Quito Unit. Applicant proposes to sell and deliver an estimated 90,000 Mcf of gas-well gas per month to Northern at a base price of 55.0 cents per Mcf at 14.65 psia, subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot, with an upward adjustment limitation of 1,200 Btu per cubic foot and with an estimated initial downward adjustment of 3.3 cents per Mcf. Applicant also points out that its contract with Northern provides for reimbursement to Applicant of 90 percent of additional or increased taxes after August 16, 1974, and reimbursement to Applicant of 90 percent of "excess royalty payments".[3]

Any person desiring to be heard or make any protest with reference to said applications should on or before October 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 section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, hearings will be held without further notice before the Commission on these applications if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are 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 hearings will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearings.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 74-22724 Filed 9-30-74;8:45 am]

[Docket No. CI75-163]

ILUS INDUSTRIES, INC.

Notice of Application

SEPTEMBER 24, 1974.

Take notice that on September 12, 1974, Ilus Industries, Inc. (Applicant), 4121 West 83rd Street, Prairie Village, Kansas 66208, filed in Docket No. CI75-163 an application pursuant to section 7 (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Northern Natural Gas Company from acreage in Ellsworth County, Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell approximately 45,000 Mcf of natural gas per month for two years at 45.0 cents per Mcf at 14.65 psia, plus 3.0 cents per Mcf for gathering and 5.0 cents per Mcf for compression and subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot, within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicant states that as the holder of a temporary small producer certificate in Docket No. CS74-414 it does not waive any of its rights under said certificate in requesting pregranted abandonment authorization in the instant proceeding.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 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 matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a

[1] Texaco received authorization in Docket No. CI64-698 to sell gas to Northern under a contract between said parties dated November 8, 1963, which is on file with the Commission as Texaco's FPC Gas Rate Schedule No. 323.

[2] Northern also agreed to the partial release of the same acreage from the contract between Texaco and Northern dated November 8, 1963.

[3] Applicant states that "excess royalty payments" is the amount by which the actual royalty payments required to be paid to the lessor by Applicant exceeds the amount such payments would have been if the royalty had been based upon the prices in effect under the terms of the contract dated July 19, 1974.

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 Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-22725 Filed 9-30-74;8:45 am]

[Docket No. E-8815]

IOWA PUBLIC SERVICE COMMISSION

Extension of Procedural Dates

SEPTEMBER 24, 1974.

On September 19, 1974, Staff Counsel filed a motion for an indefinite suspension of the procedural dates fixed by order issued June 28, 1974, in the above designated matter. The motion states that no interested party objects to a suspension.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of staff's Testimony, December 23, 1974.
Service of Intervenor's Testimony, January 6, 1975.
Service of Company's Rebuttal, January 20, 1975.
Hearing, February 5, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 74-22726 Filed 9-30-74;8:45 am]

[Project No. 719]

JESSIE I. SMITH

Issuance of Annual License

SEPTEMBER 24, 1974.

On June 30, 1972, Jessie I. Smith, Licensee for Trinity Power Project No. 719, located in Wenatchee National Forest, Chelan County, on the James and Phelps Creeks, tributaries of the Chiwawa River in Washington, filed an application for a new license under section 15 of the Federal Power Act and Commission Regulations thereunder (§§ 16.1-16.6).

The License for Project No. 719 was issued effective November 1, 1952, for a period ending October 31, 1972. Since the original date of expiration, the Project has been under annual license. In order to authorize the continued operation and maintenance of the Project pursuant to section 15 of the Act, pending completion of Licensee's application and Commission action thereon, it is appropriate and in the public interest to issue an annual license to Jessie I. Smith for continued operation and maintenance of Project No. 719.

Take notice that an annual license is issued to Jessie I. Smith (Licensee) under section 15 of the Federal Power Act for the period November 1, 1974, to October 31, 1975, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of Project No. 719, subject to the terms and conditions of its present license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-22728 Filed 9-30-74;8:45 am]

[Docket No. RP73-102]

MICHIGAN WISCONSIN PIPE LINE CO.

Tendered Tariff Sheets

SEPTEMBER 25, 1974.

Take notice that by letter dated September 13, 1974, Michigan Wisconsin Pipe Line Company (Mich-Wis) tendered for filing as part of its FPC Gas Tariff, Second Revised Volume No. 1, a Seventh Revised Sheet No. 27F. Mich-Wis states that the tendered tariff sheet reflects: (1) an increase in the Purchased Gas Adjustment of 6.73¢ as a result of increases in the cost of gas levels included in its rates which became effective on May 1, 1974; (2) a revised surcharge adjustment of .41¢ and (3) a decrease of .12¢ to reflect a decrease in the level of advance payments. The company states that the filing is made pursuant to the provisions of section 15 of the General Terms and Conditions of its tariff and Article IV of the Stipulation and Agreement at Docket No. RP73-102.

Mich-Wis requests a waiver of the requirements of Part 154 of the Commission's Regulations under the Natural Gas Act to the extent that such waiver may be necessary to permit its filing to become effective on November 1, 1974.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 10, 1974. Protests will be Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 9, 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 filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-22730 Filed 9-30-74;8:45 am]

[Docket No. CP75-82]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Application

SEPTEMBER 25, 1974.

Take notice that on September 13, 1974, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP75-82 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 measurement facilities in Block 182, Vermillion Area, offshore Louisiana, and approximately 2.6 miles of 6⅝-inch O.D. pipeline extending from Block 182 to the existing pipeline of Sea Robin Pipeline Company (Sea Robin), in Block 181, East Cameron Area, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has acquired the right to purchase all of the gas produced in Block 182 (the Block 182 reserves) and has under contract an initial dedication of an aggregate of 21.4 million Mcf of reserves. Applicant proposes via the proposed pipeline facilities to deliver up to 5,000 Mcf per day of the Block 182 reserves to Sea Robin for transportation for the account of Columbia Gas Transmission Corporation (Columbia). Applicant relates that pursuant to an agreement between Applicant and Columbia dated April 1, 1974, the Block 182 reserves will be delivered by Sea Robin to Columbia and Columbia will concurrently cause to be redelivered to Applicant an equivalent volume at an existing onshore point of interconnection of the facilities of Applicant and Columbia Gulf Transmission Company near Calumet, St. Mary Parish, Louisiana. Applicant states that the rate to be paid by Applicant to Columbia for the transportation service is the amount payable by Columbia to Sea Robin attributable to the gas delivered by Applicant to Sea Robin for the account of Columbia.

Applicant estimates the cost of its proposed pipeline and related facilities to be $944,980 which will be financed with funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 16, 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) and the regulations under the Natural Gas Act (CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required

herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-22729 Filed 9-30-74;8:45 am]

[Docket Nos. G-18314 and CP66-121]

MIDWESTERN GAS TRANSMISSION CO.

Petition To Amend Orders

SEPTEMBER 24, 1974.

Take notice that on August 23, 1974, Midwestern Gas Transmission Company (Midwestern) petitioned the Federal Power Commission to amend its orders in the above-captioned dockets authorizing the continued importation of natural gas from the Dominion of Canada. The petition states that Midwestern imports natural gas purchased from TransCanada Pipelines Limited (TransCanada). Midwestern further states by its filing of August 23, 1974, Midwestern is requesting to amend import authorization in Docket Nos. G-18314 and CP66-121 to approve the continued importation of gas under Midwestern's Contract Nos. 1 and 2 at a rate equivalent to 105 percent of the Manitoba domestic rates as may be established by the Canadian National Energy Board with respect to an increase in rates filed by TransCanada on August 9, 1974, and proposed to become effective on November 1, 1974.

The petition also states Midwestern has determined that approval of TransCanada's proposed rate increase will increase Midwestern's purchased gas costs by approximately 23.554¢ per Mcf. In terms of annual cost of gas from TransCanada the proposed increase will amount approximately to $27.4 million (in Canadian funds). Finally, the petitions state that if Midwestern's import authorizations are not amended prior to the effective date designated by the NEB with respect to TransCanada's filing of August 9, 1974, Midwestern will be faced with termination of imports of gas from TransCanada.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, 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 October 4, 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 filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-22731 Filed 9-30-74;8:45 am]

[Project No. 469]

MINNESOTA POWER & LIGHT CO.

Issuance of Annual License

SEPTEMBER 24, 1974.

On October 9, 1970, Minnesota Power & Light Company, Licensee for Project No. 469, located on the Kawishiwi River in Lake and St. Louis Counties, near the Village of Winton, Minnesota, filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1-16.5).

The License for Winton Hydro-Electric Project No. 469, was issued effective September 5, 1924, for a period ending October 26, 1973. Since the original date of expiration, the Project has been under annual license. In order to authorize the continued operation and maintenance of the Project pursuant to section 15 of the Act, pending completion of Licensee's application and Commission action thereon, it is appropriate and in the public interest to issue an annual license to Minnesota Power & Light Company for continued operation and maintenance of Project No. 469.

Take notice that an annual license is issued to Minnesota Power & Light Company (Licensee) under section 15 of the Federal Power Act for the period October 27, 1974, to October 26, 1975, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Winton Hydro-Electric Project No. 469 subject to the terms and conditions of its present license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-22732 Filed 9-30-74;8:45 am]

[Docket No. E-8547]

MISSOURI EDISON CO.

Extension of Procedural Dates

SEPTEMBER 24, 1974.

On September 10, 1974, Staff Counsel filed a motion to indefinitely extend the procedural dates in the above-designated matter, pending disposition of settlement agreement filed in Union Electric Company, Docket No. E-7571, and Missouri Power and Light, Docket No. E-7572. Counsel states that he has contacted the interested parties in this proceeding and there is no opposition to the proposed extension.

Notice is hereby given that the procedural dates in the above matter are modified as follows:

Staff Service of Evidence, December 9, 1974.
Rebuttal Evidence of the Company, December 30, 1974.
Prehearing Conference, January 21, 1974.
Hearing, February 18, 1974 (10 a.m. e.d.t.).

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-22733 Filed 9-30-74;8:45 am]

[Project No. 233]

PACIFIC GAS AND ELECTRIC CO.

Issuance of Annual License

SEPTEMBER 24, 1974.

On October 28, 1970, Pacific Gas and Electric Company, Licensee for Pit No. 3, 4, and 5 Project No. 233, located on Pit River in Shasta County, California, filed an application for a new license under section 15 of the Federal Power Act and Commission Regulations thereunder (§§ 16.1-16.6).

The License for Project No. 233 was issued effective October 23, 1923, for a period ending October 22, 1973. Since the original date of expiration, the Project has been under annual license. In order to authorize the continued operation and maintenance of the Project pursuant to Section 15 of the Act, pending completion of Licensee's application and Commission action thereon, it is appropriate and in the public interest to issue an annual license to Pacific Gas and Electric Company for continued operation and maintenance of Project No. 233.

Take notice that an annual license is issued to Pacific Gas and Electric Company (Licensee) under section 15 of the Federal Power Act for the period October 23, 1974, to October 22, 1975, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Pit No. 3, 4, and 5 Project No. 233 subject to the terms and conditions of its present license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-22734 Filed 9-30-74;8:45 am]

[Docket No. G-2588, etc.]

SOHIO PETROLEUM CO.

Petition To Amend

SEPTEMBER 23, 1974.

Take notice that on September 16, 1974, Sohio Petroleum Company, a Delaware corporation (Petitioner), 1100 Penn Tower, Oklahoma City, Oklahoma 72118, filed in Docket No. G-2588, et al., a petition to amend the orders issuing certificates of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act to Sohio Petroleum Company, an Ohio corporation, by substituting Petitioner as certificate holder, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it merged Sohio Petroleum Company, an Ohio corporation as of the close of business December 31, 1973, and proposes to continue without change sales of natural gas authorized to be made in interstate commerce by the latter. Petitioner also states

that effective at the same time it merged St. Helens Petroleum Corporation and that it has assumed the obligations incurred by the latter for sales of natural gas under its FPC Gas Rate Schedule No. 3. Petitioner notes that St. Helens Petroleum Corporation was not making any sales of natural gas subject to the jurisdiction of the Commission at the time of the merger but that it did have a refund obligation which it intended to discharge by additional dedications in accordance with Opinion No. 598.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-22735 Filed 9-30-74;8:45 am]

[Docket No. RP 74-55]

SOUTHERN NATURAL GAS CO.

Extension of Time

SEPTEMBER 24, 1974.

On September 18, 1974, attorney for Southern Natural Gas Company filed a request for an extension of the time in which to file its brief on exceptions to the initial decision issued August 20, 1974, in the above-designated matter. The motion states that Staff Counsel has no objection to the extension.

Upon consideration, notice is hereby given that the time for filing the above brief on exceptions is extended to and including October 4, 1974. Briefs opposing exceptions may be filed on or before October 24, 1974.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-22736 Filed 9-30-74;8:45 am]

[Docket No. E-7045]

UNITED STATES DEPARTMENT OF THE INTERIOR ALASKA POWER ADMINISTRATION EKLUTNA PROJECT

Request for Extension of Approval of Rates and Charges

SEPTEMBER 24, 1974.

Notice is hereby given that the Secretary of the Interior (Secretary), acting on behalf of Alaska Power Administration (APA) and pursuant to section 2 of the Eklutna Project Act of July 31, 1950 (64 Stat. 382), filed with the Federal Power Commission on September 13, 1974, a request in Docket No. E-7045 for an extension of the Commission's confirmation and approval of APA's rates and charges for the sale of power and energy from the Eklutna Project included in Rate Schedules A-F6, A-N5, A-L5, and A-M1. The Commission by order issued August 8, 1969, in this Docket (42 FPC 472), approved such rates and charges for the period ending August 4, 1974. Approval of those rates and charges which are described in detail in the above-mentioned Commission order, is now requested by the Secretary for an additional period extending to December 31, 1974.

The Secretary represents, in substance, that the requested extension of approval of APA's rates and charges is necessary to allow APA time to complete the Fiscal Year 1974 Rate and Repayment Study and to assess the effects of five consecutive years of below normal inflow to Eklutna Reservoir. This low water has resulted in a substantial reduction in revenue. Studies are currently underway to determine what adjustments, if any, in the rates and charges may be appropriate in order that they will produce revenues sufficient to satisfy the payout requirements of the Eklutna Project Act.

The rate schedules referred to above are on file with the Commission and available for public inspection. Any person desiring to make comments or suggestions for the Commission's consideration with respect to such rate schedules should submit the same in writing on or before October 10, 1974, to the Federal Power Commission, Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-22737 Filed 9-30-74;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. F-303]

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 an electric 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 Kansas State Corporation Commission involving the application of Kansas Power and Light Company for an increase in electric rates (Docket No. 102,560-U).

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.

SEPTEMBER 23, 1974.

[FR Doc.74-22740 Filed 9-30-74;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR REGULATORY BIOLOGY

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Advisory Panel for Regulatory Biology to be held at 9 a.m. on October 17-18, 1974, in Rm. 621 at 1800 G Street, NW., Washington, D.C.

The purpose of the Panel is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects.

This meeting will not be open to the public because the Panel will be reviewing, discussing, and evaluating individual research proposals. The proposals contain information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within the exemptions of 5 U.S.C. 552(b) and will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated December 17, 1973, pursuant to the provisions of section 10(d) of Pub. L. 92-463.

For further information about this Panel, please contact Dr. Jack W. Hudson, Program Director, Regulatory Biology Program, Rm. 323, 1800 G Street, NW., Washington, D.C. 20550, telephone 202/632-4299.

FRED K. MURAKAMI,
Committee Management Officer.

SEPTEMBER 26, 1974.

[FR Doc.74-22738 Filed 9-30-74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 26, 1974 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, 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, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529); or from the reviewer listed.

NEW FORMS

DEPARTMENT OF AGRICULTURE

Forest Service: Northeast Woodland Owner Survey—Resurvey of Delaware, Form ——, Single time, Lowry (395-3772), Private Woodland owners.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education:
Evaluation of Handicapped Childrens Early Education Program, Forms OE 9041 through 8, Single time, HRD (395-3532) Planchon (395-3398), BEH-funded Early Childhood projects.
Financial Status and Performance Reports—Migratory Programs, Title I, ESEA, Form OE 362-1, Semiannual, Lowry (395-3772), SEA's and LEA's.

DEPARTMENT OF THE INTERIOR

Bureau of Mines: Mine Shaft Fire and Smoke Protection System, Form 6-C7501, Single time, Ellett (395-6172), Metal and nonmetal deep shaft mines.

NATIONAL SCIENCE FOUNDATION

Questionnaire on Incentives for Technological Innovation, Form ____, Single time, Weiner (395-4890), Business firms.

REVISIONS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service: December Enumerative Wheat and Livestock Survey, Form ____, Annual, Lowry (395-3772), Farmers.

EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration:
Application of Exemption for Storage, Form FD 1671, Occasional, Evinger (x) (395-3648).
Application of Exemption for Processing, Form FD 1672, Occasional, Evinger (x) (395-3648).
Application for Exemption of Labeling, Form FD 1673, Occasional, Evinger (x) (395-3648).
Annual Review of the Radiological Health Program, Form FD 2801, Annual, Evinger (x) (395-3648).

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.74-22875 Filed 9-30-74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

CANADIAN JAVELIN, LTD.

Suspension of Trading

SEPTEMBER 24, 1974.

The common stock of Canadian Javelin, Ltd. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Canadian Javelin, Ltd. 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 September 25, 1974 through October 4, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-22700 Filed 9-30-74;8:45 am]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Proposed Amendment to Option Plan Filed

Notice is hereby given that the Chicago Board Options Exchange, Inc. (CBOE) has filed a proposed amendment to its Option Plan pursuant to Rule 9b-1 under the Securities Exchange Act of 1934 (17 CFR 240.9b-1). The CBOE proposes to amend Rule 13.2 concerning the exemption of certain of its members from its net capital requirements.

In its present form Rule 13.2 exempts a member from the requirements of CBOE's net capital rule if the member is subject to the capital rules of another national securities exchange and if the member deducts from its net capital an amount that is not less than the deduction required by CBOE's net capital rule for uncovered short positions. In view of CBOE's modification of its Rule 13.3(b)(iii)(D) effective September 3, 1974, as well as the application by other exchanges of a minimum margin requirement for uncovered short options positions, the latter condition is no longer deemed necessary, and the proposed amendment is designed to delete this condition.

The proposed amendment will become effective upon the 30th day after this notice appears in the FEDERAL REGISTER, or upon such earlier date as the Commission may allow unless the Commission shall disapprove the change in whole or in part as being inconsistent with the public interest or the protection of investors.

All interested persons are invited to submit their views and comments on the proposed amendment to CBOE's plan either before or after it has become effective. Written statements of views and comments should be addressed to the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to file number 10-54. The proposed amendment is, and all such comments will be, available for public inspection at the Public Reference Room of the Securities and Exchange Commission at 1100 L Street, NW., Washington, D.C.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 23, 1974.

[FR Doc.74-22699 Filed 9-30-74;8:45 am]

[70-5387]

JERSEY CENTRAL POWER & LIGHT CO.

Filing of Post-Effective Amendment Regarding Issue and Sale of Short-Term Notes to Banks

Notice is hereby given that Jersey Central Power & Light Company ("Jersey Central"), Madison Avenue at Punch Bowl Road, Morristown, New Jersey 07960, an electric utility subsidiary company of General Public Utilities Corporation, a registered holding company, has filed with this Commission a second post-effective amendment to the declaration previously filed in this matter, pursuant to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 promulgated thereunder. All interested persons are referred to the declaration as now amended, which is summarized below, for a complete statement of the proposed transaction.

By orders dated October 9, 1973 and June 11, 1974 (Holding Company Act Release Nos. 18117 and 18454), the Commission authorized Jersey Central, for the period ending on December 31, 1974, to issue and sell its unsecured promissory notes of a maturity of nine months or less evidencing short-term bank borrowings from 30 banks provided that the aggregate principal amount of such notes outstanding at any one time could not exceed $96,000,000.

Jersey Central now proposes to issue and sell, such short-term notes to the banks in an aggregate amount up to $120,000,000 and to extend the period during which Jersey Central may issue and sell such notes until December 31, 1975. The aggregate amount of such notes outstanding at any one time shall not exceed 10 percent of the sum of (a) the principal amount of Jersey Central's outstanding first mortgage bonds and debentures, (b) the par value of Jersey Central's outstanding preferred stock, (c) the par value of Jersey Central's outstanding common stock and (d) Jersey Central's capital surplus. Each new note will bear interest at the prime interest rate for commercial borrowing of the bank from which the borrowing is made at the date of issue, will be prepayable at any time without premium, and will not be issued as part of a public offering. Although no commitments or agreements for such borrowings have been made, Jersey Central expects that, as and to the extent that its cash needs require, borrowings will be effected from among the following banks, the maximum to be borrowed and outstanding at any one time for each such bank being as follows:

Bankers Trust Co., New York, N.Y	$5,000,000
The Chase Manhattan Bank NA, New York, N.Y	25,000,000
Chemical Bank, New York, N.Y	5,000,000
Irving Trust Co., New York, N.Y	17,000,000
Manufacturers Hanover Trust Co., New York, N.Y	6,000,000
Fidelity Union Trust Co., Newark, N.J	6,000,000
First National State Bank of New Jersey, Newark, N.J	5,000,000
Midlantic Bank, Newark, N.J	7,000,000
First Jersey National Bank, Jersey City, N.J	3,000,000
American National Bank & Trust, Morristown, N.J	4,000,000
Belmar-Wall National Bank, West Belmar, N.J	300,000
The Central Jersey Bank & Trust Co., Freehold, N.J	3,000,000
Colonial First National Bank, Red Bank, N.J	1,500,000
First Merchants National Bank, Asbury Park, N.J	1,000,000
First National Bank of New Jersey, Passaic, N.J	1,000,000
First National Bank of South Jersey, Pleasantville, N.J	1,500,000
First National State Bank of Northwest Jersey, Succasunna, N.J	500,000
The First National Bank of Toms River, Toms River, N.J	1,200,000
The First National Iron Bank of New Jersey, Morristown, N.J	3,000,000
The Hunterdon County National Bank, Lambertville, N.J	700,000
Mechanics National Bank of Burlington County, Burlington, N.J	400,000
National Community Bank, Franklin, N.J	5,000,000
The National State Bank, Elizabeth, N.J	2,500,000
New Jersey Bank NA, Haledon, N.J	4,000,000
Ocean County National Bank, Point Pleasant, N.J	400,000
New Jersey National Bank, Asbury Park, N.J	3,000,000
Peoples Trust Company of New Jersey, Hackensack, N.J	4,000,000
Somerset Hills & County National Bank, Bernardsville, N.J	1,000,000
Summit and Elizabeth Trust Co., Summit, N.J	1,000,000
United Counties Trust Co., Summit, N.J	2,000,000
Total	120,000,000

It is stated that Jersey Central is required to maintain compensating balances with each of the banks equal to 10 percent of the lines of credit or 20 percent of the amounts actually borrowed, whichever is higher, except for the First National Bank of South Jersey, Pleasantville, N.J., which presently requires 10 percent of the amount of the line of credit as a compensating balance. Assuming a 12 percent prime rate and a 20 percent compensating balance, the effective rate of interest to be paid by Jersey Central is 15.0 percent (13.33 percent for borrowing from the First National Bank of South Jersey).

Jersey Central proposes to utilize the proceeds of the contemplated borrowings for the purpose of financing its business as a public utility company, including provisions for construction expenditures, the repayment of other short-term borrowings, and the temporary reimbursement of its treasury for construction expenditures provided thereon. The estimated cost of Jersey Central's 1974 construction program is approximately $160,000,000.

No state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than October 16, 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 post-effective amendment to the declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended by said post-effective amendment, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and ordered issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-22698 Filed 9-30-74;8:45 am]

[70-5544]

OHIO POWER CO.

Proposed Amendments to Articles of Incorporation, Increase in Permitted Short-Term Unsecured Indebtedness, and Order Authorizing Solicitation of Proxies in Connection Therewith

Notice is hereby given that Ohio Power Company ("Ohio"), 301 Cleveland Avenue, S.W., Canton, Ohio 44701, an electric utility subsidiary company of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a)(2), 7 and 12(e) of the Act and Rule 62 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Ohio proposes to amend its Articles of Incorporation (a) to increase the number of shares of common stock, no par value, which Ohio is authorized to issue from the presently authorized 20,000,000 to 40,000,000 such shares, and (b) to increase the number of shares of cumulative preferred stock, par value $100 per share which Ohio is authorized to issue from the presently authorized 2,700,000 to 4,200,000 such shares.

At June 30, 1974, Ohio was authorized to issue a total of 20,000,000 shares of its common stock and 2,700,000 shares of its cumulative preferred stock. As of that date, there had been issued and were outstanding 19,952,472 shares of its common stock, and 2,112,403 shares of its cumulative preferred stock. Ohio now proposes to amend its Articles of Incorporation so as to increase the aggregate number of shares of common stock and cumulative preferred stock which Ohio is authorized to issue to 40,000,000 shares and 4,200,000 shares, respectively.

Ohio further proposes to submit a proposal to its cumulative stockholders for their consent and approval to an increase in the amount of unsecured short-term debt which Ohio is authorized to incur prior to March 31, 1980, to exceed 10%, but provided that combined short-term and long-term unsecured indebtedness would be not more than 20 percent, of Ohio's total capitalization, such short-term indebtedness in excess of the said 10 percent to be outstanding no later than June 30, 1980. Authorization from the Commission for such an increase in the permissible amount of short-term debt is requested. The actual issue and sale of securities related to such proposed increase in the number of shares of both common stock and cumulative preferred stock will be subject to further authorization by this Commission.

It is stated that the increases in stock and short-term debt are necessary to finance Ohio's construction program, the cost of which is presently estimated to be approximately $150,000,000 for the last half of 1974 and $200,000,000 for the year 1975.

Ohio intends to submit the proposed amendments of its Articles of Incorporation and the proposed consent of its shareholders for their approval at a special meeting of shareholders to be held on November 13, 1974. In connection therewith, Ohio proposes to solicit proxies from the holders of its common and cumulative preferred stock through the use of solicitation material which sets forth the proposals in detail. The declaration states that the proposed amendment on the common stock requires the approval and consent of the holders of the outstanding common stock and approval by two-thirds of the voting power of Ohio and that the proposed amendment on the cumulative preferred stock requires the approval and consent of the holders of the outstanding common stock and the approval by two-thirds of the outstanding shares of cumulative preferred stock voting as a class. Consent of the holders of a majority

of the outstanding cumulative preferred stock, voting as a class, is needed to increase the amount of short-term unsecured indebtedness. AEP, holder of all of the outstanding shares of Ohio's common stock, has indicated that all such shares will be voted in favor of the proposed transaction.

The fees and expenses incurred in connection with the proposed transaction, including legal fees, are estimated not to exceed $72,500. The declaration states that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than October 21, 1974, request in writing that a hearing be held with respect to the proposed transaction, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing to the Commission that the declaration, insofar as it proposes the solicitation of the consents of Ohio's common and cumulative preferred stockholders, should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered, That the declaration regarding the proposed solicitation of the consents of Ohio's common and cumulative preferred stockholders be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-22703 Filed 9-30-74;8:45 am]

[File No. 500-1]

ROYAL PROPERTIES INC.

Suspension of Trading

SEPTEMBER 24, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Royal Properties Incorporated being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from September 25, 1974 through October 4, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-22702 Filed 9-30-74;8:45 am]

[File No. 500-1]

WINNER INDUSTRIES, INC.

Suspension of Trading

SEPTEMBER 24, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Winner Industries, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from September 25, 1974 through October 4, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-22701 Filed 9-30-74;8:45 am]

SMALL BUSINESS ADMINISTRATION

HELENA DISTRICT ADVISORY COUNCIL

Notice of Meeting

The Small Business Administration Helena District Advisory Council will meet at 10:30 a.m., Mountain Daylight Time, Wednesday, October 9, 1974, at the Northern Hotel in Billings, Montana, to discuss such business as may be presented by members, the staff of the Small Business Administration and others attending. For further information, call or write Ottley R. Tschache, Small Business Administration, Corner Main and Sixth Avenue, Helena, Montana 59601 (406) 442-3381.

Dated: September 26, 1974.

JOHN JAMESON,
Director, Office of Advisory Councils, Small Business Administration.

[FR Doc.74-22718 Filed 9-30-74;8:45 am]

TARIFF COMMISSION

[TEA-W-244]

BLUE RIDGE SHOE CO.

Petition for Determination

On September 11, 1974, the U.S. Tariff Commission published notice in the FEDERAL REGISTER (39 FR 32798) of the institution of an investigation under section 301(c)(2) of the Trade Expansion Act of 1962 on behalf of the workers and former workers of the Tifton, Georgia, plant of the Blue Ridge Shoe Company, Wilkesboro, North Carolina, a wholly owned subsidiary of Melville Shoe Corporation, Harrison, New York, to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for men and boys (of the types provided for in item 700.55 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

On September 25, 1974, the Commission amended the scope of this investigation, pursuant to its authority under section 403(a) of the said act, to include, in addition, articles like or directly competitive with footwear for misses, children and infants (of the types provided for in item 700.55 of the Tariff Schedules of the United States) produced by said firm.

By order of the Commission.

Issued: September 26, 1974.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.74-22757 Filed 9-30-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 600]

ASSIGNMENT OF HEARINGS

SEPTEMBER 26, 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 October 1, 1974.

MC 139325 Sub 1, P-N-J Kornacker, Inc., Dba Kornacker Trucking Co., now assigned September 30, 1974, at Chicago, Ill., is cancelled and the application dismissed.

MC-C-8331, A & H Truck Line, Inc., Et Al—V—J. W. Ward Transfer, Inc., now being assigned hearing November 12, 1974 (2 days) at St. Louis, Mo., in a hearing room to be later designated.

MC 44735 Sub 13, Kissick Truck Lines, Inc., now being assigned hearing November 14, 1974 (2 days), at St. Louis, Mo., in a hearing room to be later designated.

MC-C-7996, Film Transit, Inc., Et Al—V—Cape Air Freight, Inc., now being assigned hearing November 18, 1974 (1 week), at St. Louis, Mo., in a hearing room to be later designated.

MC 119422 Sub 56, Ee-Jay Motor Transports, Inc., now being assigned hearing November 5, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 138018 Sub 8, Refrigerated Foods, Inc., now assigned November 13, 1974, at Denver, Colo., postponed indefinitely.

MC-F-12227, Denver-Midwest Motor Freight, Inc.—Purchase—Riteway Transport, Inc., Padre Freight Lines, and Cibola Freight Lines, application dismissed.

MC-F-12195, Coors Transportation Company—Purchase (Portion)—Pacific Inland Transportation Company, now being assigned hearing November 13, 1974 (3 days), at Denver, Colo., in a hearing room to be later designated.

MC 139053 Sub 2, Hiram E. Blue, Jr., Trucking Co., now assigned October 16, 1974, at Jackson, Miss., is postponed indefinitely.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-22781 Filed 9-30-74;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 26, 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 October 16, 1974.

FSA No. 42880—*Joint Water-Rail Container Rates—Kawasaki Kisen Kaisha, Ltd.* Filed by Kawasaki Kisen Kaisha, Ltd. (No. 9), for itself and interested rail carriers. Rates on general commodities, from rail stations on the U.S. Atlantic and Gulf Seaboard, to ports in People's Republic of China.

Grounds for relief—Water competition.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-22779 Filed 9-30-74;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Applications Notice

SEPTEMBER 25, 1974.

The following applications to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065(d)(2)), and notice thereof to all interested persons is hereby given as provided in such rules.

Carriers having a genuine interest in an application may file an original and three copies of *verified statements* in opposition with the Interstate Commerce Commission on or before October 31, 1974. (This procedure is outlined in the Commission's report and order in *Gateway Elimination*, 119 M.C.C. 530.) A copy of the verified statement in opposition must also be served upon applicant or its named representative. The verified statement should contain all the evidence upon which protestant relies in the application proceeding, including a detailed statement of protestant's interest in the proposal.

No. MC 5022 (Sub-No. 7G) filed June 4, 1974. Applicant: SANTINI BROS. INC., doing business as THE SEVEN BROTHERS AND THE SEVEN SANTINI BROTHERS, 1405 Jerome Avenue, Bronx, N.Y. 10452. Applicant's representative: Robert J. Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) between points in Alabama, on the one hand, and, on the other, points in Connecticut, Delaware, District of Columbia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateways of Perry, Fla., Chicago, Ill., and 10 miles thereof, and points in New York and New Jersey. (2) Between points in Connecticut, on the one hand, and, on the other, points in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Michigan, Minnesota, Missouri, New Hampshire, North Carolina, Ohio, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateways of Chicago, Ill., and 25 miles thereof, Perry, Fla., and points in New York and New Jersey.

(3) Between points in Delaware, on the one hand, and, on the other, points in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Michigan, Minnesota, Missouri, New Hampshire, North Carolina, Ohio, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateways of Perry, Fla., Chicago, Ill. and 10 miles thereof, and points in New York, and New Jersey. (4) Between points in the District of Columbia, on the one hand, and, on the other, points in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Michigan, Minnesota, Missouri, New Hamsphire, North Carolina, Ohio, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateways of Chicago, Ill. and 10 miles thereof, Perry, Fla., and points in New York and New Jersey. (5) Between points in Florida, on the one hand, and, on the other, points in Connecticut, Delaware, District of Columbia, Illinois, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, points in Indiana within 10 miles of Chicago, Ill., points in Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia and Wisconsin. The purpose of this filing is to eliminate the gateways of Chicago, Ill. and 10 miles thereof, and points in New York and New Jersey. (6) Between points in Perry, Fla., on the one hand, and, on the other, points in Connecticut, Delaware, District of Columbia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia and Wisconsin. The purpose of this filing is to eliminate the gateways of Chicago, Ill. and 10 miles thereof, and points in New York and New Jersey.

(7) Between points in Georgia, on the one hand, and, on the other, points in Connecticut, Delaware, District of Columbia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateways of Chicago, Ill. and 10 miles thereof, and points in New York and New Jersey. (8) Between points in Illinois, on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Indiana, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, South Carolina, and Virginia. The purpose of this filing is to eliminate the gateways at points in New York and New Jersey. (9) Between points in Chicago, Ill. and 10 miles thereof, on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Maine, Maryland, Massachusetts, New Hampshire, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia. The purpose of this filing is to eliminate the gateway at Perry, Fla., and points in Indiana, New York, and New Jersey. (10) Between points in Indiana within 10 miles of Chicago, Ill., on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, Pennsylvania, South Carolina, Tennessee, Vermont, Virginia, and West Virginia. The purpose of this filing is to eliminate the gateway at Perry, Fla.,

Chicago, Ill., and 10 miles thereof, and points in New York and New Jersey.

(11) Between points in Indiana, on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateway of Perry, Fla., Chicago, and 10 miles thereof, and points in New York and New Jersey. (12) Between points in Kentucky, on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia. The purpose of this filing is to eliminate the gateway of Perry, Fla., Chicago, and 10 miles thereof, and points in Indiana, New York and New Jersey. (13) Between points in Maine, on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateway of Perry, Fla., Chicago and 10 miles thereof, and points in New York and New Jersey.

(14) Between points in Maryland, on the one hand, and, on the other, points in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Michigan, Minnesota, Missouri, New Hampshire, North Carolina, Ohio, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateways of Perry, Fla., Chicago, and 10 miles thereof, and points in New York and New Jersey. (15) Between points in Massachusetts, on the one hand, and, on the other, points in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Michigan, Minnesota, Missouri, New Hampshire, North Carolina, Ohio, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateways of Perry, Fla., Chicago and 10 miles thereof, and points in New York and New Jersey. (16) Between points in Michigan, on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Missouri, New Hampshire, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateways of Perry, Fla., Chicago and 10 miles thereof, and points in Indiana, New York and New Jersey. (17) Between points in Minnesota, on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia. The purpose of this filing is to eliminate the gateways of Perry, Fla., Chicago, Ill., and 10 miles thereof, and points in Indiana, New York, and New Jersey.

(18) Between points in Missouri, on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia. The purpose of this filing is to eliminate the gateways of Chicago, Ill. and 10 miles thereof, Perry, Fla., and points in Indiana, New York, and New Jersey. (19) Between points in New Hampshire, on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateways of Perry, Fla., Chicago, and 10 miles thereof, and points in Indiana, New York, and New Jersey. (20) Between points in New Jersey, on the one hand, and, on the other, points in Alabama, Florida, Georgia, Indiana, Kentucky, Maine, Minnesota, Missouri, New Hampshire, South Carolina, Vermont, and Wisconsin. The purpose of this filing is to eliminate the gateways of Perry, Fla., Chicago, and 10 miles thereof, and points in New York and New Jersey.

(21) Between points in New York, on the one hand, and, on the other, points in Alabama, Florida, Georgia, Indiana, Kentucky, Maine, Minnesota, Missouri, New Hampshire, South Carolina, Vermont, and Wisconsin. The purpose of this filing is to eliminate the gateways of Perry, Fla., Chicago, Ill., and 10 miles thereof, New York City, N.Y., and Newark, N.J., and 25 miles thereof. (22) Between points in North Carolina, on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, Ohio, Chicago, Ill., and 10 miles thereof, Pennsylvania, Rhode Island, South Carolina, Vermont, and Wisconsin. The purpose of this filing is to eliminate the gateways of Chicago and 10 miles thereof, Perry, Fla., and points in Indiana, New York, and New Jersey. (23) Between points in Ohio, on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan Minnesota, Missouri, New Hampshire, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Tennessee, Virginia, and West Virginia. The purpose of this filing is to eliminate the gateways of Chicago and 10 miles thereof, and points in Indiana, New York, and New Jersey.

(24) Between points in Pennsylvania, on the one hand, and, on the other, points in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Michigan, Minnesota, Missouri, New Hampshire, North Carolina, Ohio, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateways of Chicago and 10 miles thereof, Perry, Fla., and points in New York and New Jersey. (25) Between points in Rhode Island, on the one hand, and, on the other, points in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Michigan, Minnesota, Missouri, New Hampshire, North Carolina, Ohio, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateways of Chicago and 10 miles thereof, Perry, Fla., points in New York and New Jersey. (26) Between points in South Carolina, on the one hand, and, on the other, points in Connecticut, Delaware, District of Columbia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateways of Chicago and 10 miles thereof, and points in New York and New Jersey. (27) Between points in Tennessee, on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, Ohio, Chicago and 10 miles thereof, Pennsylvania, Rhode Island, South Carolina, Vermont, and Wisconsin. The purpose of this filing is to eliminate the gateways of Chicago and 10 miles thereof, Perry, Fla., and points in Indiana, New York, and New Jersey.

(28) Between points in Vermont, on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, and Tennessee. The purpose of this filing is to eliminate the gateways of Chicago and 10 miles thereof, Perry, Fla., and points in New York and New Jersey. (29) Between points in Virginia, on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, Ohio,

Chicago, Ill. and 10 miles thereof, Pennsylvania, Rhode Island, South Carolina, Vermont, and Wisconsin. The purpose of this filing is to eliminate the gateways of Perry, Fla., Chicago, and 10 miles thereof, and points in Indiana, New York, and New Jersey.

(30) Between points in West Virginia, on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, Chicago, Ill. and 10 miles thereof, Pennsylvania, Rhode Island, South Carolina, Vermont, and Wisconsin. The purpose of this filing is to eliminate the gateways of Perry, Fla., Chicago, Ill., and 10 miles thereof, and points in Indiana, New York, and New Jersey. (31) Between points in Wisconsin, on the one hand, and, on the other, points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia. The purpose of this filing is to eliminate the gateway of Perry, Fla., Chicago, Ill., and 10 miles thereof, and points in Indiana, New York, and New Jersey.

No. MC 14552 (Sub-No. 56G), filed June 4, 1974. Applicant: J. V. McNICHOLAS TRANSFER COMPANY, a corporation, 555 West Federal Street, Youngstown, Ohio 44501. Applicant's representative: Paul F. Beery, 8 E. Broad Street, Ninth Floor, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in Pennsylvania on and west of a line beginning at the State Boundary line between West Virginia and Pennsylvania and extending along Pennsylvania Highway 844, thence east over Pennsylvania Highway 844, to intersection U.S. Highway 19, thence north along U.S. Highway 19 to intersection Pennsylvania Highway 65, thence north along Pennsylvania Highway 65 to intersection Pennsylvania Highway 989, thence north along Pennsylvania Highway 989 to intersection Pennsylvania Highway 68, thence east along Pennsylvania Highway 68 to intersection Pennsylvania Highway 138, thence east along Pennsylvania Highway 138 to intersection Pennsylvania Highway 308, thence north along Pennsylvania Highway 308 to Pennsylvania Highway 8, thence north along Pennsylvania Highway 8 to intersection U.S. Highway 62, thence east along U.S. Highway 62 to intersection U.S. Highway 322, thence north along U.S. Highway 322 to intersection Pennsylvania Highway 173, thence west along Pennsylvania Highway 173 to intersection Pennsylvania Highway 285, thence west along Pennsylvania Highway 285 to intersection U.S. Highway 6, thence west along U.S. Highway 6 to the State Boundary line between Ohio and Pennsylvania to points in Ohio. The purpose of this filing is to eliminate the gateways of Youngstown, Ohio, and those points in Pennsylvania and Ohio that are within 15 miles of Burgettstown, Pa., and also within 35 miles of Youngstown, Ohio.

No. MC 15897 (Sub-No. 13G), filed June 4, 1974. Applicant: O.K. TRANSFER AND STORAGE CO., a corporation, 207 S. Union Street, P.O. Box 1602, Shawnee, Okla. 74801. Applicant's representative: Wilburn L. Williamson, 3535 NW. 58th Street, 280 National Foundation Life Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) between points in Oklahoma, Arkansas, Kansas, Louisiana, Missouri, Nebraska, New Mexico, and Texas; and (2) between points in the territory described in (1) above, on the one hand, and, on the other, points in Illinois, Kentucky, Tennessee, Mississippi, Alabama, and Colorado. The purpose of this filing is to eliminate the gateways of points within 135 miles of Shawnee, Okla., Creek County, Okla., and Paris (Lamar County), Tex.

No. MC 24136 (Sub-No. 15G), filed June 5, 1974. Applicant: HARRISON-SHIELDS TRANSPORTATION LINES, INC., P.O. Box 445, Meadow Lands, Pa. 15347. Applicant's representative: Maxwell A. Howell, 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by mail order houses and department stores, the business of which is the sale of general commodities, between points in that part of West Virginia on and north of West Virginia Highway 3; points in that part of Ohio east and south of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 40 to Vandalia, thence along U.S. Highway 25 to Findlay, thence along Ohio Highway 12 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 6, thence along U.S. Highway 6 to Sandusky, Ohio; Auburn, Binghamton, Cortland, Elmira, Geneva, Hornell, Lockport, Olean, Rochester, and Syracuse, N.Y., and points in that part of New York on and west of a line beginning at Olcott and extending along New York Highway 78 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 62, thence along U.S. Highway 62 to Hamburg, and thence along U.S. Highway 219 to the New York-Pennsylvania State line; points in that part of Maryland on and west of U.S. Highway 11; and points in that part of Pennsylvania south and west of a line beginning at the Ohio-Pennsylvania State line and extending along U.S. Highway 422 to junction Pennsylvania Highway 259, thence along Pennsylvania Highway 259 to Brush Valley, thence along Pennsylvania Highway 56 to Seward, thence along Pennsylvania Highway 711 to Normalville, and thence along Pennsylvania 381 to the Pennsylvania-West Virginia State line, including points on the indicated portions of the highways specified. The purpose of this filing is to eliminate the gateway of Chartiers Township, Pa.

No. MC 30445 (Sub-No. 6G), filed June 4, 1974. Applicant: BRUCE JOHNSON TRUCKING COMPANY, INC., P.O. Box 5646, Charlotte, N.C. 28225. Applicant's representative: Charles Ephraim, 1250 Connecticut Avenue NW., Suite 600, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except coal, ammunition and explosives, and commodities requiring special equipment), from Augusta, Ga., and Wilmington, N.C., to points in North Carolina, South Carolina, and Georgia (except Savannah). The purpose of this filing is to eliminate the gateway of Charleston, S.C. (2) *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, cement, commodities in bulk, and those requiring special equipment), between Charlotte, N.C., and points in North Carolina within 40 miles of Charlotte, on the one hand, and, on the other, points in South Carolina. The purpose of this filing is to eliminate the gateways of York and Lancaster Counties, S.C. (3) *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, coal, and commodities requiring special equipment), from Charlotte N.C. and points in North Carolina within 40 miles of Charlotte, to points in North Carolina and Georgia (except Savannah). The purpose of this filing is to eliminate the gateway of Charleston, S.C. (4) *General commodities* (except those of unusual value, Classes A and B explosives, brick, cement, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in South Carolina. The purpose of this filing is to eliminate the gateways of York and Lancaster Counties, S.C., Lancaster, S.C., Charlotte, N.C., and points in North Carolina within 40 miles of Charlotte, N.C. and Charleston, S.C. (5) *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, coal, and those requiring special equipment), from points in South Carolina, to points in North Carolina and Georgia (except Savannah). The purpose of this filing is to eliminate the gateways of York and Lancaster Counties, S.C., Lancaster, S.C., Charlotte, N.C., and Charleston, S.C. (6) *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, cement, coal, commodities in bulk, and those requiring special equipment), from Savannah, Ga., to points in

South Carolina, North Carolina, and Georgia. The purpose of this filing is to eliminate the gateways of Charlotte, N.C., Lancaster, S.C., and Charleston, S.C. (7) *Building paper, roofing materials, burlap bags, bagging material, cotton bagging, and cotton ties,* from Port Wentworth, Ga., to points in North Carolina, South Carolina, and Georgia (except Savannah). The purpose of this filing is to eliminate the gateway of Charleston, S.C.

(8) *Plumbing and heating materials,* from Chattanooga, Tenn., to points in North Carolina, South Carolina and Georgia. The purpose of this filing is to eliminate the gateways of Augusta and Savannah, Ga., and Charleston, S.C. (9) *Petroleum products,* in containers, in shipments of not less than 10,000 pounds, from Bayonne, N.J., to points in North Carolina, South Carolina, and Georgia (except Savannah). The purpose of this filing is to eliminate the gateways of Wilmington, N.C., Charlotte, N.C., and Charleston, S.C. (10) *Cast iron pipe and fittings,* from points in South Carolina and Charlotte, N.C. and points in North Carolina within 40 miles of Charlotte, N.C. to points in Georgia beginning at Savannah, Ga. and extending along U.S. Highway 80 to Macon, Ga., thence along U.S. Highway 129 to Athens, Ga., and thence along U.S. Highway 29 to the Georgia-South Carolina State Boundary line, including points on the indicated portions of the highways specified. The purpose of this filing is to eliminate the gateways of Charlotte, N.C., and Lancaster, S.C.

No. MC 33317 (Sub-No. 5G), filed June 4, 1974. Applicant: BISON FREIGHTWAYS, INC., 700 N. Keyser Avenue, Scranton, Pa. 18508. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value and except dangerous explosives, household goods as defined by in *Practices of Motor Common Carriers of Household Goods,* 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Hancock, N.Y., and points in New York and Pennsylvania within 50 miles of Hancock, N.Y. (except points in Susquehanna County, Pa., and those points north of Pennsylvania State Highway 371 in Wayne County, Pa., and points in Broome, Chenago, N.Y., and Delaware Counties, N.Y., and those points within 50 miles of Hancock, N.Y. in Ostego and Tioga Counties, N.Y.), on the one hand, and, on the other, points in New York, N.Y., and Union, Passaic, Essex, Hudson, and Bergen Counties, N.J. The purpose of this filing is to eliminate the gateway of Hancock, N.Y.

No. MC 34631 (Sub-No. 3G), filed June 5, 1974. Applicant: A. ARNOLD & SON TRANSFER AND STORAGE CO., INC., 2600 West Broadway, Louisville, Ky. 40211. Applicant's representative: Robert J. Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Household goods,* as defined by the Commission, between points in Florida, Georgia, Illinois, Indiana, Kentucky, Maryland, Missouri, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, and the District of Columbia, on the one hand, and, on the other, points in Florida, Georgia, Illinois, Indiana, Kentucky, Missouri, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, Alabama, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Iowa, Kansas, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Nebraska, North Carolina, Oklahoma, Rhode Island, South Carolina, Texas, West Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateways at Kentucky, Virginia, and the District of Columbia.

No. MC 43587 (Sub-No. 6G), filed June 5, 1974. Applicant: UNITED HAULAGE CO., INC., 11–22 Welling Court, Long Island City (Queens), N.Y. 11102. Applicant's representative: A. David Millner, 744 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in Middlesex, Monmouth, Somerset, and Union Counties, N.J., and Lakewood and Point Pleasant, N.J., on the one hand, and, on the other, points in New York, N.Y., and points in Westchester, Nassau, and Suffolk Counties, N.Y. The purpose of this filing is to eliminate the gateway at Newark, N.J.

No. MC 46313 (Sub-No. 13G), filed June 3, 1974. Applicant: SUHR TRANSPORT, a corporation, 117 Park Drive South, Great Falls, Mont. 59401. Applicant's representative: F. C. Weber (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Household goods as defined by the Commission,* between points in Montana, North Dakota, South Dakota, and Wyoming, on the one hand, and, on the other, points in California, Colorado, Idaho, Oregon, Utah, Washington, and Wyoming. The purpose of this filing is to eliminate gateways at points in Blaine, Cascade, Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties, Mont.

No. MC 51018 (Sub-No. 10G), filed June 3, 1974. Applicant: THE BESL TRANSFER COMPANY, 5550 Este Avenue, Cincinnati, Ohio 45232. Applicant's representative: A. Alvis Layne, Pennsylvania Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Commodities* which, because of their size or weight require the use of special equipment, and (2) *self-propelled articles,* each weighing 15,000 pounds or more, restricted to commodities which are transported on trailers, and (3) *related machinery, tools, parts, and supplies* moving in connection with the commodities described in (2) above, from Cleveland, Ohio, to Ashland, Ky., and Marion, Ind. The purpose of this filing is to eliminate the gateway of points in that part of Ohio on and south of Interstate Highway 70 and on and west of Interstate Highway 75.

No. MC 59531 (Sub-No. 98G), filed June 4, 1974. Applicant: AUTO CONVOY CO., 3020 South Haskell Ave., Dallas, Tex. 75223. Applicant's representative: Robert D. Schuler, 100 West Long Lake Road Bloomfield Hills, Mich. 48013. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Automobiles, trucks, and chassis,* in initial and secondary movements, in truckaway and driveaway service, between points in Louisiana on the one hand, and, on the other, points in Oklahoma and Texas. The purpose of this filing is to eliminate the gateway of Moffett, Okla.

No. MC 60655 (Sub-No. 1G), filed June 4, 1974. Applicant: PARK BROTHERS MOVING CORPORATION, 454 South Pickett Street, Alexandria, Va. 22304. Applicant's representative: Alan F. Wohlsteter, 1700 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Household goods,* as defined by the Commission, between Washington, D.C., on the one hand, and, on the other, points in the New York, N.Y., Commercial Zone and points in Maryland, Pennsylvania, New Jersey, and West Virginia. The purpose of this filing is to eliminate the gateway of points in Warren County, Va. within 50 miles of Herndon, Va., including Front Royal and Linden, Va.

No. MC 64808 (Sub-No. 19G), filed June 4, 1974. Applicant: W. S. THOMAS TRANSFER, INC., 1854 Morgantown Avenue, Fairmont, W. Va. 26554. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *General commodities* (except those of unusual value, Classes A and B explosives, commodities in bulk, and commodities requiring special equipment), between points in Harrison, Monongalia, Lewis, Taylor, Barbour, Upshur, Randolph, Preston, and Wetzel Counties, W. Va., on the one hand, and on the other, points in Ohio and Maryland, and those points in Pennsylvania on and west of a line beginning at the Pennsylvania-New York State Boundary line and extending along U.S. Highway 219 to intersection U.S. Highway 6 (formerly portion U.S. Highway 219), thence over U.S. Highway 6 to Kane, Pa., thence over unnumbered highway (formerly portion U.S. Highway 219) via East Kane, Sergeant, and Dahoga, Pa., to intersection

U.S. Highway 219, thence along U.S. Highway 219 to the Pennsylvania-Maryland State Boundary line; and (2) *household goods as defined by the Commission*, between points in Lewis, Taylor, Barbour, Upshur, Randolph, Preston, and Wetzel Counties, W. Va.; Ohio; Maryland; and those points in Pennsylvania on and west of a line beginning at the Pennsylvania-New York State Boundary line and extending along U.S. Highway 219 to intersection U.S. Highway 6 (formerly portion U.S. Highway 219), thence over U.S. Highway 6 to Kane, Pa., thence over unnumbered highway (formerly portion U.S. Highway 219) via East Kane, Sergeant, and Dahoga, Pa., to intersection U.S. Highway 219, thence along U.S. Highway 219 to the Pennsylvania-Maryland State Boundary line, on the one hand, and, on the other, points in New York, Pennsylvania, Ohio, the lower peninsula of Michigan, Indiana, Illinois, Virginia, Kentucky, Maryland, New Jersey, the District of Columbia, and West Virginia.

NOTE.—The purpose of this filing is to eliminate the gateway of Fairmont, W. Va.

No. MC 65665 (Sub-No. 14G), filed June 5, 1974. Applicant: IMPERIAL VAN LINES, INC., 2805 Columbia Street, Torrance, Calif. 90503. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission: (1) Between points in Maine, New Hampshire, Vermont, Connecticut, Massachusetts, and Rhode Island, on the one hand, and, on the other, points in Alabama, Arkansas, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and Washington, D.C.; (2) between points in Colorado, Kansas, Nebraska, Iowa, Minnesota, and Wisconsin, on the one hand, and, on the other, points in Alabama, Arkansas, Delaware, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and Washington, D.C.; (3) between points in Arkansas, Oklahoma, Texas and Missouri, on the one hand, and, on the other, points in Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, West Virginia, and Washington, D.C.; (4) between points in Illinois, Indiana, Kentucky, and Ohio on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, New York, Pennsylvania, West Virginia, Ohio, Kentucky, Indiana, Illinois, and Washington, D.C.; (5) between points in Michigan, on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, West Virginia, and Washington, D.C.; (6) between points in Missouri, on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, and West Virginia; (7) between points in West Virgina, on the one hand, and, on the other, points in Delaware, Maryland, New Jersey, New York, Pennsylvania, and Washington, D.C.; and (8) between points in Texas, on the one hand, and, on the other, points in Maryland, New York, New Jersey, Delaware, and Pennsylvania. The purpose of this filing is to eliminate the gateways of Boston, Massachusetts; Virginia; Washington, D.C.; Missouri; Illinois; Overland, Missouri; Tennessee; and Louisiana.

No. MC 74169 (Sub-No. 6G), filed June 4, 1974. Applicant: CHIEFTAIN VAN LINES, INC., 7201 Main Street, Ralston, Nebr. 68127. Applicant's representative: Marvin D. Dudley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Household goods, as defined by the Commission: (1) between points in Pennsylvania, New York, Maryland, Virginia, West Virginia, and the District of Columbia, on the one hand, and, on the other, points in Illinois, Iowa, Nebraska, Colorado, Michigan, Kentucky, South Dakota, Wyoming, and Idaho; (2) between points in Illinois and Michigan, on the one hand, and, on the other, points in Iowa, Nebraska, Minnesota, Colorado, Missouri, Kansas, South Dakota, Wyoming, and Idaho; (3) between points in Kentucky and Ohio, on the one hand, and, on the other, points in Kansas, Minnesota, Colorado, Nebraska, Idaho, Wyoming, South Dakota, Missouri, and Wisconsin; (4) between points in Iowa on the one hand, and, on the other, points in Nebraska, Missouri, Colorado, Minnesota, South Dakota, Kansas, Wyoming, and Idaho; (5) between points in Nebraska, on the one hand, and, on the other, points in Minnesota, South Dakota, Kansas, Colorado, Missouri, Wyoming, and Idaho; (6) between points in Colorado, on the one hand, and, on the other, points in Wyoming, Idaho, Minnesota, South Dakota, Kansas, and Missouri; (7) between points in Minnesota, Missouri, and Kansas, on the one hand, and, on the other, points in South Dakota, Wyoming, and Idaho; and (8) between points in South Dakota, one the one hand, and, on the other, points in Wyoming and Idaho. The purpose of this filing is to eliminate the gateways at Council Bluffs, Iowa; Greene, Lawrence, Monroe, and Orange Counties, Ind.; Morrill, Scottsbluff, and Banner Counties, Nebr.; and Illinois.

No. MC 85130 (Sub-No. 8G), filed June 5, 1974. Applicant: BRADLEY'S EXPRESS, INC., 141 Berlin Turnpike, Berlin, Conn. 06037. Applicant's representative: A. David Millner, 744 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, with usual exceptions, between New York, N.Y., and Middletown, Conn., on the one hand, and, on the other, Ilion, N.Y., and points in Massachusetts. The purpose of this filing is to eliminate the gateways of Meriden, Conn. and Boston, Mass.

No. MC 85811 (Sub-No. 7G), filed June 4, 1974. Applicant: AMSCO TRANSPORTATION, INC., P.O. Box 33280, Houston, Tex. 77033. Applicant's representative: J. G. Dail, Jr., 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Corpus Christi, Galveston, Houston, and points in Fort Bend County, Tex., to points in Arizona, Arkansas, Colorado, Illinois, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, Tennessee, Texas, and Utah, with no transportation for compensation on return except as otherwise authorized. The purpose of this filing is to eliminate the gateway of Fort Bend County, Tex.

No. MC 103993 (Sub-No. 813G), filed June 5, 1974. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Frank A. Antonovitz (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings*, complete, knocked down, or in sections, and *equipment and materials* incidental to the erection and completion of such buildings when shipped therewith, and *rejected shipments* of such commodities and equipment incidental to the handling of such commodities, from points in Illinois, to points in North Carolina, South Carolina and Virginia. The purpose of this filing is to eliminate the gateway of Parkersburg, W. Va.

No. MC 103993 (Sub-No. 816G), filed June 5, 1974. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Frank A. Antonovitz (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings*, complete, knocked down, or in sections, and *equipment and materials* incidental to the erection and completion of such buildings when shipped therewith, and *rejected shipments* of such commodities and equipment incidental to the handling of such commodities, from points in Missouri, to points in North Carolina and Virginia. The purpose of this filing is to eliminate the gateway of Parkersburg, W. Va.

No. MC 103993 (Sub-No. 817G), filed June 5, 1974. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Frank A. Antonovitz (same address as applicant). Authority sought to operate as a *common*

carrier, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings*, complete, knocked down, or in sections, and *equipment and materials* incidental to the erection and completion of such buildings when shipped therewith, and *rejected shipments* of such commodities and equipment incidental to the handling of such commodities, from points in Missouri, to points in North Dakota. The purpose of this filing is to eliminate the gateway of Polk County, Iowa.

No. MC 104654 (Sub-No. 155G), filed June 4, 1974. Applicant: COMMERCIAL TRANSPORT, INC., Box 469, Belleville, Ill. 62222. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Ave. and 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum products*, in bulk, in tank vehicles, from Roxana and points within 5 miles thereof, East St. Louis and Cahokia, Ill., to points in that part of Missouri on, south and west of a line beginning at the Illinois-Missouri State Boundary line and extending southwest along U.S. Highway 54 to its intersection with U.S. Highway 65, thence over U.S. Highway 65 to the Missouri-Arkansas State Boundary line and points in that part of Tennessee on and west of a line beginning at the Kentucky-Tennessee State Boundary line and extending southward along U.S. Highway 127 to Crossville, thence westward along U.S. Highway 70N to its intersection with U.S. Highway 231, thence southward along U.S. Highway 231 to the Tennessee-Alabama State Boundary line. The purpose of this filing is to eliminate the gateways of Hickman and Paducah, Ky., Caruthersville, Mo., Gale, Ill., and Evansville, Ind. (2) *Petroleum products*, in bulk, in tank vehicles, from Roxana and points within 5 miles thereof, East St. Louis and Cahokia, Ill., to points in Illinois. The purpose of this filing is to eliminate the gateways of Paducah, Ky., Princeton and Indianapolis, Ind.

(3) *Petroleum and petroleum products*, in bulk, in tank vehicles (except those requiring heat in transit to maintain liquid form), from Lawrenceville, Ill., to points in that part of Indiana on, south and west of a line beginning at the Illinois-Indiana State Boundary line and extending along U.S. Highway 40 to its intersection with Indiana Highway 39, thence over Indiana Highway 39 to its intersection with Indiana Highway 37, thence over Indiana Highway 37 to its intersection with Indiana Highway 66, thence over Indiana Highway 66 to the Indiana-Kentucky State Boundary line and points in that part of Tennessee, including points on the indicated boundaries, beginning at the Kentucky-Tennessee State Boundary line and extending southward along U.S. Highway 127 to Crossville, thence westward along U.S. Highway 70N to U.S. Highway 231, thence southward along U.S. Highway 231 to the Tennessee-Alabama State Boundary line. The purpose of this filing is to eliminate the gateways of Hickman and Paducah, Ky., Caruthersville, Mo. and Gale, Ill. (4) *Petroleum and petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from Indianapolis, Ind., and points within 20 miles thereof, to points in Kentucky. The purpose of this filing is to eliminate the gateways of Lawrenceville and Gale, Ill., and Jackson County, Ind.

(5) *Petroleum and petroleum products*, in bulk, in tank vehicles (except petroleum products requiring heat in transit to maintain liquid form), from Paducah, Ky., and points within 5 miles thereof, to points in that part of Indiana beginning at the intersection of the Illinois-Indiana State Boundary line and U.S. Highway 40 and extending eastward to its intersection with Indiana Highway 39, thence southward along Indiana Highway 39 to its intersection with Indiana Highway 37, thence southward along Indiana Highway 37 to its intersection with Indiana Highway 66, thence southward along Indiana Highway 66 to the Indiana-Kentucky State Boundary line and points in that part of Tennessee, including points on the indicated boundaries, beginning at the intersection of the Kentucky-Tennessee State Boundary line and U.S. Highway 127, thence along U.S. Highway 127 to Crossville, thence westward along U.S. Highway 70N to its intersection with U.S. Highway 231, thence southward along U.S. Highway 231 to the Tennessee-Alabama State Boundary line. The purpose of this filing is to eliminate the gateways of Cairo and Gale, Ill., and Caruthersville, Mo.

No. MC 104887 (Sub-No. 6G), filed June 3, 1974. Applicant: AMERICAN VAN & STORAGE, INC., 2125 N.W. First Court, Miami, Fla. 33127. Applicant's representative: Richard B. Austin, Esq., Suite 214, Palm Coast II Bldg., 5255 N.W. 87th Ave., Miami, Fla. 33166. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Minnesota, Wisconsin, Illinois, Missouri, Kansas, Arkansas, Texas, Louisiana, Mississippi, Tennessee, Kentucky, Indiana, Michigan, Ohio, West Virginia, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, Pennsylvania, New York, Vermont, New Hampshire, Maine, Massachusetts, Rhode Island, Connecticut, New Jersey, Maryland, Delaware, and the District of Columbia. The purpose of this filing is to eliminate the gateways at points in Florida, Connecticut, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, and the District of Columbia.

No. MC 105886 (Sub-No. 17G), filed June 4, 1974. Applicant: MARTIN TRUCKING, INC., East Poland Avenue, Bessemer, Pa. 16112. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *High temperature bonding mortar, magnesite and dolomite, lime and lime products, and limestone and limestone products*, from points in Beaver, Butler, Crawford, Erie, Lawrence, Mercer, Venango, Allegheny, Washington, and Greene Counties, Pa., Ashtabula, Columbiana, Cuyahoga, Lake, Mahoning, Trumbull, Stark, Carroll, Jefferson, and Geauga Counties, Ohio, and points in that part of West Virginia on and north of U.S. Highway 50, to points in the States of Delaware, District of Columbia, Kentucky, Maryland, New Jersey (except Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, and Salem Counties), New York (except Kings, Queens, Nassau, and Suffolk Counties), Ohio, Pennsylvania, Virginia, and West Virginia. The purpose of this filing is to eliminate the gateway of New Beaver Borough, Pa. (2) *Brick*, from points in Ashtabula, Columbiana, Cuyahoga, Lake, Mahoning, and Trumbull Counties, Ohio and Lawrence County, Pa., to points in Delaware, Kentucky, Illinois, Indiana, Maryland, Michigan, Missouri, New Jersey, New York, Ohio, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia. The purpose of this filing is to eliminate the gateways of New Darlington Township and Bessemer, Pa.

No. MC 106001 (Sub-No. 8G), filed June 4, 1974. Applicant: DENNIS TRUCKING COMPANY, INC., 2519 Morris Street, Philadelphia, Pa. 19145. Applicant's representative: Alan Kahn, Esq., 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Brick and terra cotta*, between Baltimore, Md., on the one hand, and, on the other, Reading and Womelsdorf, Pa., and (2) *iron and steel*, requiring specialized handling or rigging because of size or weight, from Baltimore, Md., to points in Pennsylvania on, east, and south of a line beginning at the Pennsylvania-New York State Boundary line at Sayre, Pa., thence south along U.S. Highway 220 to intersection with U.S. Highway 6, thence west along U.S. Highway 6 to intersection with Pennsylvania Highway 14, thence along Pennsylvania Highway 14 to intersection with U.S. Highway 15, thence along U.S. Highway 15 to intersection with U.S. Highway 220, thence along U.S. Highway 220 to intersection with Pennsylvania Highway 64, thence along Pennsylvania Highway 64 to intersection with Interstate Highway 80, thence along Interstate Highway 80 to intersection Pennsylvania Highway 26.

Thence south along Pennsylvania Highway 26 to State College, Pa., thence east along U.S. Highway 322 to intersection with U.S. Highway 522, thence along U.S. Highway 522 to intersection with Pennsylvania Highway 16, thence southeast on Pennsylvania Highway 16 to intersection with U.S. Highway 11, thence along U.S. Highway 11 to the Pennsylvania-Maryland State Boundary line (except those points bounded by a

line beginning at the Pennsylvania-Delaware State Boundary line, and extending over U.S. Highway 202 to intersection with Pennsylvania Turnpike Northeast Extension, thence north along that Extension to intersection with Interstate Highway 81, and thence over Interstate Highway 81 to the Pennsylvania-New York State Boundary line, thence east along that line to the Delaware River, thence south along that river to the Pennsylvania-Delaware State Boundary line, and thence west along that line to the point of beginning, including points on the indicated portions of the highways specified) and Wilmington, Del. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 106398 (Sub-No. 705G), filed June 2, 1974. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, Okla. 74101. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings*, including component parts of such buildings when shipped therewith, (1) between points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia, and (2) from points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia, to points in Arizona, California, Connecticut, Kansas, Maine, Minnesota, Nebraska, Nevada, New Hampshire, New Mexico, Rhode Island, South Dakota and Vermont. The purpose of this filing is to eliminate the gateways of Hanover, Pa., Des Moines and Clarinda, Iowa, New Mexico, and Pennsylvania.

No. MC 106401 (Sub-No. 37G), filed June 2, 1974. Applicant: JOHNSON MOTOR LINES, INC., 2426 North Graham Street, P.O. Box 10877, Charlotte, N.C. 28201. Applicant's representative: Thomas G. Sloan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requring special equipment, and those injurious or contaminating to other lading), between Russell County, Ala., Chattanooga, Tenn. and points within fifteen miles thereof; Atlanta, Albany, Columbus, and Fort Benning, Ga.; and points in Georgia on and west of U.S. Highway 129 from the Tennessee-Georgia State Boundary line to a point lying 100 miles south of Atlanta (said point being located on U.S. Highway 129 approximately 5 miles south of Tarversville), and north of a line making up a radius of 100 miles from Atlanta beginning at a point on the Georgia-Alabama State Boundary line directly east of Oswichee, Ala. and extending through Renfroe, Dranesville, Ellaville, Five Points, Hayneville, to the intersection of U.S. Highway 129, on the one hand, and, on the other, that area of West Virginia south of a line extending from the Ohio-West Virginia State Boundary line near Point Pleasant along U.S. Highway 35 to the intersection of U.S. Highway 60, thence along U.S. Highway 60 to Charleston, thence along U.S. Highway 119 to the intersection of West Virginia Highway 4 at Clendenin.

Thence along West Virginia Highway 4 to the intersection of West Virginia Highway 16, points on and west of West Virginia Highway 16 from the intersection of U.S. Highway 119 to the intersection of unnumbered Highway approximately 4 miles south of U.S. Highway 60 at Beckwith; points on and north of a line extending from the intersection of West Virginia Highway 16 and unnumbered Highway at Beckwith along unnumbered Highway to intersection with West Virginia Highway 61 at Deep Water, thence along West Virginia Highway 61 to intersection U.S. Highway 119, thence along U.S. Highway 119 to intersection West Virginia Highway 3, thence along West Virginia Highway 3 to intersection unnumbered Highway at Alkol, thence along unnumbered Highway through Spurlockville and Sias to intersection of West Virginia Highway 10 at Midkiff, thence along West Virginia Highway 10 to intersection unnumbered Highway at Branchland, thence along unnumbered Highway from Branchland to East Lynn and the intersection of West Virginia Highway 37, thence along West Virginia Highway 37 through Wayne to the West Virginia-Kentucky State Boundary line. The purpose of this filing is to eliminate the gateway of Belpre, Ohio.

No. MC 107496 (Sub-No. 959G), filed June 4, 1974. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum products*, in bulk, in tank vehicles: (a) from points in Wyoming, to points in Minnesota; (b) from points in Wyoming, to points in a territory described as follows: points in South Dakota beginning at the intersection of the State Boundary line between South Dakota and Nebraska, and Shannon and Bennett Counties, S. Dak., and extending northerly along the eastern boundaries of Shannon, Pennington, Meade and Perkins Counties, S. Dak. to intersection South Dakota-North Dakota State Boundary line, thence easterly along said State Boundary line to intersection South Dakota Highway 45, thence southerly along South Dakota Highway 45 (and including South Dakota Highway 45) to Platte, S. Dak., and thence southerly along a line beginning at Platte, S. Dak. and extending through Fairfax, S. Dak. to the South Dakota-Nebraska State Boundary line, and thence westerly along the South Dakota-Nebraska State Boundary line to the point of origin; (c) from points in Illinois north of a line beginning at the Indiana-Illinois State Boundary line and extending along U.S. Highway 50 to Lawrenceville, Ill., thence along Alternate U.S. Highway 50 (formerly U.S. Highway 50) via Sumner, Ill. to intersection U.S. Highway 50, and thence along U.S. Highway 50 to the Illinois-Missouri State Boundary line (except points in Chicago, Ill. and points within 125 miles of Chicago); points in Iowa east of U.S. Highway 69; points in Indiana north of a line beginning at Vincennes, Ind., and extending along Indiana Highway 67 to intersection Indiana Highway 54, thence along Indiana Highway 54 to intersection Indiana Highway 45, thence along Indiana Highway 45 to Bloomington, Ind., and thence along Indiana Highway 46 to the Indiana-Ohio State Boundary line (except points in Indiana within 125 miles of Chicago, Ill.); points in Wisconsin on, east and south of a line beginning at the Wisconsin-Illinois State Boundary line and extending along Wisconsin Highway 69 to intersection U.S. Highway 151, thence along U.S. Highway 151 through Madison, Wis. to Fond du Lac, Wis., and thence along Wisconsin Highway 23 to Sheboygan, Wis. (including Lamartine, Wis.), to points in the St. Louis, Mo. Commercial Zone, and Chesterfield, Perryville, Silex, Troy, and Valley Park, Mo., and points in Ohio and Michigan; (d) from points in Utah, to points in Wyoming.

(e) From all refining and distributing points in Kansas to points in Colorado, Nebraska, Missouri, and Illinois; (f) from Kansas City (Sugar Creek), Mo., to points in Nebraska; (g) from points in Nebraska to points in Iowa, Missouri, Kansas, Minnesota, South Dakota, and North Dakota; and (h) from points in Iowa to points in Illinois, Wisconsin, Minnesota, Nebraska, Missouri, and Kansas; (2) *liquid petrochemicals*, in bulk, in tank vehicles, from Kansas City, Kans., to points in Kentucky; (3) *sulphuric acid*, in bulk, in tank vehicles, from Dubuque, Iowa, to points in Indiana; and (4) *dry chemicals*, in bulk, in tank vehicles, from the Penn Central Flexi-Flo terminal at Hammond, Ind., to points in Ohio. The purpose of this filing is to eliminate the gateways at Cowles Chemical Co. plantsite at Joliet, Ill.; Ashland Chemical Co. plantsite at Mapleton, Ill.; Williams Bros. terminal at Wathena, Doniphan County, Kans.; Alexandria, Mo.; Haigler, Nebr.; Julian, Nebr.; Wathena, Kans.; Lincoln County, Nebr.; Palmyra, Mo. and points within 10 miles thereof; Kansas City, Kans.; Warren County, Iowa; Wapello County, Iowa; Taylor County, Iowa; Williams Bros. terminal between Spencer and Spirit Lake, Iowa; Council Bluffs, Iowa; Laketon, Ind.; E. Chicago, Ind.; Granger,

Ind.; Lemont, Ill.; Wood River, Ill.; Chicago, Ill.; Craig, Colo.; Nebraska; Yankton, S. Dak. Commercial Zone; Texaco, Inc. refinery site near Casper, Wyo.; Omaha, Nebr.; Norfolk, Nebr.; Ottumwa, Iowa; Fremont, Nebr.; Hawkeye Chemical Co. plantsite at Clinton, Iowa; Ft. Madison, Iowa; Bettendorf, Iowa; Alexandria, Mo.; Hydrocarbon site at Iowa City, Iowa; Dubuque, Iowa; Rockford, Ill.; Eau Claire, Wis. and points within 20 miles thereof; Black Hawk County, Iowa; Rochester, Minn.; Clear Lake, Iowa and points within 10 miles thereof; Winona, Minn.; Sioux City, Iowa; and Kaneb Terminal near LeMars, Iowa.

No. MC 107678 (Sub-No. 53G), filed June 4, 1974. Applicant: HILL & HILL TRUCK LINE, INC., 14942 Talcott, Houston, Tex. 77015. Applicant's representative: Jay W. Elston, 800 Bank of the Southwest Bldg., Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oil field commodities*, as described in *T. E. Mercer Extension—Oil Field Commodities*, 74 M.C.C. 459, 543 and *earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at wells or hole sites and (d) the injection or removal of commodities into or from holes or wells. (1) between points in Texas (except Harris County, Tex.) on the one hand, and, on the other, points in Colorado and Utah. The purpose of this filing is to eliminate the gateways of Harris County, Tex. and Casper, Wyo. (2) between points in Texas, on the one hand, and, on the other, points in North Dakota on and east of North Dakota Highway 30 and points in South Dakota east of the Missouri River and south of U.S. Highway 14. The purpose of this filing is to eliminate the gateway of Casper, Wyo.

(3) Between points in Texas on the one hand, and, on the other, points in Nebraska. The purpose of this filing is to eliminate the gateway of Casper, Wyo. (4) between points in Oklahoma, Kansas, New Mexico, and Louisiana on the one hand, and, on the other, points in Montana, North Dakota, Wyoming, Utah, Colorado, South Dakota, and Nebraska. The purpose of this filing is to eliminate the gateways at Texas and Casper, Wyo. (5) between points in Nevada on the one hand, and, on the other, points in Montana, North Dakota, South Dakota, Utah, Colorado, Wyoming, and Nebraska. The purpose of this filing is to eliminate the gateways of Casper, Wyo. and Texas. (6) between points in Nevada on the one hand, and, on the other, points in Arkansas, Mississippi, Alabama, Georgia, and Florida. The purpose of this filing is to eliminate the gateways at Texas and Oklahoma. (7) between points in Arkansas, Alabama, Georgia, Mississippi, and Florida on the one hand, and, on the other, points in Montana, Wyoming, North Dakota, South Dakota, Utah, Colorado, and Nebraska. The purpose of this filing is to eliminate the gateways at Texas and Casper, Wyo.

(8) Between points in Alaska on the one hand, and, on the other, points in Arkansas, Mississippi, Alabama, Georgia, and Florida. The purpose of this filing is to eliminate the gateways at Kansas, Oklahoma, or Louisiana. (9) Between points in Nevada on the one hand, and, on the other, points in New Mexico, Kansas, and Louisiana. The purpose of this filing is to eliminate the gateways at Texas and Oklahoma. (10) Between points in Montana, Wyoming, Utah, Colorado, North Dakota, South Dakota, and Nebraska. The purpose of this filing is to eliminate the gateway of Casper, Wyo.

No. MC 107839 (Sub-No. 157G), filed June 4, 1974. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., 2121 East 67th Avenue, Denver, Colo. 80216. Applicant's representative: Edward T. Lyons, Jr., 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, Colo. 80216. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen citrus products and frozen seafood, and canned citrus products* in mixed loads with *frozen citrus products*, in vehicles equipped with mechanical refrigeration, from points in Florida, to points in New Mexico. The purpose of this filing is to eliminate the gateway of Denver, Colo. (2) *Frozen citrus products and frozen seafood*, in vehicles equipped with mechanical refrigeration, from points in Florida, to points in Arizona and California. The purpose of this filing is to eliminate the gateways of Denver, Colo. and Gallup, N. Mex.

No. MC 107993 (Sub-No. 30G), filed June 4, 1974. Applicant: J. J. WILLIS TRUCKING COMPANY, 2608 Electronic Lane, Dallas, Tex. 75220. Applicant's representative: J. G. Dail, Jr., 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, the transportation of which because of size or weight require the use of special equipment, (2) *self-propelled articles* each weighing 15,000 pounds or more, restricted to commodities which are transported on trailers, and (3) *related machinery parts, materials, tools, and supplies* moving in mixed loads with the commodities described in (1) and (2) above, between points in Arizona, Colorado, New Mexico, Oklahoma, and Texas. The purpose of this filing is to eliminate the gateways of points in that part of Texas north of U.S. Highways 54, 80, and 84.

No. MC 107993 (Sub-No. 31G), filed June 4, 1974. Applicant: J. J. WILLIS TRUCKING COMPANY, 2608 Electronic Lane, Dallas, Tex. 75220. Applicant's representative: J. G. Dail, Jr., 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, or refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, *machinery, materials, equipment, and supplies*, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and (2) *earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in Arizona, Arkansas, Colorado, Kansas, Louisiana, New Mexico, Oklahoma, Texas, Utah, and Wyoming. The purpose of this filing is to eliminate the gateways of points in Texas north of U.S. Highways 54, 80, and 84 and points in Lea and Eddy Counties, N. Mex.

No. MC 109397 (Sub-No. 298G), filed June 3, 1974. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Business Route Interstate 44 East, Joplin, Mo. 64801. Applicant's representative: A. N. Jacobs (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Heavy machinery and articles* which require specialized handling or rigging because of their size or weight; and (b) *Self-propelled articles*, each weighting 15,000 pounds or more, *and related machinery, equipment, tools, parts, and supplies* moving in connection therewith, restricted to self-propelled articles which are transported on trailers, between points in the Lower Peninsula of Michigan, on the one hand, and, on the other, points in Illinois, Indiana and Ohio. The purpose of this filing is to eliminate the gateway of Lucas County, Ohio. (2) (a) *Contractors' equipment and commodities*, the transportation of which, because of their size or weight, requires the use of special equipment: and (b) *Self-propelled articles*, each weighting 15,000 pounds or more, *and related machinery, tools, parts, and supplies* moving in connection therewith, restricted to self-propelled articles which are transported on trailers, between points in Texas, on the one hand, and, on the other, points in Illinois, Indiana, Virginia, and North Carolina. The purpose of this filing is to eliminate the gateway at Ohio.

(3) *Aircraft ground support equipment* (except automobiles, trucks, and buses as defined in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and

766), between points in Arizona, Nevada, and Utah, on the one hand, and, on the other, points in Idaho, Montana, Wyoming, North Dakota, South Dakota, and New Mexico. The purpose of this filing is to eliminate the gateway at Colorado. (4) *Electric controllers and instruments,* requiring special equipment or special handling by reason of size or weight, (a) from points in West Virginia, North Carolina, and Virginia, to points in Maine, Vermont, and New Hampshire; (b) from points in Connecticut, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Delaware, Maryland, West Virginia, Virginia, North Carolina, and the District of Columbia, to points in Kentucky, Tennessee, Alabama, Florida, Georgia, Mississippi, and South Carolina; (c) from points in Pennsylvania, New York, and North Carolina, to points in Minnesota, North Dakota, South Dakota, Nebraska, Montana, Idaho, Utah, Arizona, Nevada, California, Oregon, and Washington; and (d) from points in New Jersey, Virginia, and West Virginia, to points in Minnesota, North Dakota, South Dakota, Nebraska, and Montana. The purpose of this filing is to eliminate the gateway of Roanoke County, Va.

(5) *Antenna systems,* requiring specialized handling or rigging, (a) from points in New York, Massachusetts, Connecticut, New Jersey, Rhode Island, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, and the District of Columbia, to points in Maine, Vermont, and New Hampshire; and (b) from points in Connecticut, New York, Pennsylvania, Rhode Island, and New Jersey, to points in Alabama, Florida, Georgia, and South Carolina. The purpose of this filing is to eliminate the gateway of Sherburne, N.Y. (6) *Antipollution systems and antipollution system parts* requiring specialized handling or rigging, and *antipollution system equipment, materials, supplies, and tools* used in the installation and operation of antipollution systems parts when moving in connection therewith, (a) from points in Delaware, Maryland, North Carolina, Virginia, West Virginia, New York, Pennsylvania, and the District of Columbia, to points in Wisconsin, Minnesota, Iowa, Missouri, Arkansas, Oklahoma, Kansas, Texas, Kentucky Nebraska, Wyoming, Colorado, New Mexico, Arizona, Utah, and Nevada; and (b) from points in Connecticut, Massachusetts, New York, and Rhode Island, to points in Vermont, New Hampshire, and Maine. The purpose of this filing is to eliminate the gateway at New Jersey.

(7) (A) *Turbines, steam condensers, feed water heaters, weldments, and heat exchangers,* (B) *parts* of the commodities in (A) above, and (C) *iron and steel castings and forgings,* commodities in (7) (A), (B), and (C) above, restricted to those which because of size or weight require special equipment or handling, (a) between points in New York, Pennsylvania, and Maryland, on the one hand, and, on the other, points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, New Mexico, Colorado, Wyoming, Montana, Idaho, Utah, Arizona, Nevada, California, Oregon, and Washington. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa. (b) between points in Maine, Vermont, and New Hampshire, on the one hand, and, on the other, points in the Lower Peninsula of Michigan, Indiana, Ohio, Pennsylvania, and New Jersey. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa. and Lucas County, Ohio. (c) between Delaware, New York, Pennsylvania, and Maryland, on the one hand, and, on the other, Kentucky, Tennessee, Mississippi, Alabama, Louisiana, Georgia, South Carolina, and Florida. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

(8) *Aerospace craft and aerospace craft parts,* restricted to the transportation of such described parts which because of size, weight, or fragile character, require the use of special equipment or handling, between Minnesota, Iowa, Missouri, Arkansas, and Louisiana, on the one hand, and, on the other, Oregon, Washington, California, Idaho, Nevada, Arizona, New Mexico, Colorado, Wyoming, Montana, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, and Louisiana. The purpose of this filing is to eliminate the gateway at points in the United States east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its intersection with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary line between the United States and Canada. (9) *Electronic equipment, electronic machinery, and electronic systems* which require require special handling or rigging, between points in New York, Pennsylvania, Maryland, Delaware, Virginia, and the District of Columbia, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). The purpose of this filing is to eliminate the gateway at Massachusetts.

No. MC 112539 (Sub-No. 11G), filed June 4, 1974. Applicant: PERCHAK TRUCKING, INC., P.O. Box 811, Hazleton, Pa. 18201. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Scrap metal,* in dump vehicles, and *scrap railroad rails,* from points in Warren, Burlington, Hunterdon, Union (except Rahway, Clark, Linden, Rozelle, Elizabeth, and Plainfield), Bergen, Essex (except Newark), Passaic, Middlesex (except Carteret, Woodbridge, and Perth Amboy), Monmouth, Somerset, Camden, Mercer, Hudson, and Morris (except Dover) Counties, N.J., to points in Philadelphia County, Pa., restricted to the movement of ferrous scrap metals to or from points in Burlington, N.J., and further restricted against transportation between points in Jersey City, Newark and Elizabeth, N.J., on the one hand, and, on the other, Easton, Conshohocken, Philadelphia, and Stroudsburg, Pa. The purpose of this filing is to eliminate the gateway at Northampton County, Pa.

No. MC 112963 (Sub-No. 53G), filed June 2, 1974. Applicant: ROY BROS., INC., 764 Boston Road, Pinehurst, Mass. 01866. Applicant's representative: Leonard E. Murphy (same address a applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Chemicals,* in bulk, in tank vehicles, (1) from points in New York City and points in New Jersey, to points in Rhode Island and (2) from points in Mass., to points in New Hampshire and Rhode Island. The purpose of this filing is to eliminate the gateways of Lowell and Boston, Mass.

No. MC 113678 (Sub-No. 543G), filed June 2, 1974. Applicant: CURTIS INC., 4810 Pontiac Street, Commerce City (Denver), Colo. 80022. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, and meat by-products, and food products* distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except liquid bulk commodities, in tank vehicles), from the terminal facilities of Curtis, Inc., located at Carlstadt, N.J., and points in the New York, N.Y. Commercial Zone, as defined by the Commission, and points in Union County, N.J., to points in New Mexico, Oklahoma, and Texas. The purpose of this filing is to eliminate the gateway of Greeley, Colo. (2) *Dairy products, chilled and frozen bakery products, frozen fruits, frozen vegetables, frozen berries, frozen french fries, frozen pizza and pizza pie ingredients,* from the terminal facilities of Curtis, Inc., located at Carlstadt, N.J., and points in the New York, N.Y. Commercial Zone, as defined by the Commission, and points in Union County, N.J., to points in Oklahoma and Texas. The purpose of this filing is to eliminate the gateway of Denver, Colo. (3) *Frozen bakery products and pizza pie ingredients,* from the terminal facilities of Curtis, Inc., located at Carlstadt, N.J., and points in the New York, N.Y. Commercial Zone, as defined by the Commission, and points in Union County, N.J., to points in Oklahoma and Texas. The purpose of this filing is to eliminate the gateway at Julesburg, Colo.

(4) *Frozen, fresh, and cured meats, and canned dairy products,* from the terminal facilities of Curtis, Inc., located at Carlstadt, N.J., and points in the New York, N.Y. Commercial Zone, as defined by the Commission, and points in Union County, N.J., to points in Oregon, Idaho, and Washington. The purpose of this filing is to eliminate the gateway of Denver, Colo. and California. (4) *Frozen meat,* from points in California, to points in Alabama, Kansas, Louisiana, Mississippi, and Missouri. The purpose of this filing is to eliminate the gateway of Denver, Colo. (6) *Frozen meat,* from points in

California to points in Florida. The purpose of this filing is to eliminate the gateway at Denver, Colo. and Idaho. (7) *Frozen meat,* from points in California, to points in Arkansas, Georgia, Kentucky, North Carolina, and South Carolina. The purpose of this filing is to eliminate the gateway of Denver, Colo. and Idaho. (8) *Frozen meat,* from points in California, to points in Illinois. The purpose of this filing is to eliminate the gateways of Idaho and Denver, Colo. (9) *Frozen meat,* from points in California, to points in New Mexico. The purpose of this filing is to eliminate the gateways of Idaho and Denver, Colo. (10) *Frozen meat,* from points in California, to points in Ohio. The purpose of this filing is to eliminate the gateways of Rapid City, S. Dak. and Idaho. (11) *Frozen meat,* from points in California, to points in Oklahoma and Texas. The purpose of this filing is to eliminate the gateways of Greeley, Colo. and Idaho. (12) *Meats, meat products, and meat by-products,* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, from Los Angeles, Calif., to points in Louisiana, Oklahoma, and Texas. The purpose of this filing is to eliminate the gateway of Greeley, Colo.

(13) *Frozen, fresh, cured, and canned meats,* from Denver, Greeley, and Colorado Springs, Colo., to points in Oregon and Washington. The purpose of this filing is to eliminate the gateways at Arizona and California. (14) *Frozen, fresh, and cured meats,* from the plant sites and warehouses of Sterling Colorado Beef Packers, located at or near Sterling, Colo., and the plant sites and warehouses of American Beef Packers, Inc., located at or near Fort Morgan, Colo., to points in Idaho, Oregon, and Washington, restricted to the transportation of traffic originating at the above-named plant sites and warehouses. The purpose of this filing is to eliminate the gateway at California. (15) *Frozen foods,* from points in California, to points in Colorado and Nebraska. The purpose of this filing is to eliminate the gateway at Idaho. (16) *Frozen dairy products, frozen bakery products, frozen fruits, frozen vegetables, frozen berries, frozen french fries, frozen pizza, and pizza pie ingredients,* from points in California, to points in New Mexico, Texas, and Oklahoma. The purpose of this filing is to eliminate the gateways of Denver, Colo. and Idaho.

(17) *Frozen meats, frozen meat products, and frozen meat by-products,* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, from points in California, to points in Oklahoma and Texas. The purpose of this filing is to eliminate the gateways of Greeley, Colo. and Idaho. (18) *Frozen meats, frozen meat products, and frozen meat by-products,* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, from points in California, to points in New Mexico. The purpose of this filing is to eliminate the gateways of Denver, Colo. and Idaho. (19) *Frozen foods,* when moving in mixed loads with *meats, meat products, and meat by-products, and articles* distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, from points in California, to points in Illinois (except Chicago, Ill.). The purpose of this filing is to eliminate the gateways of Denver, Colo. and Idaho.

No. MC 114273 (Sub-No. 195G), filed June 13, 1974. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, Suite 315, Commerce Exchange Building 2720 First Avenue NE., P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *meats, meat products, and meat by-products, and articles distributed by meat packinghouses,* as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk in tank vehicles), and hides, from the plantsite of Minden Beef Company at or near Minden, Nebr., to points in Minnesota. The purpose of this filing is to eliminate the gateways consisting of Springfield and Webb City, Mo. and those points in Missouri on and north of U.S. Highway 50 and on and west of U.S. Highway 63.

No. MC 114273 (Sub-No. 197G), filed June 13, 1974. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, Suite 315, Commerce Exchange Building, 2720 First Avenue NE., P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Animal food,* from Boston, Woburn, and Lawrence, Mass., to points in Iowa, those in Kansas on and east of U.S. Highway 81, and those in Missouri on and north of U.S. Highway 50, and on and west of U.S. Highway 63. The purpose of this filing is to eliminate the gateways at points in Minnesota.

No. MC 114761 (Sub-No. 9G), filed June 6, 1974. Applicant: GETTER TRUCKING, INC., P.O. Box 368, Cut Bank, Mont. 59427. Applicant's representative: John R. Davidson, Room 805, Midland Bank Building, Billings, Mont. 59101. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Machinery, materials, equipment, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution, of natural gas and petroleum, and their products and by-products, and *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up of pipe in connection with main or truck pipe lines, between points in Wyoming, Montana, North Dakota, Oklahoma, and points in that part of South Dakota west of the Missouri River, and on and north of U.S. Highway 14. The purpose of this application is to eliminate the gateway of Montana. (2) *Machinery, equipment, materials, and supplies* used in or in connection with, the drilling of water wells, between points in Wyoming and Nebraska. The purpose of this filing is to eliminate the gateway at Colorado. (3) *Machinery and equipment* used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of sulphur and its products, and *materials and supplies* used in, or in connection, with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of sulphur and its products, when moving to or from exploration, drilling, production, job, construction and plant, including refining, manufacturing, and processing plant sites, or storage sites, between points in Wyoming and Oklahoma. The purpose of this filing is to eliminate the gateway at North Dakota.

No. MC 116073 (Sub-No. 297G), filed June 3, 1974. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: Robert G. Tessar, 1819 4th Avenue South, Moorhead, Minn. 56560. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobile, in secondary movements, (1) between points in Montana, Minnesota, and North Dakota, on the one hand, and, on the other, points in Kentucky, Tennessee, Mississippi, Georgia, Florida, South Carolina, North Carolina, Birmingham, Ala., and points within 15 miles thereof, and Virginia, restricted against originating traffic in Virginia. The purpose of this filing is to eliminate the gateways of Birmingham, Ala., and points within 15 miles thereof, North Dakota and Arkansas. (2) Between points in Montana, on the one hand, and, on the other, points in Nebraska, Kansas, Oklahoma, Texas, Iowa, Missouri, Arkansas, and Louisiana. The purpose of this filing is to eliminate the gateway at North Dakota.

No. MC 116273 (Sub-No. 178G), filed June 3, 1974. Applicant: D & L Transport, Inc., 3800 South Laramie Avenue, Cicero, Ill. 60650. Applicant's representative: William R. Lavery (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes transporting: *plastic pellets,* in bulk, in tank vehicles, from Chicago, Ill. to points in Ohio. The purpose of this filing is to eliminate the gateway of Detroit, Mich.

No. MC 120021 (Sub-No. 3G), filed June 4, 1974. Applicant: THE COTTER MOVING AND STORAGE COMPANY,

265 West Bowery Street, Akron, Ohio 44308. Applicant's representative: Thomas R. Kingsley, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Ohio, Indiana, Illinois, Wisconsin, Michigan, Kentucky, West Virginia, Virginia, Maryland, Pennsylvania, and New York. The purpose of this filing is to eliminate the gateway of Dayton, Ohio and points within 25 miles thereof.

No. MC 120646 (Sub-No. 16G), filed June 4, 1974. Applicant: BRADLEY FREIGHT LINES, INC., P.O. Box 5875, Asheville, N.C. 28803. Applicant's representative: Walter Harwood, P.O. Box 15214, Nashville, Tenn. 37215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Textile products*, between points in South Carolina, on the one hand, and, on the other, points in Arkansas, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio (except Akron, Ohio, and points within 25 miles thereof, and except Cleveland, Ohio, and points in its commercial zone), Oklahoma, South Dakota, Texas, West Virginia, and Wisconsin. The purpose of this filing is to eliminate the gateway of Westminster, S.C.

No. MC 120646 (Sub-No. 17G), filed June 4, 1974. Applicant: BRADLEY FREIGHT LINES, INC., P.O. Box 5875, Asheville, N.C. 28803. Applicant's representative: Walter Harwood, P.O. Box 15214, Nashville, Tenn. 37215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, (1) from points in Virginia (except points in Lee and Wise Counties), to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky (except points in Harlan County), Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee (except points on Tennessee Highway 33 and U.S. Highway 25–E between Knoxville and Cumberland Gap, including Knoxville and Cumberland Gap), Texas, Vermont, Virginia, and West Virginia, and (2) from points in North Carolina, to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky (except points in Harlan County), Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee (except points on Tennessee Highway 33 and U.S. Highway 25–E between Knoxville and Cumberland Gap, including Knoxville and Cumberland Gap), Texas, Vermont, Virginia, and West Virginia, and (3) from points in Tennessee (except those on Tennessee Highway 33 and U.S. Highway 25–E between Knoxville and Cumberland Gap, including Knoxville and Cumberland Gap), to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky (except points in Harlan County), Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee (except those on Tennessee Highway 33 and U.S. Highway 25–E between Knoxville and Cumberland Gap, including Knoxville and Cumberland Gap), Texas, Vermont, Virginia, and West Virginia, and (4) from points in Kentucky (except Harlan County), to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky (except points in Harlan County), Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee (except those on Tennessee Highway 33 and U.S. Highway 25–E between Knoxville and Cumberland Gap, including Knoxville and Cumberland Gap), Texas, Vermont, Virginia, and West Virginia, and (5) between points in Virginia (except Lee and Wise Counties), and (6) between points in North Carolina, and (7) between points in Tennessee (except those on Tennessee Highway 33 and U.S. Highway 25–E between Knoxville and Cumberland Gap, including Knoxville and Cumberland Gap). The purpose of this filing is to eliminate the gateways of Ferndale Station, Ky. and points in McMinn and Bradley Counties, Tenn.

No. MC 123048 (Sub-No. 309G), filed June 14, 1974. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, Racine, Wis. 53406. Applicant's representative: Paul L. Martinson, P.O. Box A, Racine, Wis. 53401. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Farm tractors and agricultural machinery*, from Charles City, Iowa, to points in Alabama, Arkansas, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia. The purpose of this filing is to eliminate the gateways of Allenton and Manitowoc, Wis.

No. MC 123091 (Sub-No. 13G), filed June 3, 1974. Applicant: NICK STRIMBU, INC., 3500 Parkway Road, Brookfield, Ohio 44403. Applicant's representative: Richard H. Brandon, 79 East State Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, as described in Appendix V to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, (1) between points in Ohio, on the one hand, and, on the other, points in that part of Pennsylvania bounded by a line beginning at Sharon, Pa., and extending along U.S. Highway 62 to its intersection with U.S. Highway 322, thence along U.S. Highway 322 to Clarion, thence along Pennsylvania Highway 66 to its intersection with U.S. Highway 119, thence along U.S. Highway 119 to its intersection with Pennsylvania Highway 136, thence along Pennsylvania Highway 136 to its intersection with Pennsylvania Highway 844, thence along Pennsylvania Highway 844 to the Pennsylvania-West Virginia State Boundary line, thence along the Pennsylvania-West Virginia State Boundary line to the Pennsylvania-Ohio State Boundary line, and thence along the Pennsylvania-Ohio State Boundary line to point of beginning, including points on the specified portions of the indicated highways, and (2) from points in Ohio and points in that part of Pennsylvania bounded by a line beginning at Sharon, Pa. and extending along U.S. Highway 62 to its intersection with U.S. Highway 322, thence along U.S. Highway 322 to Clarion, thence along Pennsylvania Highway 66 to its intersection with U.S. Highway 119, thence along U.S. Highway 119 to its intersection with Pennsylvania Highway 136, thence along Pennsylvania Highway 136 to its intersection with Pennsylvania Highway 844, thence along Pennsylvania Highway 844 to the Pennsylvania-West Virginia State Boundary line, thence along the Pennsylvania-West Virginia State Boundary line to the Pennsylvania-Ohio State Boundary line, and thence along the Pennsylvania-Ohio State Boundary line to point of beginning, including points on the specified portions for the indicated highways, to points in Arizona, California, Colorado, Florida, Kansas, Mississippi, South Carolina, and Wyoming, that part of Tennessee on and west of a line beginning at the Kentucky-Tennessee State Boundary line and extending along U.S. Highway 31–W to Nashville, Tenn., and thence along U.S. Highway 31 to the Tennessee-Alabama State Boundary line and points in Alabama (except Birmingham, Ala. and points within 65 miles of Birmingham). The purpose of this filing is to eliminate the gateways of points in the Sharon, Pa. Commercial Zone, and the Youngstown, Ohio Commercial Zone.

No. MC 123430 (Sub-No. 5G), filed June 4, 1974. Applicant: BARRY TRANSPORTS, INC., 4425 Southwest Highway, Oak Lawn, Ill. 60453. Applicant's representative: Richard A. Kerwin, 127 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fats, animal oils, and vegetable oils, and edible blends, and edible products of animal fats, animal oils and vegetable oils*, not including liquid chemicals, from points in Illinois, and Indiana within the territory bounded by a line beginning at Galena, Ill., and extending southeast to Savanna, Ill., thence south to Galesburg, Ill., thence southeast to Peoria, Ill., thence east of Onarga, Ill., thence northeast to Warsaw, Ind., thence north of Goshen, Ind., thence northwest through Chicago, Ill., to Winthrop Harbor, Ill., and thence west through South Beloit and Warren, Ill., to Galena, Ill., to points in Indiana, Michigan, Ohio,

and Wisconsin. The purpose of this filing is to eliminate the gateway of Chicago, Ill.

No. MC 123681 (Sub-No. 26G), filed June 3, 1974. Applicant: WIDING TRANSPORTATION, INC., P.O. Box 03159, Portland, Oreg. 97203. Applicant's representative: Earle V. White, 2400 S.W. Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum products*, in bulk, in tank vehicles, from Portland, Linton, and Willbridge, Oreg., to points in Idaho in and south of Idaho County. The purpose of this filing is to eliminate the gateway of Garfield County, Wash. (2) *Liquid chemicals and acids*, in bulk, in tank vehicles (except fertilizer and fertilizer solutions and liquid oxygen, hydrogen and nitrogen), between points in California, on the one hand, and, on the other, points in Montana. The purpose of this filing is to eliminate the gateway of Union County, Oreg.

No. MC 124211 (Sub-No. 247G), filed May 28, 1974. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Unfrozen beverages*, (a) from points in California, to points in Texas. The purpose of this filing is to eliminate the gateway of Muskogee, Okla., (b) from points in Louisiana and Texas, to points in Arizona, California, Nevada, Oregon, Utah, and Washington. The purpose of this filing is to eliminate the gateway at Nebraska. (2) *Canned or packaged food products* (except frozen foods and except meats, meat products, meat by-products, dairy products, and articles distributed by meat packinghouses, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766), (a) from points in California, to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Bells, Humboldt, Jackson, Milan, and Memphis, Tenn., and (b) from points in Arkansas, Kansas, Louisiana, Mississippi, Missouri, (except Carrollton and Carthage), Oklahoma and Texas, to points in California, Nevada, and Utah, restricted against the transportation of flour from St. Louis, Mo., and against the transportation of potato products from points in Kansas to the named destinations. The purpose of this filing is to eliminate the gateway at Nebraska.

No. MC 127954 (Sub-No. 3G), filed June 4, 1974. Applicant: MARSH MOTOR HAULAGE, INC., Bldg. No. 105 Marsh Street, Port Newark, N.J. 07114. Applicant's representative: Robert J. Gallagher, 1776 Broadway, New York, N.Y. 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in New York, New Jersey, Connecticut, Pennsylvania, Massachusetts, Maine, New Hampshire, Vermont, Rhode Island, Maryland, Virginia, North Carolina, Ohio, Indiana, Illinois, Michigan, and the District of Columbia. The purpose of this filing is to eliminate the gateway of Port Newark, N.J.

No. MC 135384 (Sub-No. 11G), filed June 3, 1974. Applicant: SPECIALIZED TRUCK SERVICE, INC., Highway 81 and Interstate 75, Route 3, McDonough, Ga. 30253. Applicant's representative: Guy H. Postell, Esq., Suite 713, 3384 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, and related advertising material* when shipped at the same time, from Pabst (Houston County), Ga., to points in Louisiana, Tennessee, Kentucky, and Virginia. The purpose of this filing is to eliminate the gateway of Atlanta, Ga.

No. MC 136116 (Sub-No. 7G), filed May 31, 1974. Applicant: CF TANK LINES, INC., 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: Robert M. Bowden, P.O. Box 3062, Portland, Oreg. 97208. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid chemicals and acids*, in bulk, in tank vehicles, between points in California, on the one hand, and, on the other, points in Washington. The purpose of this filing is to eliminate the gateway of Union County, Oreg. (2) *Lime*, in bulk, in tank or hopper vehicles, from Tacoma, Wash., to points in Idaho. The purpose of this filing is to eliminate the gateway of Lime, Oreg. (3) *Chemicals*, in bulk, in tank or hopper type vehicles, from Henderson, Nev., to St. Louis, Mo. The purpose of this filing is to eliminate the gateway of Long Beach, Calif.

No. MC 139133 (Sub-No. 4G), filed June 6, 1974. Applicant: ROY SMITH, INCORPORATED, 2100 Guinotte, Kansas City, Mo. 64120. Applicant's representative: Louis J. Amato, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heavy machinery*, between Springfield, Joplin, and Kansas City, Mo., on the one hand, and, on the other, Oklahoma City and Tulsa, Okla. The purpose of this filing is to eliminate the gateways of Pipe and Yell Counties, Ark.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination* Rules (49 CFR 1065(a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before October 11, 1974. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 531 (Sub-No. E9), filed June 5, 1974. Applicant: YOUNGER BROTHERS, INC., P.O. Box 14048, Houston, Tex. 77021. Applicant's representative: Ewell H. Muse, Jr., Suite 1116, American Bank Tower, 221 W. 6th St., Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum chemicals*, (except liquefield petroleum gases), in bulk, in tank vehicles, from Lake Charles, La., to points in Georgia, that part of Florida on and east of U.S. Highway 231, and that part of Tennessee on and east of U.S. Highway 231. The purpose of this filing is to eliminate the gateways of Orange, Tex., and Geisman, La.

No. MC 2900 (Sub-No. E7), filed June 4, 1974. Applicant: RYDER TRUCKING LINES, INC., P.O. Box 2408, Jacksonville, Fla. 32203. Applicant's representative: S. E. Somers, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *General Commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), from points in Westchester and Rockland Counties, N.Y., to points in Jefferson and Lewis Counties, N.Y. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC 2900 (Sub-No. E8), filed June 4, 1974. Applicant: RYDER TRUCKING LINES, INC., P.O. Box 2408, Jacksonville, Fla. 32203. Applicant's representative: S. E. Somers, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), from Baltimore, Md., Jersey City, N.J., New York, N.Y., and Philadelphia, Pa., to Charleston, S.C. The purpose of this filing is to eliminate the gateway of Charlotte, N.C.

No. MC 2900 (Sub-No. E9), filed June 4, 1974. Applicant: RYDER TRUCKING LINES, INC., P.O. Box 2408, Jacksonville, Fla. 32203. Applicant's representative: S. E. Somers, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General Commodities* (except those of unusual value,

classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), from Baltimore, Md., Jersey City, N.J., New York, N.Y., and Philadelphia, Pa., to points within 25 miles of Greenville, S.C. The purpose of this filing is to eliminate the gateway of points in North Carolina within 25 miles of Greenville, S.C.

No. MC 2900 (Sub-No. E10), filed June 4, 1974. Applicant: RYDER TRUCKING LINES, INC., P.O. Box 2408, Jacksonville, Fla. 32203. Applicant's representative: S. E. Somers, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), from points in Bergen, Hudson, Passaic, Essex, Morris, Union, Somerset, Hunterdon, Sussex, Warren, Middlesex, Monmouth, and Mercer Counties, N.J., and New York, N.Y., to points in North Carolina. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 2900 (Sub-No. E11), filed June 4, 1974. Applicant: RYDER TRUCKING LINES, INC., P.O. Box 2408, Jacksonville, Fla. 32203. Applicant's representative: S. E. Somers, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), from points in Bergen, Hudson, Passaic, Essex, Morris, Union, Somerset, Hunterdon, Sussex, Warren, Middlesex, Monmouth, and Mercer Counties, N.J., and New York, N.Y., to Charleston, S.C. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa., and Charlotte, N.C.

No. MC 2900 (Sub-No. 12), filed June 4, 1974. Applicant: RYDER TRUCKING LINES, INC., P.O. Box 2408, Jacksonville, Fla. 32203. Applicant's representative: S. E. Somers, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), from points in Bergen, Hudson, Passaic, Essex, Morris, Union, Somerset, Hunterdon, Sussex, Warren, Middlesex, Monmouth, and Mercer Counties, N.J., and New York, N.Y., to points within 25 miles of Greenville, S.C. including Greenville. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa. and Tryon, N.C.

No. MC 2900 (Sub-No. E13), filed June 4, 1974. Applicant: RYDER TRUCKING LINES, INC., P.O. Box 2408, Jacksonville, Fla. 32203. Applicant's representative: S. E. Somers, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual values, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), from points in Bergen, Hudson, Passaic, Essex, Morris, Union, Somerset, Hunterdon, Sussex, Warren, Middlesex, Monmouth, and Mercer Counties, N.J., and New York, N.Y., to points in Jefferson and Lewis Counties, N.Y. The purpose of this filing is to eliminate the gateway of Yonkers, N.Y.

No. MC 2900 (Sub-No. E14), filed June 4, 1974. Applicant: RYDER TRUCKING LINES, INC., P.O. Box 2408, Jacksonville, Fla. 32203. Applicant's representative: S. E. Somers, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), from points within 20 miles of City Hall in Philadelphia, Pa., to points in Bergen, Hudson, Passaic, Essex, Morris, Union, Somerset, Hunterdon, Sussex, Warren, Middlesex, Monmouth, and Mercer Counties, N.J., and New York, N.Y. The purpose of this filing is to eliminate the gateway of Trevose, Pa.

No. MC 2900 (Sub-No. E15), filed June 4, 1974. Applicant: RYDER TRUCKING LINES, INC., P.O. Box 2408, Jacksonville, Fla. 32203. Applicant's representative: S. E. Somers, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), from points within 20 miles of City Hall in Philadelphia, Pa., to points in St. Lawrence County, N.Y. The purpose of this filing is to eliminate the gateway of points in Bucks and Montgomery Counties, Pa., within the Philadelphia, Pa., commercial zone, New York, N.Y., and points in Jefferson County, N.Y.

No. MC 2900 (Sub-No. E16), filed June 4, 1974. Applicant: RYDER TRUCKING LINES, INC., P.O. Box 2408, Jacksonville, Fla. 32203. Applicant's representative: S. E. Somers, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), from points within 20 miles of City Hall in Philadelphia, Pa., to points in Jefferson and Lewis Counties, N.Y. The purpose of this filing is to eliminate the gateways of points in Bucks and Montgomery Counties, Pa., within the Philadelphia, Pa. commercial zone, and New York, N.Y.

No. MC 2900 (Sub-No. E17), filed June 4, 1974. Applicant: RYDER TRUCKING LINES, INC., P.O. Box 2408, Jacksonville, Fla. 32203. Applicant's representative: S. E. Somers, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), from points within 20 miles of City Hall in Philadelphia, Pa., to points in North Carolina. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa.

No. MC 7640 (Sub-No. E6), filed May 27, 1974. Applicant: BARNES TRUCK LINE, INC., P.O. Box 2006, High Point, N.C. 27261. Applicant's representative: John T. Coon (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, dangerous explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), from Wilmington, N.C., to points in Virginia, that part of South Carolina on, west, and north of a line beginning at the Georgia-South Carolina State line, thence along U.S. Highway 29 to Greenville, thence along South Carolina Highway 146 to junction South Carolina Highway 101, thence along South Carolina Highway 101 to Woodruff thence along South Carolina Highway 146 to Cross Anchor, thence along South Carolina Highway 49 to Bullock Creek, thence along South Carolina Highway 322 to Rock Hill, thence along South Carolina Highway 161 to Newport, thence along South Carolina Highway 274 to junction South Carolina Highway 55, thence along South Carolina Highway 55 to Clover, thence along U.S. Highway 321 to the South Carolina-North Carolina State line, and that part of North Carolina on, west, and north of a line beginning at the South Carolina-North Carolina State line, thence along U.S. Highway 321 to Gastonia, thence along Interstate Highway 85 to junction North Carolina Highway 273, thence along North Carolina Highway 273 to junction North Carolina Highway 16, thence along North Carolina Highway 16

to junction North Carolina Highway 73, thence along North Carolina Highway 73 to Ablemarle, thence along North Carolina Highway 24 to junction North Carolina Highway 27, thence along North Carolina Highway 27 to Carthage, thence along U.S. Highway 501 to Sanford, thence along U.S. Highway 421 to Lillington, thence along North Carolina Highway 27 to Benson, thence along Interstate Highway 95 to Kenly, thence along North Carolina Highway 222 to Falkland, thence along North Carolina Highway 43 to junction North Carolina Highway 42, thence along North Carolina Highway 42 to junction U.S. Highway 64, thence along U.S. Highway 64 to Williamston, thence along U.S. Highway 17 to Elizabeth City, thence along U.S. Highway 158 to the Atlantic Ocean. The purpose of this filing is to eliminate the gateway of Smithfield, N.C.

No. MC 30280 (Sub-No. E62), filed June 4, 1974. Applicant: WATKINS CAROLINA EXPRESS, INC., P.O. Box 1636, Atlanta, Ga. 30301. Applicant's representative: Paul Daniell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, dairy products, livestock, acids, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), from Baltimore, Md., to points in that part of South Carolina on and west of a line beginning at the North Carolina-South Carolina State line, thence along South Carolina Highway 150 to Gaffney, thence along South Carolina Highway 18 to junction U.S. Highway 176, thence along U.S. Highway 176 to junction South Carolina Highway 34, thence along South Carolina Highway 34 to junction U.S. Highway 601, thence along U.S. Highway 601 to Orangeburg, thence along U.S. Highway 21 to Beaufort. The purpose of this filing is to eliminate the gateways of Charlotte, N.C., and Greenville, S.C.

No. MC 63792 (Sub-No. E9), filed May 24, 1974. Applicant: TOM HICKS TRANSFER CO., INC., P.O. Box 16006, Houston, Tex. 77022. Applicant's representative: C. W. Ferebee (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Machinery, equipment, materials, and supplies*, used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, and *machinery, materials, equipment, and supplies*, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof (except the stringing and picking up of pipe in connection with main pipelines), (B) *Machinery, equipment, materials, and supplies*, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights-of-way; and (C) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe*, incidental to, used in, or in connection with (1) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (2) the completion of holes or wells drilled, (3) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (4) the injection or removal of commodities into or from holes or wells (a) between points in Arkansas, on the one hand, and, on the other, points in Colorado, New Mexico, Utah, and Wyoming; (b) between points in that part of Arkansas on and south of a line beginning at the Texas-Arkansas State line, thence along Interstate Highway 30 to junction Arkansas Highway 4, thence along Arkansas Highway 4 to junction U.S. Highway 79, thence along U.S. Highway 79 to junction Interstate Highway 40, thence along Interstate Highway 40 to the Arkansas-Tennessee State line, on the one hand, and, on the other, that part of Oklahoma on and west of Interstate Highway 35; (c) between points in that part of Arkansas on and south of U.S. Highway 82, on the one hand, and, on the other, points in that part of Oklahoma on and west of a line beginning at the Texas-Oklahoma State line, thence along U.S. Highway 271 to junction U.S. Highway 75, thence along U.S. Highway 75 to the Oklahoma-Kansas State line; and (d) between points in that part of Arkansas on and south of U.S. Highway 82, on the one hand, and, on the other, points in Kansas. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC 95876 (Sub-No. E40), filed May 16, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave. N., St. Cloud, Minn. 56301. Applicant's representative: Arthur A. Budde (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* (except electrical cable tray systems) when moving as contractors' and construction materials or as items requiring specialized handling or rigging because of size or weight, from Florence, Ky., to points in Iowa on and north of U.S. Highway 20 beginning at Sioux City, thence east on U.S. Highway 20 to the junction of U.S. Highway 65, thence north on U.S. Highway 65 to the Minnesota-Iowa State line. The purpose of this filing is to eliminate the gateway of Austin, Minn.

No. MC 95876 (Sub-No. E41), filed May 16, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave. N., St. Cloud, Minn. 56301. Applicant's representative: Arthur A. Budde (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* (except commodities in bulk), when moving as contractors' and construction materials or as items requiring specialized handling or rigging because of size or weight, between Fargo, N. Dak., on the one hand, and on the other, points in the Chicago, Ill. commercial zone. The purpose of this filing is to eliminate the gateway of Fergus Falls, Minn., and New London, Wis.

No. MC 95876 (Sub-No. E42), filed May 16, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Arthur A. Budde (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* (except commodities in bulk), when moving as contractors' and construction materials, or as items requiring specialized handling or rigging because of size or weight, between points in Minnesota on and north of U.S. Highway 14, beginning at Winona, then west on U.S. Highway 14 to Mankato, then south on U.S. Highway 169 to the Minnesota-Iowa State line, on the one hand, and, on the other, points in the Chicago, Ill., commercial zone. The purpose of this filing is to eliminate the gateway of New London, Wis.

No. MC 95876 (Sub-No. E52), filed May 16, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Arthur A. Budde, 203 Cooper Avenue North, St. Cloud, Minn. 56301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Cast iron pressure pipe, and fittings therefor when moving with such pipe, from points in Missouri to points in Idaho, Montana, points in Nebraska on and north of Interstate Highway 80, North Dakota, South Dakota, and Wyoming. The purpose of this filing is to eliminate the gateway of the facilities of Griffin Pipe Products Company at Council Bluffs, Iowa.

No. MC 95876 (Sub-No. E53), filed May 16, 1974. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: Arthur A. Budde, 203 Cooper Avenue North, St. Cloud, Minn. 56301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Cast iron pressure pipe and fittings, therefor when moving as contractors' and construction materials and supplies or as items requiring specialized handling or rigging because of size or weight, from points in Oklahoma and Texas to points in Minnesota. The purpose of this filing is to eliminate the gateway of the facilities of Griffin Pipe Products Company at Council Bluffs, Iowa.

No. MC 109397 (Sub-No. E45), filed June 3, 1974. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113,

Joplin, Mo. 64801. Applicant's representative: C. H. Mayer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Source, special nuclear, and by-product materials, radioactive materials, related reactor-experiment equipment, component parts, and associated materials*, between points in Allegheny County, Pa., on the one hand, and, on the other, points in Unicoi County, Tenn. The purpose of this filing is to eliminate the gateway of points in Madison County, Ohio.

No. MC 110098 (Sub-No. E54), filed June 4, 1974. Applicant: ZERO REFRIGERATED LINES, P.O. Box 20380, San Antonio, Tex. 78220. Applicant's representative: T. W. Cothren (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen dairy products*, in vehicles equipped with mechanical refrigeration, from Dallas and Fort Worth, Tex., to points in Colorado. The purpose of this filing is to eliminate the gateway of Sherman, Tex.

No. MC 110098 (Sub-No. E60), filed June 4, 1974. Applicant: ZERO REFRIGERATED LINES, P.O. Box 20380, San Antonio, Tex. 78220. Applicant's representative: T. W. Cothren (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Frozen foods*, from Houston and Galveston, Tex., to points in Nevada; and (B) *meat* requiring refrigeration in transit, from Houston, Tex., to points in Nevada.

No. MC 110098 (Sub-No. E61), filed June 4, 1974. Applicant: ZERO REFRIGERATED LINES, P.O. Box 20380, San Antonio, Tex. 78220. Applicant's representative: T. W. Cothren (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats and meat products*, in vehicles equipped with mechanical refrigeration, from points in Quay, Union, Curry, and Roosevelt Counties, N. Mex., to points in Idaho. The purpose of this filing is to eliminate the gateways of points in Texas and points in Arizona.

No. MC 110098 (Sub-No. E62), filed June 4, 1974. Applicant; ZERO REFRIGERATED LINES, P.O. Box 20380, San Antonio, Tex. 78220. Applicant's representative: T. W. Cothren (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats and meat products*, in vehicles equipped with mechanical refrigeration, from points in Eddy, Lea, and Chaves Counties, N. Mex., to points in Idaho. The purpose of this filing is to eliminate the gateways of points in Texas and points in Arizona.

No. MC 111812 (Sub-No. E24), filed May 27, 1974. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, S. Dak. 57101. Applicant's representative: R. H. Jinks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wines, brandies, and cordials*, in containers, from Lodi, Modesto, Saratoga, Guasti, Fresno, Ripon, and Lacjac, Calif., to points in Iowa and Minnesota. The purpose of this filing is to eliminate the gateways of Sioux Falls, S. Dak., and Ocheyedan, Iowa.

No. MC 111812 (Sub-No. E25), filed May 14, 1974. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, S. Dak. 57101. Applicant's representative: R. H. Jinks (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confections* (except liquid commodities), from Delavan, Wis., to points in California. The purpose of this filing is to eliminate the gateway of Sioux Falls, S. Dak.

No. MC 114019 (Sub-No. E26) (Correction), filed May 1, 1974, published in the FEDERAL REGISTER June 3, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Ill. 60629. Applicant's representative: Arthur J. Sibik, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, as described in Section A of the Appendix to *Modification of Permits-Packinghouse Products*, 46 M.C.C. 23, from points in Wisconsin and Iowa, to Philadelphia, Pa., Wilmington, Del., Baltimore, Md., Washington, D.C., and points in New York, except Buffalo, points on U.S. Highway 1 and those on and north of a line extending from Oswego, N.Y., along United States Highway 104 to its junction with New York Highway 69, thence along New York Highway 69 to Utica, N.Y., thence along New York Highway 5 to Schenectady, N.Y., and thence along New York Highway 7 to the New York-Vermont State line. The purpose of this filing is to eliminate the gateways of Chicago, Ill., and Pittsburgh, Pa. The purpose of this correction is to correct the route description in the exception in New York.

No. MC 114019 (Sub-No. E43) (Correction), filed May 3, 1974, published in the FEDERAL REGISTER on June 3, 1974. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, Ill. 60629. Applicant's representative: Arthur J. Sibik, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy*, when transported in the same vehicle with frozen foods, in vehicles equipped with mechanical refrigeration, from Points in New York, Pennsylvania, West Virginia, those in New Jersey, Connecticut, Delaware, and Maryland which are within 30 miles of New York, N.Y., and Philadelphia, Pa., Baltimore and Sparrows Point, Md., and those in Ohio on and east of U.S. Highway 23 to points in Michigan. The purpose of this filing is to eliminate the gateway of Toledo, Ohio. The purpose of this correction is to insert the word "and" between New York, N.Y., and Philadelphia, Pa.

By the Commission.

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

[FR Doc.74-22778 Filed 9-30-74;8:45 am]

[Notice 12]

TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
Northwest Transport Service, MC-1977	MC-1977 Sub-15	Aug. 11, 1973
A. G. Boone Co., MC-42146 Sub-14, 16	MC-42146 Sub-15	Aug. 12, 1973
Leicht Transfer & Storage Co., MC-56270 Sub-15	MC-56270 Sub 16	Nov. 9, 1973
Bulk Carriers, Inc., MC-107010 Sub-46	MC-107010 Sub-47	Nov. 12, 1973
W. S. Hatch, MC-109689 Sub-237, 240	MC-109689 Sub-245	Nov. 6, 1973
Chemical Leaman Tank Lines, Inc., MC-110525 Sub-1025	MC-110525 Sub-1040	Nov. 15, 1973
Argo Trucking Co., MC-110878 Sub-34	MC-110878 Sub-33	Nov. 9, 1973
Schneider Tank Lines, Inc., MC-110988 Sub-289	MC-110988 Sub-285	Nov. 8, 1973
Redwing Carriers, Inc., MC-111045 Sub-99	MC-111045 Sub-101	Nov. 29, 1973
Redwing Carriers, Inc., MC-111045 Sub-106	MC-111045 Sub-102	Do.
Manfredi Motor Transit Co., MC-112184 Sub-41	MC-112184 Sub-40 [1]	Nov. 30, 1973
Hadley Auto Transport, MC-112391 Sub-36	MC-112391 Sub-37	Apr. 25, 1974
Liquid Transporters, Inc., MC-112617 Sub-303	MC-112617 Sub-304	Nov. 20, 1973
Owens Bros., Inc., MC-112627 Sub-12	MC-112627 Sub-13	Nov. 9, 1973
Transport Service Co., MC-112801 Sub-136	MC-112801 Sub-137	Oct. 10, 1973
Bray Lines Inc., MC-112822 Sub-248	MC-112822 Sub-253	Nov. 9, 1973
Hollebrand Trucking, Inc., MC-112854 Sub-30, 32	MC-112854 Sub-33	Nov. 20, 1973
International Transport Inc., MC-113855 Sub-241	MC-113855 Sub-247	Nov. 20, 1973
Dba Vegas Trucking & Moving Co., MC-113981 Sub-6	MC-113981 Sub-7 [1]	Oct. 10, 1973
Chandler Trailer Convoy, MC-114004 Sub-123	MC-114004 Sub-116	Nov. 15, 1973
Niedfeldt Trucking Service, Inc., MC-114097 Sub-3	MC-114097 Sub-4	Nov. 9, 1973
Warren Transport, Inc., MC-114211 Sub-197	MC-114211 Sub-183	Nov. 30, 1973
Bankers Dispatch Corp., MC-114533 Sub-248	MC-114533 Sub-254 [1]	Nov. 14, 1973
Propane Transport, Inc., MC-114969 Sub-33	MC-114969 Sub-35 [1]	Nov. 30, 1973
Weiss Trucking, Inc., MC-115092 Sub-19	MC-115092 Sub-21	Nov. 9, 1973
Truck Transport Inc., MC-115331 Sub-305	MC-115331 Sub-317	Do.
Commodity Haulage Corp., MC-115838 Sub-8	MC-115838 Sub-7	Nov. 13, 1973
Underwood & Weld Co., Inc., MC-115917 Sub-27	MC-115917 Sub-26	Nov. 20, 1973
Robertson Tank Lines, Inc., MC-116077 Sub-331	MC-116077 Sub-336	Nov. 21, 1973
Robertson Tank Lines, Inc., MC-116077 Sub-339	MC-116077 Sub-323	Nov. 7, 1973
Chem-hauler, Inc., MC-116254 Sub-130, 131	MC-116254 Sub-132	Oct. 9, 1973
Thomas G. Burkholder, MC-117013 Sub-1	MC-117013 Sub-2	Nov. 21, 1973
Dba Beaver Express, MC-117465 Sub-19	MC-117465 Sub-18	Nov. 12, 1973
Hahn Truck Line, Inc., MC-117765 Sub-140, 145	MC-117765 Sub-143	Nov. 28, 1973
Hahn Truck Line, Inc., MC-117765 Sub-151, 155	MC-117765 Sub-159	Nov. 19, 1973
Everett Lowrance, Inc., MC-118159 Sub-128	MC-118159 Sub-126 [1]	Nov. 23, 1973
Container Transit, Inc., MC-118989 Sub-82	MC-118989 Sub-95	Do.
Container Transit, Inc., MC-118989 Sub-91	MC-118989 Sub-94	Nov. 15, 1973
Distributors Service Co., MC-119619 Sub-41	MC-119619 Sub-38	Nov. 21, 1973
Distributors Service Co., MC-119619 Sub-49	MC-119619 Sub-40	Do.

Temporary authority application	Final action or certificate or permit	Date of action
Distributors Service Co., MC-119619 Sub-55	MC-119619 Sub-56	Do.
Pep Lines Trucking Co., MC-120184 Sub-7	MC-120184 Sub-8 [1]	Nov. 28, 1973
Dba Packer Transportat Co., MC-123115 Sub-5	MC-123115 Sub-4	Nov. 30, 1973
Boyle Brothers, Inc., MC-123383 Sub-63	MC-123383 Sub-64	Apr. 25, 1974
Jack B. Kelley, Inc., MC-123392 Sub-29, 35, 36, 38, 39, 40, 41, 42	MC-123392 Sub-31	Nov. 23, 1973
Curtis Transport, Inc., MC-123476 Sub-16	MC-123476 Sub-15	Nov. 6, 1973
Schwerman Trucking Co., MC-124078 Sub-519	MC-124078 Sub-513	Nov. 14, 1973
Mitchell Transport, Inc., MC-124212 Sub-66	MC-124212 Sub-62 [1]	Nov. 13, 1973
Mitchell Transport, Inc., MC-124212 Sub-67	MC-124212 Sub-68 [1]	Nov. 15, 1973
Chemical Express Carriers, Inc., MC-124236 Sub-50	MC-124236 Sub-49	Nov. 12, 1973
Chemical Express Carriers, Inc., MC-124236 Sub-51	MC-124236 Sub-55	Nov. 27, 1973
Independent Delivery, Inc., MC-124688 Sub-10	MC-124688 Sub-11 [1]	Nov. 30, 1973
Umthun Trucking Co., MC-124813 Sub-97	MC-124813 Sub-91 [1]	Nov. 14, 1973
Oil Tank Lines, Inc., MC-125168 Sub-26	MC-125168 Sub-28	Nov. 28, 1973
P-N-J Koenaeker, Inc., MC-125479 Sub-13	MC-125479 Sub-12	Nov. 7, 1973
Dba Doyle Transit Co., MC-125726 Sub-2	MC-125726 Sub-3	Nov. 6, 1973
Saturn Express, Inc., MC-125785 Sub-19	MC-125785 Sub-16	Nov. 12, 1973
Quirion Transport, Inc., MC-126291 Sub-21	MC-126291 Sub-19 [1]	Nov. 14, 1973
Cho-Bo, Inc., MC-126313 Sub-7	MC-126313 Sub-6	Nov. 19, 1973
Schaeffer Trucking, Inc., MC-126514 Sub-37	MC-126514 Sub-36	Nov. 29, 1973
Schaeffer Trucking, Inc., MC-126514 Sub-40	MC-126514 Sub-41	Nov. 30, 1973
Dietz Motor Lines, Inc., MC-127902 Sub-5	MC-127902 Sub-6	Nov. 19, 1973
Dba Savage, MC-128114 Sub-1, 3	MC-128114 Sub-2	Nov. 15, 1973
Ted W. Betley, MC-128146 Sub-4	MC-128146 Sub-5	Nov. 14, 1973
Crete Carrier Corp., MC-128375 Sub-35	MC-128375 Sub-40	Nov. 9, 1973
Crete Carrier Corp., MC-128375 Sub-38	MC-128375 Sub-44	Nov. 12, 1973
Crete Carrier Corp., MC-128375 Sub-82	MC-128375 Sub-55	Nov. 9, 1973
Crete Carrier Corp., MC-128375 Sub-85	MC-128375 Sub-75	Nov. 12, 1973
Concrete Carrier Corp., MC-128375 Sub-93	MC-128375 Sub-69	Do.
Pinto Trucking Service, Inc., MC-128383 Sub-16	MC-128383 Sub-17	Nov. 26, 1973
Pinto Trucking Service, Inc., MC-128383 Sub-19	MC-128383 Sub-22	Nov. 13, 1973
Pinto Trucking Service, Inc., MC-128383 Sub-21	MC-128383 Sub-25	Nov. 12, 1973
Texas Construction Service, MC-128868 Sub-2	MC-128868 Sub-3	Do.
Tri-State Coach Lines, Inc., MC-129038 Sub-6	MC-129038 Sub-7	Nov. 15, 1973
Dba Haines Truck Lines, MC-129149 Sub-6, 9	MC-129149 Sub-7	Do.
Dba, Evergreen Express, MC-129350 Sub-21	MC-129350 Sub-23	Nov. 7, 1973
Englund Equipment Co., MC-129510 Sub-4	MC-129510 Sub-5 [1]	Nov. 12, 1973
Pattons, Inc., MC-129516 Sub-14	MC-129516 Sub-13	Do.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-22662 Filed 9-30-74;8:45 am]

[Notice 13]

TEMPORARY AUTHORITY TERMINATION

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
Peoples Express Co., MC-1756 Sub-25	MC-1756 Sub-18	Dec. 18, 1973
Froehlich Transportation Co., Inc. MC-1759 Sub-28	MC-1759 Sub-30	Jan. 4, 1974
Preston Trucking Co., Inc., MC-1824 Sub-63	MC-1824 Sub-62	Apr. 26, 1974
Pep Trucking Co., Inc., MC-3255 Sub-12	MC-3255 Sub-11	Jan. 24, 1974
J. V. McNichoas Transfer Co., MC-14552 Sub-37	MC-14552 Sub-38	Jan. 10, 1974
Ohio Fast Freight, Inc., MC-14702 Sub-47	MC-14702 Sub-48	Jan. 24, 1974
Behnken Truck Service, Inc., MC-19945 Sub-34	MC-19945 Sub-33	Do.
dba, The Waggoners, MC-26396 Subs-53, 62, 69	MC-26396 Sub-67	Jan. 2, 1974
dba, The Waggoners, MC-26396 Subs-54, 61	MC-26396 Sub-68	Jan. 4, 1974
Newberg Auto Freight, Inc., MC-29821 Sub-4	MC-29821 Sub-5	Jan. 28, 1974
Southern Pacific Transport of Texas and Louisiana, MC-30319 Sub-140	MC-30319 Sub-25	Dec. 19, 1974
Kroblin Refrigerated Xpress, Inc., MC-30844 Sub-406	MC-30844 Sub-425	Jan. 25, 1974
Kroblin Refrigerated Xpress, Inc., MC-30844 Sub-458	MC-30844 Sub-413	Dec. 20, 1974
Kroblin Refrigerated Xpress, Inc., MC-30844 Sub-471	MC-30844 Sub-453	June 25, 1974
Shipley Transfer, Inc., MC-30887 Sub-192	MC-30887 Sub-196	Apr. 26, 1974
Interstate Motor Freight System, MC-35628 Sub-344	MC-35628 Sub-345	Dec. 26, 1973
Epes Transport System, Inc., MC-44128 Sub-37	MC-44128 Sub-38	Dec. 20, 1973
L. & M. Express Co., Inc., MC-44639 Sub-65	MC-44639 Sub-66	Jan. 24, 1974
Hamilton Trucking Co., Inc., MC-47791 Sub-4	MC-47791 Sub-5	Jan. 2, 1974
City Express, Inc., MC-48441 Sub-10	MC-48441 Sub-11	Dec. 17, 1973
Paul H. Liskey, MC-51004 Sub-6	MC-51004 Sub-5	Jan. 3, 1974
Schneider Transport, Inc., MC-51546 Sub-305	MC-51146 Sub-308	Do.
Arco Auto Carriers, Inc., MC-52657 Sub-703	MC-52657 Sub-705	Jan. 2, 1974
Arco Auto Carriers, Inc., MC-52657 Subs-698, 704	MC-52657 Sub-697	Jan. 23, 1974
Decker Truck Line, Inc., MC-59367 Sub-86	MC-59367 Sub-85	Jan. 2, 1974
United Transports, Inc., MC-71902 Sub-76	MC-71902 Sub-75	Dec. 21, 1973
Keller Transfer Line, Inc., MC-82079 Sub-30	MC-82079 Sub-31	Dec. 6, 1973
Dakota Express, Inc., MC-83217 S ub-58	MC-83217 Sub-60	Dec. 17, 1973
Melton Truck Lines, Inc., MC-100666 Sub-244	MC-100666 Sub-246	Apr. 26, 1974
Taylor Heavy Hauling, Inc., MC-102401 Sub-16	MC-102401 Sub-17	Jan. 17, 1974
Direct Transit Lines, Inc., MC-106603 Sub-118	MC-106603 Sub-121	Jan. 18, 1974
Miller Transporters, Inc., MC-107002 Subs-413, 415, 429	MC-107002 Sub-416	Jan. 7, 1974
Miller Transporters, Inc., MC-107002 Sub-421	MC-107002 Sub-426	Do.
Pre-Fab Transit Co., MC-107295 Sub-548	MC-107295 Sub-552	Dec. 20, 1973
Pre-Fab Transit Co., MC-107295 Subs-577, 632	MC-107295 Sub-565	Jan. 17, 1974
Ruan Transport Corp., MC-107496 Sub-812	MC-107496 Sub-830	Do.
Ruan Transport Corp., MC-107496 Sub-858	MC-107496 Sub-882	Jan. 11, 1974
Refrigerated Transport Co., Inc., MC-107515 Sub-813	MC-107515 Sub-841	Jan. 22, 1974
Refrigerated Transport Co., Inc., MC-107515 Sub-856	MC-107515 Sub-848	Dec. 19, 1974

Temporary authority application	Final action or certificate or permit	Date of action
H. W. Taynton Co., Inc., MC-109821 Sub-33	MC-109821 Sub-34	Feb. 8, 1974
Groendyke Transport, Inc., MC-111401 Sub-377	MC-111401 Sub-378	Jan. 30, 1974
Groendyke Transport, Inc., MC-111401 Subs-383, 372, 369	MC-111401 Sub-379	Jan. 28, 1974
Midwest Coast Transport, Inc., MC-111812 Sub-493	MC-111812 Sub-491	Jan. 25, 1974
Ellsworth Freight Lines, Inc., MC-113362 Sub-255	MC-113362 Sub-257	Jan. 3, 1974
Curtis, Inc., MC-113678 Sub-502	MC-113678 Sub-492	Jan. 30, 1974
International Transport, Inc., MC-113855 Sub-279	MC-113855 Sub-270	Jan. 22, 1974
Erickson Transport Corp., MC-113908 Sub-230	MC-113908 Sub-245	Jan. 4, 1974
Erickson Transport Corp., MC-113908 Subs-252, 251, 243	MC-113908 Sub-258	Jan. 23, 1974
Kreider Truck Service, Inc., MC-114194 Sub-166	MC-114194 Sub-167	Jan. 4, 1974
Exley Express, Inc., MC-114290 Sub-71	MC-114290 Sub-67	Jan. 28, 1974
Senn Trucking Co., MC-114552 Sub-85	MC-114552 Sub-84	Apr. 29, 1974
Dba, Fosse Transport, MC-114799 Sub-1	MC-114799 Sub-2	Do.
D & L Transport, Inc., MC-116273 Sub-158	MC-116273 Sub-160	Jan. 23, 1974
Midwest Harvestore Transport, Inc., MC-117068 Sub-20	MC-117068 Sub-19	Apr. 29, 1974
Dba, Paulette's Delivery Service, MC-119245 Sub-5	MC-119245 Sub-6	Apr. 26, 1974
DuBois Trucking, Inc., MC-119808 Sub-7	MC-119808 Sub-8	Do.
W & L Motor Lines, Inc., MC-123872 Sub-7	MC-123872 Sub-9	Jan. 24, 1974
Schwerman Trucking Co., MC-124078 Sub-548	MC-124078 Sub-538	Dec. 14, 1974
Skinner Motor Express, Inc., MC-124083 Sub-45	MC-124083 Sub-46	Jan. 28, 1974
Coastal Contract Carrier Corp., MC-124327 Sub-6	MC-124327 Sub-7	Dec. 17, 1973
Hiner Transport, Inc., MC-124344 Sub-6	MC-124344 Sub-7	Jan. 24, 1974
Bird Trucking, Inc., MC-126063 Sub-9	MC-126063 Sub-10	Dec. 21, 1973
Universal Transport, Inc., MC-126555 Sub-22	MC-126555 Sub-23	Feb. 8, 1974
J. W. Poole, Inc., MC-127962 Sub-3	MC-127962 Sub-4	Dec. 5, 1973
Hofer, Inc., MC-128007 Sub-43	MC-128007 Sub-44	Jan. 3, 1974
Dba, Waldorf Delivery, MC-128277 Sub-2	MC-128277 Sub-3	Dec. 3, 1973
Blackwood Crane & Truck Service, Inc., MC-128404 Sub-5	MC-128404 Sub-6	Jan. 24, 1974
Active Moving & Storage, Inc., MC-129051 Sub-2	MC-129051 Sub-3	Dec. 19, 1973
McDaniel Motor Express, Inc., MC-129291 Sub-6	MC-129291 Sub-5	Feb. 8, 1974
dba, Bill Payne Trucking Co., MC-129387 Sub-13	MC-129387 Sub-14	Jan. 24, 1974
Farmers Feed & Supply Transportation, Inc., MC-134262 Sub-1	MC-134262 Sub-2	Jan. 23, 1974
Jay Lines, Inc., MC-134323 Sub-35	MC-134323 Sub-31	Do.
Jay Lines, Inc., MC-134323 Sub-42	MC-134323 Sub-51	Apr. 26, 1974
American Trans-Freight, Inc., MC-134404 Sub-6	MC-134404 Sub-8	Do.
Interstate Contract Carrier, MC-134599 Sub-63	MC-134599 Sub-76	Dec. 10, 1973
National Transportation, Inc., MC-134734 Sub-9	MC-134734 Sub-10	Apr. 26, 1974
Specialty Transport, Inc., MC-134765 Sub-7	MC-134765 Sub-8	Dec. 20, 1973

[SEAL] ROBERT L. OSWALD,
Secretary.

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PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

FOOD SERVICE SANITATION

Proposed Uniform Requirements

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[42 CFR Part 72]

LAND AND AIR CONVEYANCES, AND VESSELS: FOOD

Proposal To Supersede Subpart H of Part 72 With Proposed 21 CFR Part 940

The Commissioner has proposed elsewhere in this issue of the FEDERAL REGISTER a food service sanitation regulation under 21 CFR Part 940, and proposes here that Part 940 of Subchapter I—Federal-State Cooperative Programs supersede Subpart H of Part 72 of Title 42 (42 CFR 72.161 through 72.174). The history and objectives of the proposal are set forth in the preamble to the Part 940 proposal, and interstate conveyances are specifically dealt with in § 940.94 of that proposal.

Interested persons may, on or before December 30, 1974, file with the Hearing Clerk, Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: September 24, 1974.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.74–22578 Filed 9–30–74;8:45 am]

[21 CFR Part 940]

FOOD SERVICE SANITATION

Proposed Uniform Requirements for State and Local Regulatory Agencies

Over the past 40 years, the Public Health Service has provided assistance to State and local health agencies in the establishment and maintenance of food sanitation programs for food service establishments within their jurisdictions, pursuant to the provisions of the Public Health Service Act. This assistance has included the distribution of a model ordinance for use by State and local governments in drafting legislation for the regulation of food service establishments.

The Federal Food, Drug, and Cosmetic Act also obligates the Food and Drug Administration (FDA) to regulate food held for sale after shipment in interstate commerce. The FDA has recognized the primary jurisdiction of State and local governments over food service establishments and has therefore concentrated its regulatory efforts on assuring the safety and sanitation of food up to the point when it reaches such establishments.

It is estimated that there are approximately 600,000 food service establishments in the United States serving about 150 million meals daily. It is apparent that the FDA could neither inspect nor regulate more than an insignificant portion of these establishments. The primary burden for regulation of food service establishments must therefore remain with State and local agencies.

The potential for foodborne illness results from many types of insanitary food handling operations in food service establishments. Research indicates that microbiological contamination of foods may occur from raw materials which contain salmonella or other organisms and which, if improperly handled, cause foodborne ilness. The presence of staphylococcal organisms in the throat and on the hands of food handlers and in nonpotable water supplies contributes to the contamination of the environment, and thus can cause illness. Since foodborne illness can be prevented by following good sanitation practices, it is important to enumerate such practices for the protection of the public health. Background materials supporting the need for this proposed food service sanitation regulation are on public display in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852.

The last revision of the model ordinance occurred in 1962, when it was published as Part V of the Public Health Service "Food Service Sanitation Manual." Following publication of the 1962 manual, 29 States and approximately 230 local governments utilized the model ordinance as the basis of their laws and regulations.

In June 1969, the responsibility to provide assistance to State and local regulatory agencies in the establishment and maintenance of food service sanitation programs was transferred to the Food and Drug Administration (21 CFR 2.120) from another unit of the Public Health Service.

The Commissioner of Food and Drugs concludes that there is a need to revise the model ordinance. An updated model ordinance and new Federal regulations provide State and local governments with an up-to-date reference tool which will enhance the goal of greater uniformity in Federal, State, and local regulation. In a number of cases, food service sanitation requirements established by the various State or local regulatory agencies remain varied. With the trend toward national chain and multi-unit franchise operators, who may have businesses in two or more regulatory jurisdictions, it has become evident that if State and local enforcement agencies would adopt uniform requirements known and understood by the regulated industry, and carry out these requirements through strict enforcement, both the consumer and food service industry would benefit. The food service operator would have a thorough knowledge of what is expected of him, regardless of the location of his business, and could more readily comply with requirements.

Section 301(k) of the Federal Food, Drug, and Cosmetic Act prohibits adulteration of food while held for sale after interstate shipment, and thus includes food service sanitation. In addition to implementing this provision of the law, these new Federal regulations will serve the special purpose of establishing criteria for approval of food service operations on interstate conveyances and also of food sources for interstate conveyances. At present, interstate conveyances may serve food only from sources determined to be in compliance with the requirements of §§ 72.161 through 72.174 of Title 42 of the Code of Federal Regulations. Part 940 of Title 21, as proposed herein, will supersede the requirements of those sections and serve as a basis for approving suppliers; a proposal to revoke 42 CFR 72.161 through 72.174 appears elsewhere in this issue of the FEDERAL REGISTER.

The model ordinance and Federal regulations must, of course, be identical. Late in 1972, a draft revision of the model ordinance was developed, and 450 copies were distributed to the States, the organized restaurant industry, and some local regulatory agencies and other interested persons, requesting review and comment. One hundred twenty-five comments were received, including over 1,000 suggestions relating to technical provisions, as well as other suggestions relating to semantics and format. Copies of these comments are on public display in the office of the Hearing Clerk. The Commissioner has given careful consideration to this expert advice and is now prepared to propose for public comment new regulations governing food service sanitation, which will also serve as a Food Service Sanitation Model Ordinance.

The purpose of the proposed regulations and model ordinance is to provide food service establishments with standards, and State and local governments with a comprehensive model law for the regulations of food service sanitation. Accordingly, comments are requested not only on the substance of the proposed requirements but also in regard to possible changes which might facilitate adoption by State and local governments.

The Commissioner recognizes that two aspects of the model ordinance are inappropriate for inclusion in the proposed new Federal regulations. The provisions dealing with captions, repealer, and separability (found in sections 1–103, 1–104, and 1–105 of the model ordinance), and large portions of the enforcement provisions dealing with permits, inspections, and review of plans (found in chapter 10 of the model ordinance) are properly included only in a model ordinance for State and local governments. The Commissioner has placed on display in the office of the Hearing Clerk a revised Model Food Service Sanitation Ordinance, which contains these provisions in addition to all of the provisions set out in the proposed Federal regulations except for § 940.94 which deals with interstate conveyances. Copies may be obtained upon request and comments are requested upon the provisions that appear only in the proposed model ordinance as well as on the provisions appearing in the proposed Federal regulations.

The final Federal regulations will be published in a new Subchapter I—Federal State Cooperative Programs, Part 940, of Title 21 of the Code of Federal Regulations. It will also be available as a model ordinance in a revised "Food Service Sanitation Manual" from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. The manual will continue to provide additional material not appropriate for publication as a final order in the Code of Federal Regulations, e.g., history of the regulation of food service sanitation, discussion of changing patterns in American food consumption, discussion of scientific rationale for provisions, bibliographical material for research on food sanitation, etc.

Therefore, pursuant to the provisions of the Public Health Service Act (secs. 301, 311, 361, 58 Stat. 691, 693, 703, as amended; (42 U.S.C. 241, 243, 264) and the Federal Food, Drug, and Cosmetic Act (secs. 402, 701, 52 Stat. 1046–1047, 1055–1056, as amended; (21 U.S.C. 342, 371) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes to add a new Part 940, Subchapter I—Federal-State Cooperative Programs, to Title 21, as follows:

PART 940—FOOD SERVICE SANITATION

Subpart A—General Provisions

Subpart B—Food Care

Subpart C—Personnel

Subpart D—Equipment and Utensils

Subpart E—Cleaning, Sanitization and Storage of Equipment and Utensils

Subpart F—Sanitary Facilities and Controls

Subpart G—Construction and Maintenance of Physical Facilities

Subpart H—Mobile Food Service

Subpart I—Temporary Food Service

Subpart J—Compliance Procedures

AUTHORITY: Secs. 301, 311, 361, 58 Stat. 691, 693, 703, as amended; (42 U.S.C. 241, 243, 264); secs. 402, 701, 52 Stat. 1046–1047, 1055–1056, as amended; 21 U.S.C. 342, 371.

Subpart A—General Provisions

§ 940.1 Purpose.

This part shall be liberally construed and applied to promote its underlying purpose of protecting the public health.

§ 940.3 Definitions.

For the purposes of this part:

(a) "Closed" means without openings large enough for the entrance of insects. An opening of 1/32 inch or less is closed.

(b) "Corrosion-resistant materials" means those materials that maintain their original surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bactericidal solutions, and other conditions of the use environment.

(c) "Easily cleanable" means that surfaces are readily accessible and made of such material and finish and so fabricated that residue may be effectively removed by normal cleaning methods.

(d) "Employee" means the permit holder, individuals having supervisory or management duties, and any other person working in a food service establishment.

(e) "Equipment" means stoves, ranges, hoods, slicers, mixers, meatblocks, tables, counters, refrigerators, sinks, dishwashing machines, steam tables, and similar items, other than utensils, used in the operation of a food service establishment.

(f) "Food" means articles used for food or drink, any components of those articles, and ice used for any purpose.

(g) "Food contact surfaces" are those surfaces with which food may come into contact and those surfaces that drain onto surfaces that may come into contact with food.

(h) "Food processing establishment" means a commercial establishment in which food is processed, prepared, packaged, or distributed for human consumption.

(i) "Food service establishment" means any place where food that is intended for individual service and consumption is routinely provided completely prepared. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term does not include a private home where food is prepared for individual family consumption, and it does not include the location of food vending machines.

(j) "Kitchenware" means all multi-use utensils other than tableware.

(k) "Law" includes Federal, State, and local statutes, ordinances, and regulations.

(l) "Mobile food unit" means a food service establishment that is designed to be readily movable.

(m) "Packaged" means bottled, canned, cartoned, or securely wrapped at a food processing establishment.

(n) "Person" includes an individual, partnership, corporation, association, or other legal entity.

(o) "Person in charge" means the individual present in a food service establishment who is the apparent supervisor of the food service establishment at the time. If no individual is the apparent supervisor, then any employee present is the person in charge.

(p) "Potentially hazardous food" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. This term does not include clean, whole, uncracked, odor-free shell eggs.

(q) "Regulatory authority" means the State and/or local enforcement authority or authorities having jurisdiction over the food service establishment.

(r) "Safe" materials are manufactured from or composed of materials that are not food additives or color additives as defined in section 201(s) or (t) of the Federal Food, Drug, and Cosmetic Act as used, or are food additives or color additives as so defined and are used in conformity with regulations established pursuant to section 409 or section 706 of the act.

(s) "Sanitization" means effective bactericidal treatment by a process that destroys microorganisms, including pathogens. Effective bactericidal treatment is demonstrated by an average plate count per utensil surface examined of not more than 100 colonies, or not more than 12½ colonies per square inch of equipment surface examined in accordance with the procedure detailed in Public Health Service Publication No. 1631—"Procedure for the Bacteriological Examination of Food Utensils and/or Food Equipment Surfaces."[1]

(t) "Sealed" means free of cracks or other openings that permit the entry or passage of moisture.

(u) "Single-service articles" means cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping materials, toothpicks, and similar articles designed for one-time, one-person use and then discarded.

[1] Copies may be obtained from: Food and Drug Administration, Division of Food Service, 200 'C' St. SW., Washington, D.C. 20204.

(v) "Tableware" means multi-use eating and drinking utensils.

(w) "Temporary food service establishment" means a food service establishment that operates at a fixed location for a period of time not more than 14 consecutive days.

(x) "Utensil" means any implement used in the storage, preparation, transportation, or service of food.

Subpart B—Food Care

§ 940.10 Food supplies.

(a) *General.* Food shall be wholesome and free from spoilage, filth, or other contamination and shall be safe for human consumption. Food shall be obtained from sources that comply with all laws relating to food and food labeling. The use of hermetically sealed food that was not prepared in a food processing establishment is prohibited.

(b) *Special requirements.* (1) Fluid milk and fluid-milk products used or served shall be pasteurized and shall meet the Grade A quality standards as established by law. Dry milk and dry milk products shall be pasteurized.

(2) Each container of unshucked shell stock (shellfish, oysters, clams, mussels) shall be identified by an attached tag that states the name of the original shell stock shipper, the kind and quantity of shell stock, and an official certificate number issued according to the law of the jurisdiction of its origin. Fresh and frozen shucked shellfish shall be packed in nonreturnable packages identified with the name and address of the original shell stock shipper, shucker, packer, or repacker, and the official certificate number issued according to the law of the jurisdiction of its origin of the shipper. Shell stock and shucked shellfish shall be kept in the container in which they were received until they are used.

(3) Only clean whole eggs, with shell intact and without cracks or checks, or pasteurized liquid or pasteurized dry eggs or egg products shall be obtained.

§ 940.11 Food protection.

At all times, including while being stored, prepared, displayed, served, or transported, food shall be protected from contamination by all agents, including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, draining, and overhead leakage or condensation. The temperature of potentially hazardous foods shall be 45° F or below or 140° F or above at all times, except as otherwise provided in this part.

§ 940.12 Food storage.

(a) *General.* (1) Stored food, whether raw or prepared, if removed from the container or package in which it was obtained, shall be enclosed in a clean covered container except during necessary periods of preparation or service. Use of a cloth towel as a container cover is prohibited.

(2) Food shall be stored above the floor on clean surfaces in a way that permits cleaning the storage area and that protects the food from contamination by splash and other means.

(3) Food shall not be stored under exposed sewer or nonpotable water lines.

(4) Food not subject to further washing or cooking before serving shall be stored in a way that protects it against contamination from food requiring washing or cooking.

(5) Packaged food shall not be stored in contact with water or undrained ice.

(6) Unless its identity is unmistakable, bulk food not stored in the container or package in which it was obtained shall be stored in a container identifying the food by common name.

(b) *Refrigerated storage.* (1) Enough conveniently located refrigeration facilities or effectively insulated facilities shall be provided to assure the maintenance of food at required temperatures during storage. Each cold food storage facility shall be provided with a numerically scaled indicating thermometer, accurate to ±3° F, located to measure the air temperature in the warmest part of the facility and located to be easily readable.

(2) The temperature of potentially hazardous foods requiring refrigeration shall be 45° F or below except during necessary periods of preparation.

(3) Frozen foods shall be kept frozen and should be stored at a temperature of 0° F or below.

(4) Stored ice intended for human consumption shall not be used as a medium for cooling stored food, food containers, or food utensils.

(c) *Hot storage.* (1) Enough conveniently located hot food storage facilities shall be provided to assure the maintenance of food at the required temperature during storage. Each hot food storage facility shall be provided with a numerically scaled indicating thermometer accurate to ±3° F, located in the coolest part of the facility and located to be easily readable.

(2) The temperature of potentially hazardous foods requiring hot storage shall be 140° F or more except during necessary periods of preparation.

§ 940.13 Food preparation.

(a) *General.* Food shall be prepared with the least possible manual contact, with suitable utensils, and on surfaces that prior to use have been cleaned and sanitized.

(b) *Raw fruits and raw vegetables.* Raw fruits and raw vegetables shall be washed thoroughly before being cooked or served.

(c) *Cooking potentially hazardous foods.* Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to a temperature of at least 140° F, except that:

(1) Poultry, poultry stuffings, and stuffed meats shall be cooked to heat all parts of the food to at least 165° F with no interruption of the cooking process.

(2) Pork and pork products shall be cooked to heat all parts of the food to at least 150° F.

(d) *Dry milk and egg products.* If reconstituted, dry milk, dry-milk products, dry eggs, and dry-egg products shall be used only if they are heated to 140° F or above before being served.

(e) *Reheating.* Potentially hazardous foods that were cooked and then refrigerated shall be heated rapidly to 140° F or higher throughout before being placed in a hot food storage facility. Steam tables, bainmaries, warmers, and other hot food holding facilities are prohibited for the rapid heating of potentially hazardous foods.

(f) *Reconstitution.* Nondairy creaming agents shall not be reconstituted for consumption on the premises in quantities exceeding 1 gallon.

(g) *Product thermometers.* Metal stem-type numerically scaled indicating thermometers accurate to ± 3° F shall be provided and used to assure attainment of proper internal cooking temperatures of all potentially hazardous foods.

(h) *Thawing potentially hazardous foods.* Potentially hazardous foods shall be thawed:

(1) In refrigerated units in a way that the temperature of the food does not exceed 45° F; or

(2) Under potable running water of a temperature of 70° F or below, with sufficient water velocity to agitate and float off loose food particles into the overflow; or

(3) In a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven; or

(4) As part of the conventional cooking process.

§ 940.14 Food display and service.

(a) *Potentially hazardous foods.* Potentially hazardous foods shall be kept at a temperature of 45° F or lower or at a temperature of 140° F or higher during display and service.

(b) *Display equipment.* Food on display shall be protected from consumer contamination by the use of easily cleanable counter-protector devices, display cases and similar equipment in addition to other means of protection.

(c) *Reuse of tableware.* Reuse of soiled tableware by self-service consumers is prohibited.

(d) *Dispensing utensils.* Suitable utensils shall be used by employees and provided to consumers who serve themselves to avoid unnecessary contact with food. Between uses during service, utensils shall be:

(1) Stored in food containers with the food they are being used to serve; or

(2) Stored clean and dry; or

(3) Stored in running water; or

(4) In the case of dispensing utensils and malt collars used in serving frozen desserts, stored either in a running water dipper well, or clean and dry.

(e) *Ice dispensing.* Ice for consumer use shall be dispensed only by employees with scoops, tongs, or other ice-dispensing utensils or through automatic self-service ice-dispensing equipment. Between uses during service, ice-dispensing

utensils and ice receptacles shall be stored in a way that protects them from contamination.

(f) *Condiment dispensing.* Sugar, condiments, seasonings, and dressings for self-service use shall be provided only in individual packages or from dispensers that protect their contents.

(g) *Milk dispensing.* Milk and milk products for drinking purposes shall be provided to the consumer in an unopened, commercially filled package not exceeding 1 pint in capacity, or served from a bulk milk dispenser.

(h) *Re-service.* Once served to a consumer, individual portions of food shall not be served again. Packaged food, other than potentially hazardous food, that is still packaged and is still wholesome, may be re-served.

§ 940.15 Food transportation.

During transportation, food shall be in covered containers or completely wrapped or packaged so as to be protected from contamination. During transportation, including transportation to another location for service or catering operations, food shall meet the requirements of this part relating to stored food.

Subpart C—Personnel

§ 940.20 Employee health.

No person, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease or while afflicted with a boil, an infected wound, or an acute respiratory infection, shall work in a food service establishment.

§ 940.21 Personal cleanliness.

Employees shall thoroughly wash their hands and the exposed portions of their arms with soap and warm water before starting work, during work as often as is necessary to keep them clean, and after smoking, eating, drinking, or using the toilet. Employees shall keep their fingernails clean and trimmed.

§ 940.22 Clothing.

(a) The outer clothing of all employees shall be clean.

(b) Clothing used once and discarded is permissible. All other clothing shall be washable.

(c) Employees shall use effective hair restraints where necessary to prevent the contamination of food or food-contact surfaces.

§ 940.23 Employee practices.

(a) Employees shall consume food only in designated dining areas. An area shall not be designated as a dining area if consuming food there might result in contamination of other food, equipment, utensils, or other items needing protection.

(b) Employees shall not use tobacco in any form while engaged in food preparation or service, nor while in equipment or utensil-washing or food-preparation areas. Employees shall use tobacco in any form only in designated areas. An area shall not be designated for that purpose if the use of tobacco there might result in contamination of food, equipment, utensils, or other items needing protection.

(c) Employees shall handle soiled tableware in a way that avoids contamination of their hands.

(d) Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices.

Subpart D—Equipment and Utensils

§ 940.30 Materials.

Multi-use equipment and utensils shall be made and repaired with safe materials, including finishing materials; shall be corrosion resistant and shall be nonabsorbent; and shall be smooth, easily cleanable, and durable under conditions of normal use. Single-service articles shall be made from clean, sanitary, safe materials. Equipment, utensils, and single-service articles shall not impart odors, color, or taste, nor contribute to the contamination of food.

(a) *Solder.* If soft solder or hard solder (silver solder) is used, it shall be composed of safe materials and be corrosion resistant.

(b) *Wood.* Hard maple or equivalently nonabsorbent material that meets the general requirements set forth in the introductory text of this section may be used for cutting blocks, cutting boards, and bakers' tables. The use of wood as a food-contact surface under other circumstances is prohibited.

(c) *Plastics.* Safe plastic or safe rubber or safe rubber-like materials that are resistant under normal conditions of use to scratching, scoring, decomposition, crazing, chipping, and distortion, that are of sufficient weight and thickness to permit cleaning and sanitizing by normal dishwashing methods, and which meet the general requirements set forth in the introductory text of this section are permitted for repeated use. The repeated use of equipment and utensils made of materials not meeting the requirements of this section is prohibited.

(d) *Mollusk shells.* The repeated use of mollusk and crustacea shells as food containers is prohibited.

§ 940.31 Design and fabrication.

(a) *General.* (1) All equipment and utensils, including plasticware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, pitting, chipping, and crazing. Food-contact surfaces shall be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits, and similar imperfections, and free of difficult-to-clean internal corners and crevices. Cast iron may be used as a food-contact surface only if the surface is heated, such as in grills and skillets. Threads shall be designed to facilitate cleaning; ordinary "V" type threads are prohibited.

(2) Equipment containing bearings and gears requiring unsafe lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or be forced onto food-contact surfaces. Only safe lubricants shall be used on equipment designed to receive lubrication of bearings and gears on or within food-contact surfaces.

(3) Sinks, dish tables, and drain boards shall be self draining.

(b) *Accessibility.* Unless designed for in-place cleaning, food-contact surfaces shall be accessible for cleaning and inspection:

(1) Without being disassembled; or

(2) By disassembling without the use of tools; or

(3) By easy disassembling with the use of only simple tools kept available near the equipment, such as a mallet, a screwdriver, or an open-end wrench.

(c) *In-place cleaning.* Pipes, tubes, valves, and lines contacting food and intended for in-place cleaning shall be so designed and fabricated that:

(1) Cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen; and

(2) Cleaning and sanitizing solutions will contact all interior food-contact surfaces; and

(3) The system is self draining or capable of being completely evacuated.

(d) *Thermometers.* Thermometers required for immersion into food or cooking media shall be of metal stem-type construction, numerically scaled, and accurate to ±3° F.

(e) *Non-food-contact surfaces.* Surfaces of equipment not intended for contact with food, but which are exposed to splash or food debris or which otherwise require frequent cleaning, shall be designed and fabricated so as to be smooth, washable, free of unnecessary ledges, projections, or crevices, and readily accessible for cleaning, and shall be of such material and in such repair as to be easily maintained in a clean and sanitary condition.

(f) *Ventilation hoods.* Ventilation hoods and devices shall be designed to prevent grease or condensate from dripping into food or onto food-contact surfaces. Filters, where used, shall be readily removable for cleaning and replacement.

§ 940.32 Equipment installation and location.

Equipment, including ice makers and ice storage equipment, shall not be located under exposed sewer lines, nonpotable water lines, stairwells, or other sources of contamination.

(a) *Table-mounted equipment.* Equipment that is placed on tables, or counters, unless portable, shall be sealed to the table or counter or mounted on legs at least 4 inches high and shall be installed to facilitate the cleaning of the equipment and adjacent areas.

(b) *Portable equipment.* Equipment is not portable within the meaning of paragraph (a) of this section unless:

(1) It is small and light enough to be moved easily by one person; and

(2) It has no utility connection, or has a utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the

equipment to be moved for easy cleaning.

(c) *Floor-mounted equipment.* (1) Floor-mounted equipment, unless readily movable, shall be:

(i) Sealed to the floor; or

(ii) Installed on raised platforms of concrete or other smooth masonry in a way that prevents liquids or debris from seeping or settling underneath, between, or behind the equipment in spaces that are not fully open for cleaning and inspection; or

(iii) Elevated on legs at least 6 inches off the floor, except that vertically mounted floor mixers may be elevated as little as 4 inches off the floor if no part of the floor under the mixer is more than 6 inches from cleaning access.

(2) Unless sufficient space is provided for easy cleaning between and behind each unit of floor-mounted equipment, the space between it and adjoining equipment units and between it and adjacent walls shall be closed or, if exposed to seepage, the equipment shall be sealed to the adjoining equipment or adjacent walls.

(d) *Aisles and working spaces.* Aisles and working spaces between units of equipment and between equipment and walls shall be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact.

Subpart E—Cleaning, Sanitization and Storage of Equipment and Utensils

§ 940.40 Equipment and utensil cleaning and sanitization.

(a) *Cleaning frequency.* (1) Tableware shall be cleaned and sanitized after each use.

(2) Kitchenware and food-contact surfaces of equipment shall be cleaned and sanitized after each use and following any interruption of operations during which time contamination may have occurred.

(3) Where equipment and utensils are used for the preparation of potentially hazardous foods on a continuous or production-line basis, utensils and the food-contact surfaces of equipment shall be cleaned and sanitized at intervals throughout the day on a schedule approved by the regulatory authority. This schedule shall be based on food temperature, type of food, and amount of food particle accumulation.

(4) The food-contact surfaces of grills, griddles, and similar cooking devices and the cavities of microwave ovens shall be cleaned at least once a day and shall be kept free of encrusted grease deposits and other accumulated soil.

(5) Non-food-contact surfaces of equipment shall be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, food particles, and other debris.

(b) *Wiping cloths.* (1) Cloths used during service for wiping food spills on food-contact surfaces shall be clean and used for no other purpose.

(2) Cloths used for wiping non-food-contact surfaces shall be clean and used for no other purpose. These cloths shall be rinsed frequently in one of the sanitizing solutions permitted by paragraph (c) (2) of this section.

(c) *Manual cleaning and sanitizing.* (1) Sinks shall be cleaned prior to use. Equipment and utensils shall be preflushed or prescraped and, when necessary, presoaked to remove gross food particles and soil. Equipment and utensils shall be thoroughly washed in a hot detergent solution that is kept clean and then shall be rinsed free of detergent and abrasives.

(2) All tableware and the food-contact surfaces of all other equipment and utensils shall be sanitized by:

(i) Immersion for at least one-half minute in clean, hot water of a temperature of at least 170° F; or

(ii) Immersion for at least 1 minute in a clean solution containing at least 50 parts per million of available chlorine as a hypochlorite and having a temperature of at least 75° F; or

(iii) Immersion for at least 1 minute in a clean solution containing at least 12.5 parts per million of available iodine and having a pH not higher than 5.0 and having a temperature of at least 75° F; or

(iv) Immersion in a clean solution containing any other chemical sanitizing agent allowed under § 121.2547 of this chapter that will provide the equivalent bactericidal effect of a solution containing at least 50 parts per million of available chlorine as a hypochlorite at a temperature of at least 75° F for 1 minute; or

(v) Treatment with steam free from materials or additives other than those specified in § 121.1088 of this chapter in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or

(vi) Rinsing, spraying, or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution under paragraph (c) (2) (iv) of this section when used for immersion sanitization in the case of equipment too large to sanitize by immersion.

(3) When chemicals are used for sanitization, they shall not have concentrations higher than the maximum permitted under § 121.2547 of this chapter, and a test kit or other device that accurately measures the parts per million concentration of the solution shall be provided and used.

(4) A 3-compartment sink shall be used if cleaning and sanization of equipment or utensils is done manually. Sinks shall be large enough to permit the complete immersion of the equipment and utensils, and each compartment of the sink shall be supplied with hot and cold potable running water.

(5) Dish tables or drain boards of adequate size shall be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing and shall be located so as not to interfere with the proper use of the dishwashing facilities.

(6) When hot water is used for sanitizing, the following facilities shall be provided and used:

(i) An integral heating device or fixture installed in or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least 170° F; and

(ii) A numerically scaled indicating thermometer accurate to ±3° F convenient to the sink that can be used for frequent checks of water temperature; and

(iii) Dish baskets of such size and design to permit complete immersion of the tableware, kitchenware, and equipment in the hot water.

(d) *Mechanical cleaning and sanitizing.* (1) Cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils. Such machines and devices shall be properly installed and maintained in good repair. Automatic detergent dispensers and wetting agent dispensers, if any, shall be properly installed and maintained.

(2) The pressure of water supplied to spray-type dishwashing machines shall be not less than 15 or more than 25 pounds per square inch measured in the water line immediately adjacent to the machine. A ¼-inch IPS valve shall be provided immediately upstream from the final rinse control valve to permit checking the flow pressure of the final rinse water.

(3) Easily readable numerically scaled indicating thermometers accurate to ±3° F shall be provided that indicate the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold.

(4) Rinse water tanks shall be so protected by baffles or other effective means as to minimize the entry of wash water into the rinse water. Conveyors in dishwashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles as determined by specifications attached to the machines.

(5) Drain boards shall be of adequate size for the proper handling of soiled utensils prior to washing and of cleaned utensils following sanitization and shall be so located and constructed as not to interfere with the proper use of the dishwashing facilities.

(6) Equipment and utensils shall be flushed or scraped and, when necessary, soaked to remove gross food particles and soil prior to their being cleaned in a dishwashing machine. After flushing, scraping, or soaking, equipment and utensils shall be placed in racks, trays, or baskets, or on conveyors, in a way that food-contact surfaces are subject to the unobstructed application of detergent wash and clean rinse waters and that permits free draining. Clean rinse water shall remove particulate matter and detergent residues. All dishwashing machines shall be thoroughly cleaned following use.

(e) *Machines using chemical sanitizing.* (1) When chemicals are used for sanitization, they shall be automatically dispensed in such concentration and for such a period of time as to provide effective bactericidal treatment of equipment and utensils. Chemical sanitizers used shall meet the requirements of § 121.2547 of this chapter.

(2) Wash water shall be kept clean. In machines using chemicals for sanitization (single-tank, stationary-rack, door-type machines, and spray-type glass washers), the temperature of the wash water shall be not less than 120° F. The sanitizing rinse water shall be not less than 75° F nor less than the temperature specified by the machine manufacturer.

(f) *Machines using hot water sanitizing.* Wash waters and pumped rinse waters shall be kept clean. Water shall be maintained at not less than the temperatures stated in paragraphs (f) (1) through (f) (5) of this section. Wash and pumped rinse temperatures are measured in the respective tanks, and final rinse temperature is measured at the manifold.

(1) Single-tank, stationary-tank, dual-temperature machine:

Wash temperature	150° F
Final rinse temperature	180° F

(2) Single-tank, stationary-rack, single-temperature machine:

Wash temperature	165° F
Final rinse temperature	165° F

(3) Single-tank, conveyor machine:

Wash temperature	160° F
Final rinse temperature	180° F

(4) Multiple-tank, conveyor machine:

Wash temperature	150° F
Pumped rinse temperature	160° F
Final rinse temperature	180° F

(5) Single-tank, pot, pan, and utensil washer (either stationary or moving-rack):

Wash temperature	140° F
Final rinse temperature	180° F

(g) *Drying.* All equipment and utensils shall be air dried.

§ 940.41 Equipment and utensil storage.

(a) *Handling.* Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination. Spoons, knives, and forks shall be touched only by their handles. Cups, glasses, and bowls shall be handled without contact with inside surfaces or with surfaces that contact the user's mouth.

(b) *Storage.* (1) Cleaned and sanitized utensils and movable equipment shall be stored above the floor in a clean, dry location in a way that protects them from contamination by splash, dust, and other means. The food-contact surfaces of fixed equipment shall also be protected from contamination. Equipment and utensils shall not be placed under exposed sewer or nonpotable water lines.

(2) Utensils shall be air dried before being stored or shall be stored in a self-draining position on suitably located hooks or racks.

(3) Wherever practical, stored utensils shall be covered or inverted. Facilities for the storage of spoons, knives, and forks shall be provided and shall be designed to present the handle to the employee or consumer.

(c) *Pre-set tableware.* (1) Tableware should be set prior to serving a meal only if glasses and cups are inverted, and knives, forks, and spoons are wrapped or otherwise covered.

(2) All unused pre-set tableware should be collected for washing and sanitizing after the meal period.

(d) *Single-service articles.* (1) Single-service articles shall be stored above the floor on clean shelves and in closed containers that protect them from contamination.

(2) Single-service articles shall be commercially packaged for individual use or shall be available to the consumer from a dispenser in a way that prevents contamination of surfaces that may contact food or the user's mouth. Handling of single-service articles in bulk shall be conducted in a way that protects them from contamination.

(3) Single-service articles shall be used only once.

Subpart F—Sanitary Facilities and Controls

§ 940.50 Water supply.

(a) *General.* Enough potable water for the needs of the food service establishment shall be provided from a source constructed and operated according to law.

(b) *Transportation.* All water not provided directly by pipe to the food service establishment from the source shall be transported in a bulk water transport system and shall be delivered to a closed water system. Both of these systems shall be constructed and operated according to law.

(c) *Bottled water.* Bottled and packaged potable water shall be handled and stored in a way that protects it from contamination, and dispensed from the original container filled by the supplier.

(d) *Running water.* Cold running water under pressure shall be provided to all equipment that uses water. Hot and cold running water under pressure shall be provided to all lavatories and to all water-using equipment where utensils or equipment are washed or where food is prepared.

(e) *Steam.* Steam used in contact with food or food-contact surfaces shall be free from any materials or additives other than those specified in § 121.1088 of this chapter.

§ 940.51 Sewage.

All sewage, including liquid waste, shall be disposed of by a public sewerage system or by a sewage disposal system constructed and operated according to law. Non-water-carried sewage disposal facilities are prohibited, except as permitted by § 940.80 (a) and (g) (pertaining to temporary food service establishments).

§ 940.52 Plumbing.

(a) *General.* Plumbing shall be sized, installed, and maintained according to law. There shall be no cross-connection between the safe water supply and any unsafe or questionable water supply, nor any source of pollution through which the safe water supply might become contaminated.

(b) *Nonpotable system.* A nonpotable water system is permitted only for purposes such as air-conditioning and fire protection and only if the system is installed according to law and the nonpotable water does not contact, directly or indirectly, food, potable water, equipment that contacts food, or utensils. The piping of any nonpotable water system shall be durably identified so that it is readily distinguishable from piping that carries potable water.

(c) *Backflow.* The potable water system shall be installed to preclude the possibility of backflow. Devices to protect against backflow and backsiphonage shall be installed at all fixtures and equipment where an air gap at least twice the diameter of the water inlet is not provided between the water outlet from the fixture and the fixture's flood-level rim and wherever else backflow or backsiphonage may occur. A hose shall not be attached to a faucet unless a backflow prevention device is installed.

(d) *Grease traps.* If used, grease traps shall be located to be easily accessible for cleaning.

(e) *Drains.* There shall be no direct connection between the sewage system and any drains originating from equipment in which food, portable equipment, or utensils are placed. When a dishwashing machine is located adjacent to a floor drain, the waste outlet from the dishwashing machine may be connected directly on the sewer side of the floor drain trap, if permitted by law.

§ 940.53 Toilet facilities.

(a) Toilet facilities shall be installed according to law, shall be the number required by law, shall be conveniently located, and shall be accessible to employees at all times.

(b) Toilets and urinals shall be designed to be easily cleanable.

(c) Toilet rooms shall be completely enclosed and shall have tight-fitting, self-closing, solid doors, which shall be closed except during cleaning or maintenance.

(d) Toilet facilities, including vestibules, if any, shall be kept clean and in good repair and free of objectionable odors. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials, and the receptacles in toilet rooms used by women shall be covered.

(e) The storage of food, equipment, utensils, or single-service articles in vestibules is prohibited.

§ 940.54 Lavatory facilities.

(a) Lavatories shall be installed according to law, shall be the number required by law, and shall be located to permit convenient use by all employees in food preparation areas, utensil-washing areas and toilet rooms or vestibules. Sinks used for food preparation or washing equipment or utensils shall not be used for handwashing.

(b) Each lavatory shall be provided with hot and cold running water or running water tempered by means of a mixing valve or combination faucet. Any slow-closing or metering faucet used shall provide a flow of water for at least 30 seconds without the need to reactivate the faucet. Steam-mixing valves are prohibited.

(c) A supply of hand-cleansing soap or detergent shall be available at each lavatory. A supply of sanitary towels or a hand-drying device providing heated air shall be conveniently located near each lavatory. Common towels are prohibited. If disposable towels are used, waste receptacles shall be conveniently located near the handwashing facilities.

(d) Lavatories, soap dispensers, hand-drying devices and all related facilities shall be kept clean and in good repair.

§ 940.55 Garbage and refuse.

(a) *Containers.* (1) Garbage and refuse shall be kept in durable insect-proof and rodent-proof containers that do not leak and do not absorb liquids. Plastic bags and wet-strength paper bags may be used to line these containers, and may be used for storage inside the food service establishment when protected from insects and rodents.

(2) Containers, compactors, and compactor systems shall be easily cleanable, shall be provided with tight-fitting lids, doors, or covers, and shall be kept covered when not in actual use. Drain plugs, where required, shall be in place at all times, except during cleaning.

(3) There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates.

(4) After being emptied, each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food, equipment, utensils, or food-preparation areas. Suitable facilities, including hot water and detergent, shall be provided and used for washing containers. Liquid waste from compacting or cleaning operations shall be disposed of as sewage.

(b) *Storage.* (1) Garbage and refuse on the premises shall be stored in a place inaccessible to insects and rodents. Outside storage of plastic bags or wet-strength paper bags or baled units containing garbage or refuse is prohibited.

(2) Garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent, washable materials, shall be kept clean, shall be insect-proof and rodent-proof, and shall be large enough to store the garbage and refuse containers that accumulate.

(3) Outside storage areas or enclosures shall be large enough to store the garbage and refuse containers that accumulate and shall be kept clean. Garbage and refuse containers and compactor systems located outside shall be stored on or above a smooth surface of non-absorbent material, such as concrete or machine-laid asphalt, that is kept clean and maintained in good repair.

(c) *Disposal.* (1) Garbage and refuse shall be disposed of often enough to prevent the development of odor and the attraction of insects and rodents.

(2) Where garbage or refuse is burned on the premises, it shall be done by controlled incineration that prevents the escape of particulate matter and in accordance with law. Areas around incineration facilities shall be kept clean and orderly.

§ 940.56 Insect and rodent control.

(a) *General.* Effective measures intended to eliminate the presence of rodents and flies, roaches, and other insects on the premises shall be utilized. The premises shall be kept in such condition as to prevent the harborage or feeding of insects or rodents.

(b) *Openings.* Openings to the outside shall be effectively protected against the entrance of rodents and shall be protected against the entrance of insects by tight-fitting self-closing doors, closed windows, screening, controlled air currents, or other means. Screen doors shall be self-closing, and screens for windows, doors, skylights, transoms, and other openings to the outside shall be tight fitting and free of breaks. Screening material shall not be less than 16 mesh to 1 inch.

Subpart G—Construction and Maintenance of Physical Facilities

§ 940.60 Floors.

(a) The floors of all food-preparation, food-storage, and utensil-washing areas, and the floors of all walk-in refrigerators, dressing rooms, locker rooms, and toilet rooms and vestibules shall be constructed of smooth durable materials such as sealed concrete, terrazzo, ceramic tile, durable grades of linoleum or plastic, or tight wood impregnated with plastic, and shall be maintained in good repair.

(b) Carpeting, if used, shall be of closely woven construction, properly installed, easily cleanable, and maintained in good repair. Carpeting is prohibited in food-preparation and in equipment- and utensil-washing areas where it would be exposed to large amounts of grease and water.

(c) Sawdust, wood shavings, peanut hulls, or similar material on the floors is prohibited.

(d) Properly installed floor drains shall be provided in floors that are water flushed for cleaning or that receive discharges of water or other fluid waste from equipment. Such floors shall be graded to drain.

(e) The floor of each walk-in refrigerator shall be graded to drain all parts of the floor to the outside through a waste pipe, doorway, or other opening, or equipped with a floor drain.

(f) Mats and duckboards shall be of size, materials, design, and construction as to facilitate their being cleaned.

(g) Junctures of walls with floors shall be coved.

(h) Utility service lines and pipes shall not be unnecessarily exposed on floors in food-preparation and utensil-washing areas and in toilet rooms. Exposed lines and pipes shall be installed in a way that does not obstruct or prevent cleaning.

§ 940.61 Walls and ceilings.

(a) Walls and ceilings, including doors, windows, skylights, and similar closures, shall be maintained in good repair.

(b) The walls, including nonsupporting partitions, wall coverings, and ceilings of all food-preparation and utensil-washing areas and of toilet rooms and vestibules shall be light colored, smooth, nonabsorbent, and easily cleanable. The use of rough or unfinished building materials such as brick, concrete blocks, wooden beams, or shingles is prohibited in those locations.

(c) Studs, joists, and rafters shall not be exposed in food-preparation and utensil-washing areas, and in toilet rooms. If exposed in other rooms, they shall be finished to provide an easily cleanable surface.

(d) Utiilty service lines and pipes shall not be unnecessarily exposed on walls or ceilings in food-preparation and utensil-washing areas and in toilet rooms. Exposed lines and pipes shall be installed in a way that does not obstruct or prevent cleaning.

(e) Light fixtures, vent covers, wall-mounted fans, decorative materials, and similar equipment attached to walls and ceilings shall be easily cleanable and shall be maintained in good repair.

(f) Covering material such as sheet metal, linoleum, vinyl, and similar materials shall be easily cleanable and nonabsorbent and shall be attached and sealed to the wall and ceiling surfaces so as to leave no open spaces or cracks.

(g) Concrete or pumice blocks used for interior wall construction shall be finished and sealed to provide an easily cleanable surface.

§ 940.62 Cleaning physical facilities.

Floors, mats, duckboards, walls, ceilings, and attached equipment and decorative materials shall be kept clean. Only dustless methods of cleaning floors and walls shall be used, such as vacuum cleaning, wet cleaning, or the use of dust-arresting sweeping compounds with push brooms. All cleaning of floors and walls, except emergency cleaning of floors, shall be done during periods when the least amount of food is exposed, such as after closing or between meals.

§ 940.63 Lighting.

(a) *General.* At least 50 foot-candles of light shall be provided to all working surfaces and at least 30 foot-candles of light

shall be provided to all other surfaces and equipment in food-preparation, utensil-washing, and hand-washing areas, and in toilet rooms. At least 20 foot-candles of light at a distance of 30 inches from the floor shall be provided in all other areas, except that this requirement applies to dining areas only during cleaning operations.

(b) *Protective shielding.* Shielding to protect against broken glass falling into food shall be provided for all artificial lighting fixtures located over, by, or within food storage, preparation, service, and display facilities, and facilities where utensils and equipment are cleaned and stored.

§ 940.64 Ventilation.

(a) *General.* All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, smoke, and fumes. Ventilation systems shall be installed and operated according to law and, when vented to the outside, shall not create an unsightly, harmful, or unlawful discharge.

(b) *Special ventilation.* (1) Rooms, areas, and equipment, from which aerosols, obnoxious odors, or noxious fumes or vapors may originate shall be vented effectively to the outside.

(2) Intake air ducts, if any, shall be designed and maintained to prevent the entrance of dust, dirt, insects, and other contaminating materials.

§ 940.65 Dressing areas and lockers.

(a) *Dressing areas.* If employees routinely change clothes within the establishment, areas shall be designated for that purpose. Those areas shall not be located in areas used for food preparation, storage, or service or for utensil washing or storage, except that a storage room containing only completely packaged food may be so designated.

(b) *Lockers.* Enough lockers or other suitable facilities shall be provided and used for the storage of employees' clothing and other belongings. If dressing areas are designated, the lockers or other facilities shall be located within those areas.

§ 940.66 Poisonous or toxic materials.

(a) Only those poisonous or toxic materials required to maintain the establishment in a sanitary condition or required for sanitization of equipment or utensils shall be present in food service establishments.

(b) Containers of poisonous or toxic materials, including insecticides and rodenticides, shall be prominently and distinctly labeled for easy identification of contents.

(c) Poisonous or toxic materials shall be stored in cabinets that are used for no other purpose or in a place other than an area where food is stored, prepared, displayed, or served and other than an area where clean equipment or utensils are stored. Bactericides and cleaning compounds shall not be stored in the same cabinet or area of a room as are insecticides, rodenticides, or other poisonous or toxic materials.

(d) Bactericides, cleaning compounds, or other compounds intended for use on food-contact surfaces shall not be used in a way that leaves a toxic residue on such surfaces, nor in a way that constitutes a hazard to employees.

(e) Poisonous or toxic materials shall not be used in a way that contaminates food, equipment, or utensils, nor in a way that constitutes a hazard to employees or other persons nor in a way other than in full compliance with their labeling.

(f) Personal medications shall not be stored in food storage, preparation, or service areas.

(g) First-aid supplies shall be stored in a way that prevents them from contaminating food and food-contact surfaces.

§ 940.67 Premises.

(a) *General.* (1) Food service establishments and all parts of the property used in connection with operation of the establishment shall be kept free of litter.

(2) The walking and driving surfaces of all exterior areas of food service establishments shall be surfaced with concrete or asphalt or with gravel or similar material effectively treated to facilitate maintenance and to minimize dust. These surfaces shall be drained and shall be kept clean.

(3) Only articles necessary to the operation and maintenance of the food service establishment shall be stored on the premises.

(4) The traffic of unnecessary persons through the food-preparation and utensil-washing areas and the presence in those areas of persons not authorized to be there by the permit holder or person in charge is prohibited.

(b) *Living areas.* No operation of a food service establishment shall be conducted in any room used as living or sleeping quarters. A solid self-closing door shall separate food service operations from any living or sleeping area.

(c) *Laundry facilities.* (1) No laundry operation shall be conducted, except that linens, uniforms, and aprons used in the establishment may be laundered on the premises.

(2) A solid, tight-fitting, self-closing door shall separate food service operations from any laundry area, except that laundry operations may be conducted in a storage room containing only packaged foods.

(d) *Linens and soiled clothes storage.* (1) Clean cloths and napkins shall be stored in a clean place and protected from contamination until used.

(2) Nonabsorbent containers or washable laundry bags shall be provided, and damp or soiled linens and clothes shall be kept in them until removed for laundering.

(e) *Cleaning equipment storage.* Maintenance and cleaning equipment shall be maintained and stored in a way that does not contaminate food, utensils, equipment, or linen storage.

(f) *Animals.* Live animals, including birds and turtles, shall be excluded from all food service establishments and from areas adjacent to serving areas that are under the control of the permit holder. This exclusion does not apply to edible crustacea, shellfish, or fish, nor to fish in aquariums. Police patrol dogs or guide dogs accompanying blind persons shall be permitted in dining areas.

Subpart H—Mobile Food Service

§ 940.70 Mobile food units.

(a) *General.* Mobile food units shall comply with the requirements of this part, except as otherwise provided in this paragraph and in paragraph (b) of this section. The regulatory authority may impose additional requirements to protect against health hazards related to the conduct of the food service establishment as a mobile operation, may prohibit the sale of some or all potentially hazardous foods, and when no health hazard will result, may waive or modify requirements of this part relating to physical facilities, except those requirements of paragraphs (d) and (e) of this section and §§ 940.71 and 940.72.

(b) *Restricted operation.* A mobile food unit that serves only food that was prepared, packaged in individual servings, transported, and stored under conditions meeting the requirements of this part or beverages that are not potentially hazardous and are dispensed from covered urns or other protected equipment need not comply with requirements of this part pertaining to the necessity of water and sewage systems nor to those requirements pertaining to the cleaning and sanitization of equipment and utensils if the required equipment for cleaning and sanitization exists at its commissary.

(c) *Single-service articles.* Mobile food units shall provide only single-service articles for use by the consumer.

(d) *Water systems.* A mobile food unit requiring a water system shall have a potable water system under pressure. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning, and sanitization, and handwashing, in accordance with the requirements of this part. The water inlet shall be located in such a position that it will not be contaminated by waste discharge, road dust, oil, or grease, and it shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing shall be constructed and installed according to the requirements of this part.

(e) *Waste retention.* If liquid waste results from operation of a mobile food unit, it shall be stored in permanently installed retention tanks that are at least 50 percent larger than the water supply tank. Liquid waste shall not be discharged from the retention tank when the mobile food unit is in motion. All connections on the vehicle for servicing mobile food unit waste disposal facilities shall be of a different size or type than those used for supplying potable water to the food unit. The waste connection shall be located below the water connection to preclude contamination of the potable water system.

§ 940.71 Commissary.

Mobile food units shall operate from a commissary or other fixed food service establishment that is constructed and operated in compliance with the requirements of this part.

§ 940.72 Servicing area and operations.

(a) *Servicing area.* An enclosed service building separated from commissary operations shall be provided for supplying and maintaining mobile food units. The service area shall be constructed and operated in compliance with the requirements of this part.

(b) *Servicing operations.* (1) Potable water servicing equipment shall be stored and handled in a way that protects the water and equipment from contamination.

(2) The mobile food unit liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. All liquid waste shall be discharged to a sanitary sewage disposal system in accordance with § 940.54. The flushing and draining area for liquid wastes shall be separate from the area used for loading and unloading of food and related supplies.

Subpart I—Temporary Food Service

§ 940.80 Temporary food service establishments.

(a) *General.* A temporary food service establishment shall comply with the requirements of this part, except as otherwise provided in this paragraph. The regulatory authority may impose additional requirements to protect against health hazards related to the conduct of the temporary food service establishment, may prohibit the sale of some or all potentially hazardous foods, and when no health hazard will result, may waive or modify requirements of this part, except those requirements of paragraphs (b) through (j) of this section.

(b) *Restricted operations.* (1) This paragraph is applicable whenever a temporary food service establishment is permitted, under the provisions of paragraph (a) of this section, to operate without complying with all the requirements of this part.

(2) Only those potentially hazardous foods requiring limited preparation, such as hamburgers and frankfurters, which require seasoning and cooking, shall be prepared or served. The preparation or service of other potentially hazardous foods, including pastries filled with cream or synthetic cream, custards, and similar products, and salads or sandwiches containing meat, poultry, eggs, or fish is prohibited. This prohibition does not apply, however, to any potentially hazardous food that has been prepared and packaged under conditions meeting the requirements of this part, is obtained in individual servings, is stored at a temperature of 45° F or below, or at a temperature of 140° F or above, in facilities that meet the requirements of this part, and is served directly in the unopened container in which it was packaged.

(c) *Ice.* Ice that is consumed or that contacts food shall have been made under conditions meeting the requirements of this part. The ice shall be obtained only in chipped, crushed, or cubed form and in single-use food-grade plastic or wet-strength paper bags filled and sealed at the point of manufacture. The ice shall be held in these bags until used, and when used, it shall be dispensed in a way that protects it from contamination.

(d) *Equipment.* (1) Equipment shall be located and installed in a way that facilitates cleaning the establishment and that prevents food contamination.

(2) Food-contact surfaces of equipment shall be protected from contamination by consumers and other contaminating agents. Where helpful to prevent contamination, effective shields for such equipment shall be provided.

(e) *Water.* Enough potable water shall be available in the establishment for cleaning and sanitizing utensils and equipment and for handwashing. A heating facility located on the premises and capable of producing enough hot water for these purposes shall be provided.

(f) *Wet storage.* The storage of packaged food in contact with water or undrained ice is prohibited, except that cans or bottles of nonpotentially hazardous beverages may be so stored when the water contains at least 50 parts per million of available chlorine and is changed often enough to keep both the water and containers clean.

(g) *Waste.* Liquid waste shall be disposed of in accordance with law.

(h) *Handwashing.* A facility shall be provided for employee handwashing. Where water under pressure is unavailable, such facility shall consist of at least a pan, warm water, soap, and individual paper towels.

(i) *Floors.* Floors shall be made of concrete, tight wood, asphalt, or other similar cleanable material, except that dirt or gravel floors may be used if graded to preclude the accumulation of liquids and covered with removable, cleanable platforms or duckboards.

(j) *Walls and ceilings of food preparation areas.* (1) Walls and ceilings of food preparation areas shall be constructed in a way that prevents the entrance of insects. Ceilings shall be made of wood, canvas, or other material that protects the interior of the establishment from the weather. Screening material used for walls shall be at least 16 mesh to the inch.

(2) Counter-service openings shall not be larger than is necessary for the particular operation conducted. These openings shall be provided with tight-fitting solid or screened doors or windows or shall be provided with fans installed and operated to restrict the entrance of flying insects. Doors and windows, if any, shall be kept closed, except when food is being served.

Subpart J—Compliance Procedures

§ 940.90 Permits.

(a) *General.* No person shall operate a food service establishment who does not have a valid permit issued to him by the regulatory authority. A valid permit shall be posted in every food service establishment.

(b) *Suspension or revocation of permits.* When a permit is suspended or revoked, food service operations shall immediately cease.

§ 940.91 Inspections.

(a) *Access.* Agents of the Food and Drug Administration, after proper identification, shall be permitted to enter any food service establishment at any time, for the purpose of making inspections to determine compliance with this part.

(b) *Report of inspections.* Whenever in inspection of a food service establishment is made, the findings shall be recorded on the inspection report form set out in paragraph (d) of this section. One copy of the inspection report form shall be furnished to the person in charge of the establishment. The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it. The inspection report form shall summarize the requirements of this part and shall set forth a weighted point value for each requirement. The rating score of the establishment shall be the total of the weighted point values for all violations, subtracted from 100.

(c) *Correction of violations.* (1) The inspection report form shall specify a specific and reasonable period of time for the correction of the violations found, and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:

(i) When the rating score of the establishment is 85 or more, all violations of 1- or 2-point weighted items shall be corrected as soon as possible, but in any event, by the time of the next routine inspection.

(ii) When the rating score of the establishment is at least 70 but not more than 84, all violations of 1- or 2-point weighted items shall be corrected as soon as possible, but in any event, within a period not to exceed 30 days.

(iii) Regardless of the rating score of the establishment, all violations of 4- or 5-point weighted items shall be corrected immediately.

(iv) When the rating score of the establishment is less than 70, the establishment shall immediately cease food service operations.

(v) In the case of temporary food service establishments, all violations shall be corrected within 24 hours. If violations are not so corrected, the establishment shall immediately cease food service operations.

(2) Within 15 days after an inspection in which 4- or 5-point weighted violations were noted, the permit holder shall submit a written report indicating that the 4- or 5-point weighted violations have been corrected. A followup inspection shall be conducted to confirm correction.

(3) The report of inspection shall state that failure to comply with any time limits for corrections will require that

the establishment immediately cease food service operations and that an opportunity for appeal from the inspection findings will be provided if a written request for a hearing is filed within 10 days. If a request for hearing is received, a hearing shall be held within 20 days of receipt of that request.

(4) Whenever a food service establishment is required under the provisions of this section to cease operations, it shall not resume operations until such time as a reinspection determines that conditions responsible for the requirement to cease operations no longer exist. Opportunity for reinspection shall be offered within a reasonable time.

(d) *Inspection report form.*

FOOD SERVICE ESTABLISHMENT INSPECTION REPORT

NAME OF ESTABLISHMENT	ADDRESS	CITY	ZIP CODE	COUNTY OR DISTRICT

BASED ON AN INSPECTION THIS DAY, THE ITEMS MARKED (X) BELOW IDENTIFY THE VIOLATION IN OPERATION OF FACILITIES WHICH MUST BE CORRECTED BY THE NEXT ROUTINE INSPECTION OR SUCH SHORTER PERIOD OF TIME AS MAY BE SPECIFIED IN WRITING BY THE REGULATORY AUTHORITY. FAILURE TO COMPLY WITH THIS NOTICE MAY RESULT IN IMMEDIATE SUSPENSION OF YOUR PERMIT.

ESTABLISHMENT NUMBER ☐☐☐☐☐☐☐☐ (1. 2. 3. 4. 5. 6. 7. 8.) RATING SCORE ☐☐☐ (9.10.11.) SEATING CAPACITY ☐☐☐ (12.13.14.)

15. WATER SUPPLY ☐ 1. PUBLIC ☐ 2. PRIVATE

16. SEWAGE DISPOSAL ☐ 1. PUBLIC ☐ 2. PRIVATE

17. TYPE ☐ 1. COMMERCIAL ☐ 2. SCHOOL ☐ 3. TAVERN ☐ 4. DAY CARE ☐ 5. NURSING HOME ☐ 6. CLUB ☐ 7. INSTITUTION ☐ 8. OTHER

18. PURPOSE ☐ 1. ROUTINE ☐ 2. FOLLOW-UP ☐ 3. COMPLAINT ☐ 4. INVESTIGATION ☐ 5. OTHER

19. PERMIT/LICENSE POSTED ☐ 1. YES ☐ 2. NO 20. OWNER/OPERATOR CERTIFIED ☐ 1. YES ☐ 2. NO

ITEM	X	WT	DESCRIPTION
			FOOD
*1		5	SOURCE, WHOLESOME
2		1	ORIGINAL CONTAINER, PROPERLY LABELED
			FOOD PROTECTION
*3		5	POTENTIALLY HAZARDOUS FOOD MEETS TEMPERATURE REQUIREMENTS DURING STORAGE, PREPARATION, DISPLAY, SERVICE, TRANSPORTATION
*4		4	FACILITIES TO MAINTAIN PRODUCT TEMPERATURE
5		1	THERMOMETERS PROVIDED AND CONSPICUOUS
6		2	POTENTIALLY HAZARDOUS FOOD PROPERLY THAWED
*7		4	UNWRAPPED AND POTENTIALLY HAZARDOUS FOOD NOT RE-SERVED
8		2	FOOD PROTECTION DURING STORAGE, PREPARATION, DISPLAY, SERVICE, TRANSPORTATION
9		2	HANDLING OF FOOD (ICE) MINIMIZED
10		1	FOOD (ICE) DISPENSING UTENSILS PROPERLY STORED
			PERSONNEL
*11		5	PERSONNEL WITH INFECTIONS RESTRICTED
*12		5	HANDS WASHED AND CLEAN, GOOD HYGIENIC PRACTICES
13		1	CLEAN CLOTHES, HAIR RESTRAINTS
			FOOD EQUIPMENT & UTENSILS
14		2	FOOD (ICE) CONTACT SURFACES: DESIGNED, CONSTRUCTED, MAINTAINED, INSTALLED, LOCATED
15		1	NON-FOOD CONTACT SURFACES: DESIGNED, CONSTRUCTED, MAINTAINED, INSTALLED, LOCATED
16		2	DISHWASHING FACILITIES: DESIGNED, CONSTRUCTED, MAINTAINED, INSTALLED, LOCATED, OPERATED
17		1	ACCURATE THERMOMETERS, CHEMICAL TEST KITS PROVIDED, GAUGE COCK (1/4" IPS VALVE)
18		1	SINGLE-SERVICE ARTICLES, STORAGE, DISPENSING
19		2	NO RE-USE OF SINGLE-SERVICE ARTICLES
20		1	PRE-FLUSHED, SCRAPED, SOAKED
21		2	WASH, RINSE WATER: CLEAN, PROPER TEMPERATURE
*22		4	SANITIZATION RINSE: CLEAN, TEMPERATURE, CONCENTRATION
23		1	WIPING CLOTHS: CLEAN, USE RESTRICTED
24		2	FOOD-CONTACT SURFACES OF EQUIPMENT AND UTENSILS CLEAN, FREE OF ABRASIVES AND DETERGENTS
25		1	NON-FOOD CONTACT SURFACES OF EQUIPMENT AND UTENSILS CLEAN
26		1	STORAGE, HANDLING OF CLEAN EQUIPMENT-UTENSILS

ITEM	X	WT	DESCRIPTION
			WATER
*27		5	WATER SOURCE, SAFE: HOT & COLD UNDER PRESSURE
			SEWAGE
*28		4	SEWAGE AND WASTE WATER DISPOSAL
			PLUMBING
29		1	INSTALLED, MAINTAINED
*30		5	CROSS-CONNECTION, BACK SIPHONAGE, BACKFLOW
			TOILET & HANDWASHING FACILITIES
*31		4	NUMBER, CONVENIENT, ACCESSIBLE, DESIGNED, INSTALLED
32		2	TOILET ROOMS ENCLOSED, SELF-CLOSING DOORS, FIXTURES, GOOD REPAIR, CLEAN: HAND CLEANSER, SANITARY TOWELS/HAND-DRYING DEVICES PROVIDED, PROPER WASTE RECEPTACLES
			GARBAGE & REFUSE DISPOSAL
33		2	CONTAINERS OR RECEPTACLES, COVERED: ADEQUATE NUMBER INSECT/RODENT PROOF, FREQUENCY, CLEAN
34		1	OUTSIDE STORAGE AREA, ENCLOSURES PROPERLY CONSTRUCTED, CLEAN; INCINERATION CONTROLLED
			INSECT, RODENT, ANIMAL CONTROL
*35		4	PRESENCE OF INSECTS/RODENTS - OUTER OPENINGS PROTECTED, NO BIRDS, TURTLES, OTHER ANIMALS
			FLOORS, WALLS & CEILINGS
36		1	FLOORS: CONSTRUCTED, DRAINED, CLEAN, GOOD REPAIR, COVERING INSTALLATION, DUSTLESS CLEANING METHODS.
37		1	WALLS, CEILING, ATTACHED EQUIPMENT: CONSTRUCTED, GOOD REPAIR, CLEAN, SURFACES, DUSTLESS CLEANING METHODS
			LIGHTING
38		1	LIGHTING PROVIDED AS REQUIRED, FIXTURES SHIELDED
			VENTILATION
39		1	ROOMS AND EQUIPMENT---VENTED AS REQUIRED
			DRESSING ROOMS
40		1	ROOMS CLEAN, LOCKERS PROVIDED, FACILITIES CLEAN
			OTHER OPERATIONS
*41		5	TOXIC ITEMS PROPERLY STORED, LABELED, USED
42		1	PREMISES: MAINTAINED, FREE OF LITTER, UNNECESSARY ARTICLES, CLEANING/MAINTENANCE EQUIPMENT PROPERLY STORED, AUTHORIZED PERSONNEL
43		1	COMPLETE SEPARATION FROM LIVING/SLEEPING QUARTERS. LAUNDRY
44		1	CLEAN, SOILED LINEN PROPERLY STORED

*CRITICAL ITEMS REQUIRING IMMEDIATE CORRECTION

REMARKS

DATE OF INSPECTION_____ RECEIVED BY_____ INSPECTED BY_____

§ 940.92 Examination and condemnation of food.

Food may be examined or sampled by the Food and Drug Administration as often as necessary for enforcement of this part. The Food and Drug Administration may, upon written notice to the owner or person in charge specifying with particularity the reasons therefor, place a hold order on any food which it believes is in violation of § 940.10 or any other section of this part. The Food and Drug Administration shall tag, label, or otherwise identify any food subject to the hold order. No food subject to a hold order shall be used, served, or moved from the establishment. The Food and Drug Administration shall permit storage of the food under conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished. The hold order shall state that a request for hearing may be filed within 10 days and that if no hearing is requested the food shall be destroyed. A hearing shall be held if so requested, and on the basis of evidence produced at that hearing, the hold order may be vacated or the owner or person in charge of the food may be directed by written order to denature or destroy such food or to bring it into compliance with the provisions of this part.

§ 940.93 Procedure when infection is suspected.

When the Food and Drug Administration has reasonable cause to suspect possibility of disease transmission from any food service establishment employee, it may secure a morbidity history of the suspected employee or make any other investigation as may be indicated and shall take appropriate action. The Food and Drug Administration may require any or all of the following measures:

(a) The immediate exclusion of the employee from all food service establishments;

(b) The immediate closing of the food service establishment concerned until, in the opinion of the Food and Drug Administration, no further danger of disease outbreak exists;

(c) Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease;

(d) Adequate medical and laboratory examinations of the employee, of other employees, and of his and their body discharges.

§ 940.94 Food service operations and food sources of interstate conveyances.

(a) No conveyance engaged in interstate traffic shall operate as a food service establishment nor shall it serve food obtained from a food service establishment unless the Food and Drug Administration has determined that:

(1) The establishment is in compliance with the requirements of this part; or

(2) The rating score of the establishment, determined in accordance with the provisions of this part, is greater than 70, and the establishment is making adequate efforts to achieve compliance with the requirements of this part.

(b) As used in this section, "interstate traffic" means the movement of any conveyance or the transportation of persons or property, including any portion of such movement or transportation which is entirely within a State or possession, (1) from a point of origin in any State or possession to a point of destination in any other State or possession, or (2) between a point of origin and a point of destination in the same State or possession but through any other State, possession, or foreign country.

(c) The operator of a conveyance which proposes to use a food service establishment as a source of its food shall request the Food and Drug Administration to determine whether food may be obtained from that establishment for use in interstate traffic. The Food and Drug Administration shall make that determination, and it may rely on an inspection by a State inspector in so doing.

(d) Upon request of the Food and Drug Administration, operators of conveyances engaged in interstate traffic shall identify the vendors, distributors, and dealers from whom they have acquired or are acquiring their food supplies.

Interested persons may, on or before December 30, 1974, file with the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: September 24, 1974.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.74–22577 Filed 9–30–74;8:45 am]

federal register

TUESDAY, OCTOBER 1, 1974

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PART III

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

■

AIRCRAFT ENGINES

Airworthiness Standards for Installation and Type Certification

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 11010; Amdt. Nos. 1–23; 21–40; 23–15; 25–36; 27–9; 29–10; 33–6]

AIRCRAFT AND AIRCRAFT ENGINES—CERTIFICATION PROCEDURES AND TYPE CERTIFICATION STANDARDS

The purpose of these amendments is to change the procedural requirements relating to the type certification of aircraft and aircraft engines, to update and improve the airworthiness standards applicable to the type certification of aircraft engines, and to incorporate new standards applicable to engines used on supersonic airplanes. In addition, other new airworthiness standards are made applicable to aircraft on which engines type certificated to previous standards are to be installed.

These amendments are based on the notice of proposed rulemaking (Notice No. 71–12) published in the FEDERAL REGISTER on May 5, 1971 (36 FR 8383). Except for minor editorial changes, and except as specifically discussed hereinafter, these amendments and the reasons therefor are the same as those proposed in Notice 71–12. Numerous comments relating to these proposals were received in response to the notice and except for those indicating agreement or merely repeating issues discussed and disposed of in the notice, the FAA's disposition of the significant comments is discussed below. In general, comments received that were beyond the scope of the notice are not discussed but will be retained for consideration in connection with other rulemaking projects as appropriate. Based on the relevant comments and upon further review within the FAA, a number of changes have been made to the proposed rules. In addition, various non-substantive changes of a clarifying and editorial nature have been made. Since these changes impose no additional burden on any person, they may be adopted without further notice and public procedure.

Interested persons have been afforded an opportunity to participate in the making of these amendments, and due consideration has been given to all matter presented.

Two of the proposals of the original notice concerning engine rotor system unbalance (§§ 25.1305 and 33.29) have been implemented by a separate rulemaking action, Amendments 25–35 and 33–5, effective March 1, 1974, that were published in the FEDERAL REGISTER on January 15, 1974 (39 FR 1831).

The following discussion is keyed to the like-numbered proposals contained in Notice No. 71–12:

PART 1—DEFINITIONS AND ABBREVIATIONS

Proposal 1—One commentator objected to the inclusion of a turbosupercharger as part of the engine in the proposed definition of aircraft engines in § 1.1, asserting that in some instances it should be classified as an accessory. However, the intent of the proposal was that turbosuperchargers be included as part of the engine whether or not they are additionally classified as accessories. The definition as adopted has been revised to clarify that a turbosupercharger is part of an engine whether or not it is also an appurtenance or an accessory.

Proposal 2—Several commentators suggested that the term "stop" be deleted from the definition of "idle thrust" as proposed in § 1.1 since a stop is normally associated with the power control lever or throttle, rather than with the engine fuel control device as suggested in the notice. The FAA agrees with the comment to the extent that the term "idle thrust" should be related to the power control lever and has changed the definition by replacing the term "fuel control device" with "power control lever." Since the term "stop" is appropriate with this revision, it need not be deleted.

One commentator pointed out that several of the proposed amendments used the term "type" in reference to engines and that the word "type" was defined in relation to aircraft in § 1.1 but not to engines. For internal consistency, the definition of "type" has been amended to include the meaning of the term with respect to the certification of aircraft engines.

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

Proposal 1—Several commentators suggested that the stress analysis called for in proposed § 21.15(c) for the engine rotor, spacer, and rotor shaft would not normally be available at the time of application for a type certificate, but would be available before actual certification. The FAA agrees and, upon further consideration, has determined that inclusion of the requirement under the type certification standards will allow an applicant to complete and submit a stress analysis after application for a type certificate and before certification. The requirement for a stress analysis has therefore been removed from § 21.15(c) and relocated in a new § 33.62 under the design and construction requirements for turbine aircraft engines.

Proposal 2—Several commentators recommended deletion of that portion of the proposed § 21.35(f) which requires 300 hours of flight test operations for aircraft incorporating engines of a type not previously used in a type certificated aircraft. They contended that the rule discriminated against new engine types, and that unnecessary economic hardships and delays in the aircraft certification program would be imposed. However, experience with newly certificated engine types has demonstrated to the FAA that there is a need for more thorough flight testing of newly certificated engine types, and the regulation with respect to hours of operation is adopted as proposed. Furthermore, the suggestion of one commentator that allowance be made for the use of experimental engines that differ only in minor ways from the type certificated engine has not been adopted because the FAA believes it could lead to uneven administration of the rule.

One commentator questioned whether the phrase "engines that conform to a type certificate" in subparagraph (f)(1) required just one or a full complement of the newly type certificated engines in a multi-engine aircraft. As indicated in the explanation in the Notice, the intent of the FAA is that "engines" means all the engines in the aircraft. To eliminate any ambiguity, the wording has been changed to specifically call for a full complement of engines.

Proposal 3—No public comment was received on the proposal to amend § 21.97 and the section is adopted as proposed.

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, AND ACROBATIC CATEGORY AIRPLANES

Proposal 1—One commentator questioned whether proposed § 23.951(b) would prohibit several fuel tanks from gravity feeding through non-return valves to a single collector box from which the fuel pumps would draw fuel. Such an arrangement is not prohibited and the rule would allow any combination of tanks to be used so long as means are taken to prevent air from being introduced into the system.

In response to the suggestion contained in several comments, the icing requirement of paragraph (c) of proposed § 23.951 has been reworded to clarify that it is applicable solely to turbine engine aircraft, since fuel icing is peculiar to turbine fuels. Additionally, since the requirement is intended to preclude interrupted functioning of the fuel system rather than to require operation for an indefinite time, the rule has been revised to require "sustained" operation rather than "continuous" operation.

Proposal 2—Several commentators questioned whether an applicant would have to comply with amended § 23.997 as proposed, if the similar rule in § 33.67 had already been complied with by the engine manufacturer. The FAA proposed the new requirements to assure that newly certificated aircraft would meet the standards prescribed in § 33.67. Thus, if the aircraft manufacturer incorporated an engine which had been type certificated under new § 33.67 the fuel system would already conform to the rule and nothing further would be required. If, however, the aircraft manufacturer incorporated an engine which had not been certificated under the new § 33.67 he would have to take the necessary action to comply with new § 23.997.

Several commentators questioned whether the proposed rule would require that each and every filter in the fuel system, including small screens and so-called "last chance filters," meet the requirements of paragraph (a) through (d) of proposed § 23.997. The FAA intended that at least one filter upstream of the fuel metering device and the engine driven displacement pump meet

these requirements, and the section has been clarified accordingly.

In response to a question raised by one commentator concerned with the availability of heat for the required filter or strainer, the FAA wishes to point out that the requirement for icing protection in turbine engine fuel systems, set forth in § 23.951, applies to the entire fuel system.

As proposed, § 23.997(b) would require a drain. Upon further consideration it has been determined that an equivalent of the drain could be provided by having the strainer or filter easily removable for drain purposes and this alternative has been incorporated into the regulation.

Proposal 3—One commentator questioned whether the oil sump of a dry sump engine would be considered as expansion space under the proposal. If the sump is in fact part of the oil tank, then the sump provides the expansion space specified in § 23.1013(b)(1). Further amendment of the requirement is not considered necessary and § 23.1013 (b)(1) is adopted as proposed.

One commentator requested clarification of the phrase "that might reduce the flow of oil," used in proposed § 23.1013 (e). Several other commentators suggested that the phrase was inconsistent with, but should be identical to, proposed § 25.1013. The FAA agrees with these comments and has revised the section to make it consistent with § 25.1013 in this respect, by specifying that any oil tank outlet screen or guard may not reduce the flow of oil below a safe value at any operating temperature.

Proposal 4—One commentator suggested that the more technically correct term "differential pressure" be used in place of "pressure," in paragraph (c) of § 23.1015. The FAA believes, however, that the present term is adequately understood in the industry, and has not caused any misunderstanding in the past. The paragraph is therefore adopted as proposed.

Proposal 5—Several commentators expressed the belief that the proposed § 23.1019 might be interpreted to require each and every oil strainer or filter in the system including small so-called "last chance" filters to conform to all the requirements of paragraph (a). The intent of the FAA is to require at least one oil strainer or filter that will filter all the oil that passes through the lubricating system while conforming to the requirements of the section. The rule as adopted has been reworded to make this clear. Another commentators objected to the word "conveys" as inappropriate in the lead-in sentence of paragraph (a). The FAA agrees and has changed the wording to refer to a strainer or filter through which all of the engine oil flows.

Several commentators interpreted the requirement of subparagraph (a)(1) for normal oil flow through the bypass as possibly requiring identical flow and proposed the word "adequate" in place of "normal." The FAA does not agree that the word "normal" means identical and used the word normal to mean normal for the system within its operating range. Therefore, the wording as proposed has been retained.

One commentator stated that filters should be serviced on a routine and normal maintenance basis rather than relying upon an indicator as proposed in subparagraph (a)(3). In this connection it should be noted, however, that the rule does not call for relaxing of any maintenance procedures but adds an additional item which will contribute to safety by providing a quick means of inspecting for possible filter contamination.

It was assumed in one comment that the standard engine oil pressure gauge would qualify as an "indicator" as required in proposed subparagraph (a)(3). While it was considered that a separate indicator would be provided, nevertheless, if the applicant can demonstrate that the oil pressure gauge would adequately perform the function of the indicator, a separate indicator would not be required. Upon further consideration, the function of the indicator in terms of contamination of the screen has been reworded for clarity.

Several commentators questioned whether the wording of subparagraph (a)(4) was realistic in requiring that no contaminants be released through the filter bypass. As proposed, the requirement stated an absolute prohibition against release of contaminants. The FAA agrees that the intended purpose may be met by requiring the bypass to be designed to minimize release of contaminants, and the requirement is reworded accordingly.

Proposal 6—Several commentators objected to the requirement in proposed § 23.1093 for operation in falling and blowing snow on the basis that no standard is specified as to the intensity or the amount of falling snow or the degree of blowing involved. They further point out that no uniform means are provided for demonstrating compliance with the section and that a small or even minute amount of snow might satisfy the letter of the law of this section. One commentator offered detailed standards that could be adopted. However, it was not the intent that specifications for all possible conditions be included in the regulation but, rather, that an applicant select the limitations desired for his airplane and then demonstrate the ability to operate within those limitations.

Several commentators asserted that the specified liquid water content of 2 grams per cubic meter was not representative of actual conditions and would result in more stringent requirements for ground operation than for flight, while another suggested that the requirement for icing protection at idle should be applicable "on the ground" rather than at sea level. Upon further consideration, the FAA agrees that a reduction to 0.6 grams would provide an adequate and safe standard for icing protection at idle conditions on the ground and the requirement has been changed accordingly.

One commentator objected to the requirement for icing protection for 30 minutes at idle, stating that there was insufficient bleed air to adequately meet the requirement for this period of time. However, experience has demonstrated that it is practical and necessary for safety of flight, and that protection for the engine during prolonged idle prior to takeoff is essential to safety of operation. The proposal does not restrict the means for icing protection to engine bleed air, as suggested by the commentator, but allows any means or combination of means which the applicant chooses. With respect to bleed air, the intent of the requirement is that icing protection at idle be provided when the bleed air available for icing protection is at its critical condition. The section has been reworded to make this clear.

Proposal 7—Amendment 23–14, effective December 20, 1973, published in the FEDERAL REGISTER on November 19, 1973 (38 FR 31816), amended § 23.1183(a) to require that lines and fittings and components carrying gas, air, or flammable fluids in any area subject to engine fire conditions must be at least fire resistant. That amendment also amended the heading of the section, while retaining the requirement that flexible hose assemblies must be approved. Therefore, the section as amended by this Amendment, contains the provisions made effective by amendment 23–14 in addition to those proposed in Notice 71–12, including the revision of the latter discussed below. Inasmuch as the heading proposed in Notice 71–12 is inappropriate to the section as amended by Amendment 23–14, the heading adopted by the amendment is retained.

Stating that proposed § 23.1183, which concerns engine fire protection, is inappropriately included with aircraft airworthiness standards, one commentator suggested that it more correctly belongs in Part 33 relating to engine airworthiness requirements. However, while this and other sections do relate to engine airworthiness, they are included also in Part 23 and the other aircraft certification parts since it is the intent that aircraft certificated under applications made after the adoption of these amendments conform to the new updated sections of Part 33, whether or not they incorporate engines type certificated under the updated Part 33. Thus, to cover cases where such aircraft incorporate engines certificated under applications made before adoption of these amendments, the new engine standards that are appropriate are made effective as to the aircraft by being incorporated in the aircraft airworthiness sections.

One commentator questioned whether integral oil sumps on smaller reciprocating engines were considered to come within the meaning of flammable fluid tanks as that term was used in proposed § 23.1183. The FAA did not intend that they be included, and the rule as adopted specifically provides that integral oil sumps of less than 20 quart capacity need not be fireproof nor be enclosed by a fireproof shield.

Proposal 8—As a result of the issuance of Amendment 23–14 (38 FR 31816), which contains new paragraphs, § 23.1305 (q) and (r), the proposed paragraphs (q), (r), (s), and (t) are redesignated (s), (t), (u), and (v), respectively. The following discussion is keyed to the new designations.

One commentator questioned whether the fuel strainer or filter indicator referred to in § 23.1305(t) were required on all filters, even "last chance" filters. Consistent with the requirements applicable to the strainers or filters themselves, § 23.1305(t) has been revised to make clear that the indicator required is for a fuel strainer or filter required under § 23.997. Similarly, § 23.1305(t) and (u) have been reworded in order to be consistent with §§ 23.997 and 23.1019, respectively, in regard to the degree of contamination that must be indicated. In response to a further comment, § 23.1305 (t) has been reworded to clarify that the desired indication is of the occurrence of contamination rather than the more stringent requirements of the degree of contamination as suggested in the Notice. This change achieves consistency between paragraphs (t) and (u).

One commentator questioned whether other presently installed gauges for other functions could be used as "indicators" to indicate the functioning of a heater as required in paragraph (v). As discussed above, in connection with the indicators required for oil strainers or filters, the FAA anticipates that the requirement will be met by installation of gauges to indicate the functioning of heaters. However, if a clear and positive indication can be obtained from other gauges used to portray functions different than direct heater functioning, the requirements of the section are met.

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

Proposed changes to §§ 25.951 (Proposal 1), 25.997 (Proposal 3), 25.1015 (Proposal 5), 25.1019 (Proposal 6), and 25.1093 (Proposal 7) were the subject of comments substantially the same as submitted for the proposed like-numbered sections of Part 23. As adopted, these Part 25 sections set forth the same requirements as proposed in Notice 71–12 except as they have been modified for the reasons given in the preamble discussion of the like-numbered Part 23 sections.

Proposal 2—No comments were received in response to the proposed deletion of § 25.977(b). That paragraph is accordingly revoked and marked reserved.

Proposal 4—The exemption contained in the last sentence of § 25.1013(a), concerning fireproofing of an integral oil sump of less than 20-quart capacity on a reciprocating engine, has been removed from this section and placed in § 25.1183 (a). This action involves no substantive change and achieves consistency with the parallel Part 23 section.

Proposal 8—Section 25.1183(a) has been further amended in connection with changes to § 25.1013(a) as noted under Proposal 4.

Proposal 9—Section 25.1305(c) has been amended so that it is substantively the same as the parallel provision of § 23.1305. The related Part 23 preamble discussion is applicable. The proposed new subparagraph 25.1305(d)(3), concerning an indicator to indicate rotor system unbalance, has already been adopted by a separate rulemaking action (Amdt. 25–35, 39 FR 1831).

One commentator stated that aircraft fuel systems have been designed without cockpit controlled fuel heat; therefore there is no need in proposed subparagraph (c)(8) for an indicator to indicate the proper functioning of any fuel heater. The section, however, only requires an indicator if a heater is used and the FAA believes it would supply necessary information to indicate heater functioning.

PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT

Proposed changes affecting §§ 27.951 (Proposal 1), 27.997 (Proposal 2), 27.1013 (Proposal 3), 27.1015 (Proposal 4), 27.1019 (Proposal 5), 27.1093 (Proposal 6), 27.1183 (Proposal 7), and 27.1305 (Proposal 8) were the subject of comments substantially the same as submitted for the proposed like-numbered sections of Part 23. The proposed amendments set forth in Notice 71–12 have been adopted except as explained in the preamble discussion of the like-numbered Part 23 sections.

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

Proposed changes affected §§ 29.951 (Proposal 1), 29.997 (Proposal 2), 29.1013 (Proposal 3), 29.1015 (Proposal 4), 29.1019 (Proposal 5), 29.1093 (Proposal 6), 29.1183 (Proposal 7), and 29.1305 (Proposal 8) were the subject of comments substantially the same as submitted for the proposed like-numbered sections of Part 23. The proposed amendments set forth in Notice 71–12 have been adopted except as explained in the preamble discussion of the like-numbered Part 23 sections.

PART 33—AIRWORTHINESS STANDARDS: AIRCRAFT ENGINES

Proposal 1—The comments received in response to proposed § 33.5 focused principally on the overhaul instructions that would be required by paragraph (e). The comments revealed widespread misunderstanding of the effect of requiring the engine manufacturer to set out the frequency of overhauls. In this connection, the FAA wishes to point out that overhaul instructions are necessary upon type certification because an engine might require overhaul at any time thereafter, and the ability to perform an overhaul should not be limited by lack of instructions. Furthermore, the manufacturer's statement of overhaul frequency is not established as an operating limitation but operates merely as a recommendation; it does not preclude the establishment of different overhaul intervals, nor does it preclude the "piecemeal" overhaul practice followed by operators using continuous airworthiness maintenance programs. It should be noted, however, that the initial overhaul time established under § 33.90 and referred to in § 33.7(c)(17) is an operating limitation that must be complied with regardless of the adoption of any other practice; the initial overhaul, whether accomplished "piecemeal" or otherwise, must be completed within the time established.

With regard to a question raised by one commentator concerning the requirements in § 33.5(e)(2) that certain component life limits be specified in the required instructions, the FAA wishes to call attention to the fact that no separate requirement is thus established that would have any effect on operators of the engines. The life limits of all components requiring replacement are established under other sections of Part 33 as operating limitations that must be complied with, and their publication in the required instructions is a convenience to operators.

Upon further review, § 33.5(a)(1) is revised to include a requirement that the installation instructions contain the maximum allowable loads for engine mounting attachments and related structure, which are required to be determined in complying with § 33.23. Similarly, § 33.5(a)(2) is revised to include a requirement for description of the pipes, wires, cables, ducts, and cowling covered by that section. That information is considered essential for installation, and FAA practice has been to require it for compliance with prior § 33.5.

Proposal 2—The effect of proposed § 33.7 was misunderstood by a number of commentators who objected to various ratings and limitations listed therein. Contrary to the apparent belief of those commentators, no ratings or limitations would be established independently under § 33.7; the section merely contains a list of ratings and limitations established either under applicable requirements of Part 33 that predate the Notice, or under proposed new requirements contained in the Notice. Consideration was thus given to the substance of the comments as they related to substantive requirements proposed in the Notice. Discussion of comments directed to § 33.7 but relating to proposed new requirements is found with other comments under the appropriate section. However, as a result of such comments, one substantive change has been made that affects § 33.7; no rating or limitation need be established for turbine engine internal cooling air flow, and proposed § 33.7(c)(12) has therefore been deleted, with attendant necessary renumbering of the succeeding subparagraphs. Other changes of an editorial nature have been made for internal consistency between § 33.7 and other Federal Aviation regulations.

Proposal 3—No public comment was received on the proposed deletion of § 33.13, and the section has been revoked and marked "reserved."

Proposal 4—Several comments were received that contained objections to the

start-stop stress cycle described in proposed § 33.14 as not being representative of a typical operating cycle that would produce the stresses to be accounted for by the requirement. In particular, there was objection to the requirement that disc and spacer temperatures be stabilized after stopping the engine in order to complete a cycle. The FAA agrees that final temperature stabilization should not be necessary where an applicant can show that the components experience the complete stress range without such stabilization, and the definition of a start-stop stress cycle as adopted includes a provision to allow for such a showing.

Another commentator suggested that the operating limitation be defined as the number of cycles to a detectable crack rather than to failure. The FAA regards a crack as a failure and the rule as adopted applies not only to cracks but to other types of failures which may occur prior to the occurrence of a detectable crack.

A commentator recommended that spacers be deleted from the section because they would not normally be critical. The FAA disagrees; spacers are a critical item in low cycle fatigue, and the requirement, in this regard, is adopted as proposed.

One commentator stated the belief that the establishment of component life limits would result in a complicated and time-consuming process for extending component life. The FAA points out that the listing of this limit on the type certificate as required by this section provides only an initial limit and will not in any way complicate the procedure for extending the limit. In this connection, the section as adopted is revised to clarify that the required operating limitations and the provision for increasing them apply individually to each rotor disc and spacer.

Proposal 5—Several commentators objected to the new standard of protection proposed in § 33.17(b) for external lines, fittings, and components as unnecessary because the matter is adequately covered in paragraphs (a) and (c) of that section, while another commentator asserted that, due to considerations of airflow and venting, the requirement should be imposed only on the airframe. The FAA does not agree with these positions. The new requirement in (b) for protection against ignition of leaking flammable fluids is necessary to deal with possible impingement of such fluids on hot surfaces. Furthermore, since engine design necessarily includes considerations of airflow and venting, this requirement in Part 33 will assure that those considerations take account of possible ignition of leaking flammable fluid that could result from its impingement on engine components.

In response to comments questioning the applicability of proposed § 33.17(c) to integral oil sumps on the smaller reciprocating engines, the requirement as adopted is revised to exclude such sumps having less than a 20-quart capacity. The requirement is thus made consistent with the parallel requirements in the aircraft airworthiness parts.

One commentator believed that a clear definition of "fireproof" and "fire resistant" was lacking in the regulations and suggested that temperature, duration and flame intensity should be specified as part of any definition. The definitions in § 1.1 of the regulations include both "fireproof" and "fire resistant" and any further changes to these definitions would be outside the scope of the Notice.

One commentator questioned whether under paragraph (e), the accumulation of fluid is interpreted as occurring inside of the engine and suggested that the section should specify unwanted flammable fluid. The FAA agrees that the section is intended to refer to unwanted flammable fluid and is directed to areas internal to the engine. The requirement as adopted is reworded accordingly.

Proposal 6—The comments received in response to proposed § 33.25 expressed general agreement with the intent of the requirement as understood by the commentators. However, several of the comments indicated a need for clarification regarding the applicability of limit loads to accessory drives and mounting attachments. The FAA agrees that the intent of the proposal was that the limit load requirement apply to accessory drives and mounting attachments and the section as adopted is reworded to make this clear.

In addition, as suggested by one commentator, a provision has been added to make clear that the use of engine oil for lubrication of accessory drives and mounting attachments is permitted, with appropriate sealing provisions.

Proposal 7—It was pointed out that reference to "excessive speed, temperature, and vibration" in proposed § 33.27 (a) was vague in view of the very specific requirements in proposed paragraph (d). Since it was the intent of the proposal to relate the two requirements, § 33.27(a) as adopted is revised to clearly refer to the specific tests included in the section.

Several commentators objected to the speeds proposed in the overspeed tests required in § 33.27. They expressed the opinion that the rotor speed strength demonstrations which are currently accepted by the FAA and which are 5 percent lower in all cases than the proposed requirements demonstrate an adequate margin of strength. In this connection, one commentator pointed to 6 million hours of service experience with no disc bursts. The FAA finds compelling merit in these comments and upon further consideration the overspeed requirements as adopted are 5 percent less than those proposed.

Several commentators believed that the proposal to use a test article fabricated with minimum qualities allowed by the specification was an impractical requirement. They expressed the opinion that to conform to the proposal as written would require a component made with all the minimum properties of the specifications, a condition which could not be met. The FAA agrees with these comments and upon further consideration has deleted the proposal.

Several commentators objected to the proposed paragraph (c) of § 33.27 regarding cooling airflow as being too restrictive. They pointed out that in designs where there is more than one cooling passage, one passage could be blocked and still allow passage of an adequate flow of cooling air. While this might be less than normal cooling airflow it might still ensure adequate cooling. The FAA agrees that the proposed requirement would not accomplish the intended purpose and, in connection with the deletion of other proposed requirements relating to cooling airflow that were determined to be impracticable (see discussion relating to §§ 33.7 and 33.87), the section is adopted without the proposed paragraph (c).

Proposal 8—One commentator expressed the opinion that the instrument connection markings required in proposed § 33.29 would be unnecessary if it could be shown that there was no possibility of an instrument being connected to the wrong connection. The FAA agrees that this would satisfy the requirements of the rule and, accordingly, the section as adopted is revised to specifically allow this. In addition, the section has been revised by deletion of the word "new" which was inadvertently included in the proposal, to clarify that it applies to all engine limitations.

The proposed requirement relating to rotor system unbalance contained in proposed § 33.29(b), as noted previously in this preamble, has been adopted in a separate rulemaking action (Amdt. 33–5; 39 FR 1831).

Proposal 9—The only public comment received in response to the proposed new § 33.42 recommended deletion of the requirement but gave no reason for the recommendation. The section is adopted as proposed.

Proposal 10—A comment was received that questioned the speed range that would be applicable to the proposed requirement in § 33.43(a) for a vibration survey with a cylinder not firing. As proposed, the requirement implies the same speed range that is applicable to the engine with all cylinders firing. The FAA agrees that this would be impractical and the requirement is revised to specify that the applicable speed range is from idle to maximum desired takeoff speed rating.

Several commentators questioned whether the vibration test survey specified in paragraph (a) required the same propeller used for the endurance test or a propeller of the same configuration. The FAA intended that the same configuration of propeller could be used for the tests and the rule as adopted is revised to clarify the intent for both propellers and loading devices.

One commentator recommended that § 33.43(a) be revised to exclude the propeller shaft or other output shafts from the vibration survey. The FAA does not agree that they should be excluded since they are the most vital components requiring vibration measurements and

tests. However, this does not include any accessory drive shafts, which are required to be loaded under § 33.43(c) in order to assess the effects of such loads on the propeller or other output shaft.

One commentator regarded that the number of cycles to demonstrate compliance for fatigue testing of steel shafts specified in § 33.43(b) should be 10 million rather than 10½ million cycles: The FAA agrees that 10 million cycles represents an accepted standard and the requirement is revised accordingly.

A commentator recommended that § 33.43(c) which requires accessories to be loaded during the vibration tests be deleted as being unnecessary for torsional surveys. The FAA does not agree; the purpose of the test is to disclose possible adverse vibration effects, including any that might be contributed by accessories.

Proposal 11—Several commentators objected to the proposed § 33.45(b) requirement for a recalibration after the endurance test as being impracticable and unnecessarily adding to the endurance test. They suggested that the intent of the section, to ensure that any power loss during the endurance test be determined, could be met by modifying the rule to require a "power check" in place of a recalibration. The FAA agrees that a full recalibration is not required to determine power loss and the section is revised to require a power check in place of a recalibration. In addition, since the section permits use of measurements taken during the final portion of the endurance test, reference to the finish of that test has been deleted.

Proposal 12—Upon further consideration, the parenthetical statement in the first sentence of paragraph (a) of proposed § 33.49 is revised to clarify that the additional testing requirements that apply to a turbosupercharger are completely covered in § 33.49(e)(1)(iii) (proposed § 33.49(e)(1)(iv)). An applicant may elect to run the engine-turbosupercharger combination an additional 50 hours in complying with that requirement, but it is not necessary to do so.

One commentator felt that in § 33.49, the accessory loading provision referred to in paragraph (a) could be interpreted to require the limit load to be applied during all operations. The intent of this rule is to require limit loads only during operation at rated maximum continuous power and rated takeoff power, and the section is revised accordingly.

One commentator recommended that instead of requiring maximum cylinder temperatures during all of the endurance running at maximum and takeoff powers that a shorter time period would adequately demonstrate cylinder assembly integrity. The FAA agrees with the recommendation and the rule as adopted requires testing with cylinder and oil inlet temperatures specified, for 35 hours, the time currently used in certification practice. Furthermore, the FAA agrees with another commentator that as long as the cylinder temperatures are monitored the intent of the section will be met, and the requirement is revised to refer to cylinder temperature, deleting reference to the cylinder barrel and head.

A commentator recommended that the altitude testing requirements for turbosupercharged engines be deleted and the tests be run at sea level condition. The FAA does not agree. The altitude testing requirements are necessary. However, the section as adopted is revised by rewording the lead-in sentence of § 33.49(e) to allow as an alternative that altitude tests may be simulated, and by deleting proposed § 33.49(e)(1)(iii).

Proposal 13—Several commentators objected that the proposed requirement in § 33.55(b) that all adjustment settings and functioning characteristics that can be established independent of installation on the engine be unchanged at teardown is unnecessarily restrictive. The FAA agrees that the intent of the proposal would be satisfied if those functioning characteristics remain within limits established at the beginning of the endurance test, and the requirement is revised accordingly.

Several commentators believed that the requirement proposed in § 33.55(c) that components conform to the type design after the endurance test was too severe, especially since this would require parts to remain within drawing tolerances. The FAA does not agree. The type design includes dimensions within which a component may change in service. A component that sustains wear beyond those limits during a 150-hour endurance test has not met minimum airworthiness standards.

Proposal 14—The last sentence of § 33.57(b) as proposed is amended to require the engine "or" its parts to be subjected to additional tests if required instead of the engine "and" its parts.

As discussed in connection with Proposal 1 of Part 21, new § 33.62 is added to require stress analysis of certain engine parts.

Proposal 15—A commentator recommended revision of proposed § 33.65 to include reference to the allowable engine operating limitations in order to clarify that there could not be a finding of noncompliance if any of the undesired effects resulted from operations beyond those limitations. The section is intended to apply only to operations that are within allowable operating limitations as set forth in the manufacturer's operating instructions and the requirement is revised to make this clear.

In addition, the section is revised to delete the reference to inlet air distortion caused by cross-wind, which is adequately covered by the manufacturer's specification of limiting inlet air distortion, and to ice ingestion, which is adequately covered by other requirements.

Proposal 16—Several commentators recommended that § 33.66 be clarified to avoid the interpretation that a reduction in engine performance due to bleed air would be an "adverse effect on the engine." To preclude this possible misinterpretation, the section is revised accordingly.

Proposal 17—Several commentators suggested that paragraph (a) of § 33.67 be revised to allow for the use of seals and locking devices as alternatives to making the fuel control adjusting means inaccessible. The FAA agrees that these alternative means may be used to achieve the desired intent and the section is revised accordingly.

Several commentators expressed doubt that it should be necessary to add any water to saturated fuel since upon cooling the saturated water would precipitate out, thus representing the most critical condition. The FAA does not agree that the amount of water which may precipitate out properly represents the most critical amount of free water possible in the system. The added water is necessary to simulate critical conditions.

Several commentators expressed doubt that § 33.67(b)(6) could be literally complied with and suggested that the aim of the rule was that all means be taken to prevent the release of contaminants, and that an insignificant amount of contaminant release should not violate the rule. The FAA agrees with this comment and the rule as adopted requires design of the bypass to minimize release of contaminants.

Other revisions to the section have been made for the reasons set forth in the discussion relating to § 23.997, which contains like requirements.

Proposal 18—The comments received in response to proposed § 33.68 were similar to those received in connection with the substantively similar provisions contained in proposal 6 of Part 23, § 23.1093. The section is revised in accordance with the discussion pertaining to revisions of that section.

Proposal 19—Several commentators objected to the requirement in § 33.69 for two igniters; however, this is the requirement of the present rule and the only proposed change to the rule is the requirement for a single igniter for fuel augmentation systems. No objections were received to this provision.

Proposal 20—Several commentators objected to the requirement in § 33.71(b)(6) for cockpit indication of oil filter contamination, where no bypass is incorporated. However, the FAA considers the addition of a cockpit indicator to be necessary in the interest of safety in order to enable the flight crew to prevent engine failure due to oil starvation, that might occur if all required filters in the lubrication system do not incorporate the protection of a filter bypass.

As indicated by other commentators, the words "extreme temperature" as used in proposed § 33.71(c)(9) could be taken to require compliance at temperatures beyond the intended operating range. Such a result would be contrary to the intent of the requirement and the section as adopted is revised to refer to maximum operating temperature. In response to other comments the differential pressure requirement in subparagraph (c)(9) is reworded to clarify that

it may not be less than 5 p.s.i. above the maximum operating pressure of the tank.

One commentator considered that the lack of a requirement for a bypass was a serious deficiency in the proposal. The FAA has considered this question many times including extensive discussion at government-industry airworthiness meetings and has determined that due to the serious divergence of opinion the use of a bypass should at present be optional. If no bypass is used, however, the applicant must comply with other safeguards contained in the section to ensure safe operation of the lubrication system.

The remainder of the comments were similar to those made in response to proposals 3, 4, and 5 of Part 23 and have been responded to in discussion of those proposals. The section has been reworded in part to conform with the changes made to the sections involved in those proposals.

Proposal 21—One commentator recommended that § 33.72 should refer to a "main" filter only. The FAA does not agree; the requirements are meant to apply to each filter or screen incorporated in the system.

Proposal 22—Several commentators believed that § 33.75 as written was confusing and ambiguous. The printed notice was incorrectly worded and the section is rewritten to read correctly.

Several commentators suggested that the word "burst" in subparagraph (b) was ambiguous and needed further definition. The FAA agrees and, accordingly, a further descriptive phrase, "penetrate its case," is added.

One commentator suggested that the phrase "improper operations" be substituted for "bad operation". The FAA agrees with the suggestion and the section incorporates this change.

One commentator objected to consideration of multiple failures, to avoid consideration of an infinite number of possible failures. The analysis however does not require that all possible multiple failures be considered, but uses the accepted standard of consideration of only the probable single or multiple failures.

Proposal 23—One commentator suggested that § 33.77(a)(2) be clarified to ensure that a burst meant uncontained burst that penetrates the case. The FAA agrees that this is the intent of the section and it is revised accordingly.

Several commentators suggested that the footnote to the table be modified to permit the option of demonstrating containment on a component basis for all the test items. The FAA does not agree that this would adequately account for secondary effects except in the case of blade containment in fan engines as noted.

Several commentators expressed doubt that the proposed rate of ingestion of 1½ pound birds was supported by ornithological data or actual flight experience. They suggested that a lesser rate be used. The FAA, after further study and consideration, agrees. Accordingly, the ingestion rate for 1½ pound birds is established at one for the first 300 square inches of inlet area and at one for each 600 additional square inches or fraction thereof, of up to a maximum of 8 birds.

The practical reality of a 4-inch hailstone was questioned in some of the comments. The FAA, after further study, has determined that this size will probably not be encountered in actual flight conditions and the section is amended to delete the requirement.

Several commentators believed that the amount of sand and gravel specified was excessive and not representative of actual conditions. After further consideration, the FAA agrees that the amount proposed should be reduced and the section is revised accordingly.

The FAA agrees with the point raised by several commentators that, in § 33.77(c), some power or thrust loss should be permitted since the ingestion of these objects will certainly cause a temporary power loss. Accordingly, the requirement is revised to permit power or thrust loss that is not "sustained." In addition, § 33.77(f) is revised, upon further consideration, to require testing for water ingestion to take place under takeoff operating conditions rather than the proposed "maximum cruise." This reflects current practice in engine certification.

The ¼ by 1 inch bolt test is deleted since the test for the broken rotor blade is a more stringent test and will adequately account for the effects of the bolt.

A comment was received that objected to the provision in proposed § 33.77(d)(3) relating to obstruction of induction airflow by foreign objects that are stopped by a protective device. The FAA wishes to point out that the subject provision does not state a requirement that must be met by all applicants. Rather, it provides an alternative to testing for the effects of objects that can be stopped by a protective device and prevented, by deflection out of the airflow path or by some other means, from obstructing the induction airflow in any way.

In addition, a new paragraph (e) is included in § 33.77 to incorporate the suggestion offered by some commentators that the effects of ingestion of some foreign objects can be accounted for by the effects of others. Thus, in showing compliance with § 33.77(a) the applicant is required to test only for that object that is shown to have the most severe effect. Similarly, for compliance with (b), testing is required for sand and gravel and either the 3 ounce or 1½ pound birds, depending on the size of the engine inlet, as designated in § 33.77(f).

Proposed paragraph (e) is redesignated as paragraph (f).

Proposal 24—One commentator recommended that in § 33.79(a) an acceptable means of compliance to demonstrate cooling be provided for the guidance of the applicant. The FAA, upon further consideration agrees that the section does not adequately establish a definable objective and the proposal is withdrawn for further study. Proposed paragraphs (b) through (f) are redesignated (a) through (e), respectively.

One commentator believed that paragraph (e) of the proposed rule could be misinterpreted as allowing a loss of thrust to the unaugmented engine in an amount equal to that added by the augmentor. To avoid possible misinterpretation, the requirement, adopted in § 33.79(d), is reworded to clarify that the loss of thrust mentioned means only the thrust that is provided by augmentation. Furthermore, upon further consideration, the FAA has revised the requirement to refer only to failure or malfunction of augmentor combustion, since the effects of other possible augmentor failures on engine thrust cannot be reliably predicted.

One commentator recommended clarification of proposed paragraph (f) to ensure that the rotational speed mentioned be the minimum rotational speed at which the thrust augmentation functions. This is the original intent of the paragraph and it is modified accordingly.

Proposal 25 — One commentator pointed out an error in the explanation of proposed changes to § 33.81. Instead of referring to § 33.43, it should have referred to § 33.87. No change to the adopted rule itself is necessary, however.

Proposal 26—No comments were received on the proposed new § 33.82, and the section is adopted as proposed.

Proposal 27—Several commentators recommended that the requirement in § 33.83 for testing to 110 percent of the desired maximum continuous speed rating be deleted because certain high performance turbine engines may not be capable of achieving this overspeed condition. Upon further consideration, the FAA agrees with the commentators' position and the requirement is deleted.

Other revisions to the section have been made for the reasons set forth in the discussion relating to § 33.43, which contains like requirements.

Proposal 28—Revisions have been made to § 33.85 for the reasons set forth in the discussion relating to § 33.45, which contains like requirements.

Proposal 29—Several commentators requested that the surface temperature requirement be deleted from proposed § 33.87(a)(3) as being difficult to simulate on a test stand. The section is intended by the FAA to require that if an engine external temperature limit be specified by the applicant as being critical, then the applicant must demonstrate satisfactory operation at that temperature. It is pointed out that only those temperatures specified by the applicant need be held at their specified values and the requirement is reworded to clarify this. In addition, the section is revised to provide allowance for more than one test run if all parameters cannot be held at the required values simultaneously.

Several commentators objected to subparagraph (a)(4) of § 33.87 which had called for fuels, lubricants, and hydraulic fluids with the lowest thermal breakdown

temperatures allowed by their specifications to be used during the tests. They felt that this was practically an impossible requirement because of the unavailability of fluids and lubricants with all the minimum properties called for. The FAA agrees, and the requirement is revised to call for specified fluids and lubricants used during the endurance tests to conform to their respective specifications.

One commentator suggested that § 33.87(a)(6) be amended to require that only shear and overload loads be tested and that the requirement for other loading during the endurance tests be deleted. The FAA does not agree, but intended that the endurance test simulate actual operation and include testing of the accessories drives themselves as well as other portions of the engine. This requires loading of those drives, and the rule is adopted as proposed.

Several commentators questioned whether the limit load for accessories specified in subparagraph (a)(6) should apply only during maximum power operation. This is the intended construction of the section, and it is amended to reflect this intent.

One commentator expressed concern that compliance with § 33.87(a)(8) which calls for cooling air simulation could not be demonstrated since in a particular engine there may be many divisions of cooling air-flow which might make it virtually impossible to individually regulate each separate cooling airflow path. The FAA agrees with the commentator's position and the proposal is withdrawn for further study.

Several commentators suggested that the references to supersonic engines be deleted because of the lack of foreseeable need for such engines. The FAA does not agree. One of the purposes in formulating these new amendments is to establish standards for that new generation of engines, especially since the FAA is in the process of presently certificating such engines.

One commentator pointed out that the proposal did not include the false start tests of the present rule. This was an inadvertent omission and those false start tests are included in the adopted rule.

Proposal 30—The phrase "for installation in an engine" is deleted from § 33.88 as being surplusage.

Proposal 31—One commentator requested that a better definition be used in § 33.89(b) for the term "extreme ambient temperature and altitude." The FAA agrees that, taken literally, the requirement could be unnecessarily burdensome. Accordingly, the wording is modified to read "maximum and minimum operating ambient temperature" and "maximum operating altitude." In addition, upon further consideration, the last sentence of the proposed requirement is deleted as unnecessary.

Proposal 32—One commentator believed that for the overhaul test of § 33.90 two starts per hour was unnecessarily severe and suggested that a number representative of intended operation might be substituted for the stated requirement. The FAA agrees that if the applicant could show that a lesser number of starts would be more representative of intended operation for the particular engine that this would adequately comply with the intent of the section, and the section is revised accordingly. Furthermore, since this revision eliminates the distinction in the section between airplane and rotorcraft engines, the requirement is expressed in a single paragraph, rather than in (a) and (b) as proposed.

In response to several comments, § 33.90 as adopted is revised to clarify that the requirement applies only to engines being originally type certificated; it does not apply to engines being certificated through amendments to existing type certificates or through supplemental type certification procedures.

Several commentators recommended deleting the entire section as proposed. They expressed the opinion that it it was unreasonable to require the completion of an overhaul test in addition to the endurance test as a condition of type certification and believed that past practices were adequate to establish an initial overhaul period. One commentator stated that the 150 hour endurance test, because of its accelerated nature, should be equivalent to a 1000 hour overhaul period. The FAA does not agree. This additional overhaul test is necessary since experience on certain engines has shown that the endurance test has not been equivalent to longer service operations, especially for periods as long as 1000 hours.

Proposal 33—Several commentators pointed out that the oil tank requirement in paragraph (c) of proposed § 33.91 was redundant with a similar proposed requirement in proposed § 33.71(c)(9). The specified test requirements for oil tanks are covered under § 33.71(c)(9) and reference to oil tanks is, therefore, not included in § 33.91(c) as adopted. References to "extreme temperature" and "the sum of 5 p.s.i. and the maximum operating pressure" in the requirements specified in § 33.91(c) have been revised for reasons discussed in connection with Proposal 20, this Part (§ 33.71). In addition, and for the same reason, references to "extreme temperature" in § 33.91(d) have been replaced by "maximum and minimum operating temperature", and the requirement to test while cycling operating conditions from "one extreme to another" has been rewritten to require cycling between maximum and minimum operating conditions.

Proposal 34—Several commentators expressed the opinion that the tests required under § 33.92 are unnecessary for engines that are to be used in single engine aircraft. One commentator further suggested that the time period of 3 hours may not be appropriate to a practical situation but rather, the time period and r.p.m. should be based upon the conditions arising from a recommended flight technique following an engine failure at a critical point in the flight path. Another commentator expressed doubt that windmilling for 3 hours without oil was a normal expectancy. The FAA does not agree. It is not possible, at the time of certification, to know the end use or particular intended flight conditions for each engine. It is therefore necessary to establish a general criterion which will adequately demonstrate a degree of safety for conditions that a turbine engine would likely encounter on a typical and usual route structure. The 3 hour time period specified does represent a time period representative of an expected route structure and windmilling for 3 hours without oil is a reasonable possibility.

One commentator recommended that the proposed rule be clarified to specifically allow for the engine windmilling speed to either decrease or stop due to freezing of bearings. The proposal as written does not specifically mention this condition. However, the FAA agrees that this would be a satisfactory means of accomplishing the intent of the section and the rule is revised to allow for this condition.

One commentator recommended deletion of the entire section because he believed there was insufficient experience pointing out a need for these tests and because the proposal implies a flight test as a condition of engine certification. The FAA finds that experience establishes the need for these tests and points out that flight tests are not specifically required by the rule.

Proposal 35—The changes to § 33.93 are similar to those made for § 33.55, which was the subject of similar comments. The changes and comments are discussed in connection with Proposal 13, this Part.

Proposal 36—The changes to § 33.99 are similar to those made for § 33.57, which was the subject of similar comments. The changes and comments are discussed in connection with Proposal 14, this Part.

Finally, it should be noted that a number of the rule changes contained in this Amendment deal with subjects for which proposals were received for inclusion in the 1974–75 Airworthiness Review Program (Notice 74–5; 39 FR 5785). As indicated in that Notice and in Notice 74–5A (39 FR 18662), inviting comment on the proposals received, rule making procedures separate from the Airworthiness Review could result in removal of proposals from further consideration during the Airworthiness Review Program. The FAA was determined that the following FAA proposals presently being processed in the 1974–75 Airworthiness Review relate to issues that are covered by the rules adopted by these Amendments, and need not, and will not, be given further

consideration during the 1974–75 Airworthiness Review:

Proposal No.	FAR'S	Subject
677 (with respect to proposed paragraph (q) only).	§ 23.1305	Powerplant instruments.
782	§ 25.997	Fuel strainer or filter.
784	§ 25.1305	Powerplant instruments.
863	§ 27.1305	Do.
941	§ 29.1183	Lines and fittings.
947	§ 29.1305	Powerplant instruments.

These amendments are made under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, Parts 1, 21, 23, 25, 27, 29, and 33 of the Federal Aviation regulations are amended as follows, effective October 31, 1974:

PART 1—DEFINITIONS AND ABBREVIATIONS

1. Section 1.1 is amended to change the definition of "Aircraft engine" and by adding new definitions "idle thrust", "rated takeoff augmented thrust", and "rated maximum continuous augmented thrust"; by amending the definitions of "rated takeoff thrust", "rated maximum continuous thrust"; and by adding a new paragraph (3) to the definition of "type" to read as follows:

§ 1.1 General definitions.

* * * * *

"Aircraft engine" means an engine that is used or intended to be used for propelling aircraft. It includes turbosuperchargers, appurtenances, and accessories necessary for its functioning, but does not include propellers.

* * * * *

"Idle thrust" means the jet thrust obtained with the engine power control level set at the stop for the least thrust position at which it can be placed.

* * * * *

"Rated maximum continuous thrust", with respect to turbojet engine type certification, means the approved jet thrust that is developed statically or in flight, in standard atmosphere at a specified altitude, without fluid injection and without the burning of fuel in a separate combustion chamber, within the engine operating limitations established under Part 33 of this chapter, and approved for unrestricted periods of use.

* * * * *

"Rated maximum continuous augmented thrust", with respect to turbojet engine type certification, means the approved jet thrust that is developed statically or in flight, in standard atmosphere at a specified altitude, with fluid injection or with the burning of fuel in a separate combustion chamber, within the engine operating limitations established under Part 33 of this chapter, and approved for unrestricted periods of use.

* * * * *

"Rated takeoff thrust", with respect to turbojet engine type certification, means the approved jet thrust that is developed statically under standard sea level conditions, without fluid injection and without the burning of fuel in a separate combustion chamber, within the engine operating limitations established under Part 33 of this chapter, and limited in use to periods of not over 5 minutes for takeoff operation.

* * * * *

"Rated takeoff augmented thrust", with respect to turbojet engine type certification, means the approved jet thrust that is developed statically under standard sea level conditions, with fluid injection or with the burning of fuel in a separate combustion chamber, within the engine operating limitations established under Part 33 of this chapter, and limited in use to periods of not over 5 minutes for takeoff operation.

* * * * *

"Type", * * *

(3) As used with respect to the certification of aircraft engines means those engines which are similar in design. For example, JT8D and JT8D–7 are engines of the same type, and JT9D–3A and JT9D–7 are engines of the same type.

* * * * *

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

2. Section 21.15 is amended by adding a new paragraph (c) to read as follows:

§ 21.15 Application for type certificate.

* * * * *

(c) An application for an aircraft engine type certificate must be accompanied by a description of the engine design features, the engine operating characteristics, and the proposed engine operating limitations.

3. Section 21.35 is amended by adding a new paragraph (f) to read as follows:

§ 21.35 Flight tests.

* * * * *

(f) The flight tests prescribed in paragraph (b)(2) of this section must include—

(1) For aircraft incorporating turbine engines of a type not previously used in a type certificated aircraft, at least 300 hours of operation with a full complement of engines that conform to a type certificate; and

(2) For all other aircraft, at least 150 hours of operation.

4. Section 21.97 is amended to read as follows:

§ 21.97 Approval of major changes in type design.

(a) In the case of a major change in type design, the applicant must submit substantiating data and necessary descriptive data for inclusion in the type design.

(b) Approval of a major change in the type design of an aircraft engine is limited to the specific engine configuration upon which the change is made unless the applicant identifies in the necessary descriptive data for inclusion in the type design the other configurations of the same engine type for which approval is requested and shows that the change is compatible with the other configurations.

PART 23—AIRWORTHINESS STANDARDS: NORMALITY, UTILITY, AND ACROBATIC CATEGORY AIRPLANES

5. Section 23.951 is amended to read as follows:

§ 23.951 General.

(a) Each fuel system must be constructed and arranged to insure a flow of fuel at a rate and pressure established for proper engine functioning under each likely operating condition, including any maneuver for which certification is requested.

(b) Each fuel system must be arranged so that—

(1) No fuel pump can draw fuel from more than one tank at a time; or

(2) There are means to prevent introducing air into the system.

(c) Each fuel system for a turbine engine must be capable of sustained operation throughout its flow and pressure range with fuel initially saturated with water at 80° F and having 0.75cc of free water per gallon added and cooled to the most critical condition for icing likely to be encountered in operation.

6. Section 23.997 is amended to read as follows:

§ 23.997 Fuel strainer or filter.

There must be a fuel strainer or filter between the fuel tank outlet and the inlet of either the fuel metering device or an engine driven positive displacement pump, whichever is nearer the fuel tank outlet. This fuel strainer or filter must—

(a) Be accessible for draining and cleaning and must incorporate a screen or element which is easily removable;

(b) Have a sediment trap and drain except that it need not have a drain if the strainer or filter is easily removable for drain purposes;

(c) Be mounted so that its weight is not supported by the connecting lines or by the inlet or outlet connections of the strainer or filter itself; and

(d) Have the capacity (with respect to operating limitations established for the engine) and the mesh to ensure that engine fuel system functioning is not impaired, with the fuel contaminated to a degree (with respect to particle size and density) that is greater than that established for the engine in Part 33 of this Chapter.

7. Section 23.1013 is amended by amending paragraph (b)(1), paragraph (c), paragraph (e) and by adding new paragraph (g), to read as follows:

§ 23.1013 Oil tanks.

* * * * *

(b) * * *

(1) Each oil tank used with a reciprocating engine has an expansion space of not less than the greater of 10 percent

of the tank capacity or 0.5 gallon, and each oil tank used with a turbine engine has an expansion space of not less than 10 percent of the tank capacity; and

* * * * *

(c) *Filler connection.* Each oil tank filler connection must be marked as specified in § 23.1557(c). Each recessed oil tank filler connection of an oil tank used with a turbine engine, that can retain any appreciable quantity of oil, must have provisions for fitting a drain.

* * * * *

(e) *Outlet.* No oil tank outlet may be enclosed by any screen or guard that would reduce the flow of oil below a safe value at any operating temperature. No oil tank outlet diameter may be less than the diameter of the engine oil pump inlet. Each oil tank used with a turbine engine must have means to prevent entrance into the tank itself, or into the tank outlet, of any object that might obstruct the flow of oil through the system. There must be a shutoff valve at the outlet of each oil tank used with a turbine engine, unless the external portion of the oil system (including oil tank supports) is fireproof.

* * * * *

(g) Each oil tank filler cap of an oil tank that is used with a turbine engine must provide an oiltight seal.

8. Section 23.1015 is amended by deleting the word "and" at the end of paragraph (a), deleting the period at the end of paragraph (b) and inserting "; and" in place thereof, and adding a new paragraph (c) to read as follows:

§ 23.1015 Oil tank tests.

* * * * *

(c) For pressurized tanks used with a turbine engine, the test pressure may not be less than 5 p.s.i. plus the maximum operating pressure of the tank.

9. Section 23.1019 is amended to read as follows:

§ 23.1019 Oil strainer or filter.

(a) Each turbine engine installation must incorporate an oil strainer or filter through which all of the engine oil flows and which meets the following requirements:

(1) Each oil strainer or filter that has a bypass, must be constructed and installed so that oil will flow at the normal rate through the rest of the system with the strainer or filter completely blocked.

(2) The oil strainer or filter must have the capacity (with respect to operating limitations established for the engine) and the mesh to ensure that engine oil system functioning is not impaired when the oil is contaminated to a degree (with respect to particle size and density) that is greater than that established for the engine under Part 33 of this Chapter.

(3) The oil strainer or filter, unless it is installed at an oil tank outlet, must incorporate an indicator that will indicate contamination of the screen before it reaches the capacity established in accordance with paragraph (a)(2) of this section.

(4) The bypass of a strainer or filter must be constructed and installed so that the release of collected contaminants is minimized by appropriate location of the bypass to ensure that collected contaminants are not in the bypass flow path.

(5) An oil strainer or filter that has no bypass, except one that is installed at an oil tank outlet, must have a means to connect it to the warning system required in § 23.1305(u).

(b) Each oil strainer or filter in a powerplant installation using reciprocating engines must be constructed and installed so that oil will flow at the normal rate through the rest of the system with the strainer or filter element completely blocked.

10. Section 23.1093 is amended by amending paragraph (b) to read as follows:

§ 23.1093 Induction system icing protection.

* * * * *

(b) Each turbine engine must—

(1) Operate throughout its flight power range (including idling) without adverse effect on engine operation or serious loss of power or thrust, under the icing conditions specified in Appendix C of Part 25 of this Chapter, and in snow, both falling and blowing, within the limitations established for the airplane; and

(2) Idle for 30 minutes on the ground with the air bleed available for engine icing protection at its critical condition, without adverse effect, in an atmosphere that is at a temperature of 29° F and has a liquid water content of 0.6 grams per cubic meter in the form of drops having a mean effective diameter of 40 microns, followed by a momentary operation at takeoff power or thrust.

11. Section 23.1183 is amended by amending the heading and paragraph (a) to read as follows:

§ 23.1183 Lines and fittings and components.

(a) Except as provided in paragraph (b) of this section, each component, line, and fitting carrying flammable fluids, gas, or air in any area subject to engine fire conditions must be at least fire resistant, except that flammable fluid tanks and supports which are part of and attached to the engine must be fireproof or be enclosed by a fireproof shield unless damage by fire to any non-fireproof part will not cause leakage or spillage of flammable fluid. Components must be shielded or located so as to safeguard against the ignition of leaking flammable fluid. Flexible hose assemblies (hose and end fittings) must be approved. An integral oil sump of less than 20 quart capacity on a reciprocating engine need not be fireproof nor be enclosed by a fireproof shield.

* * * * *

2. Section 23.1305 is amended by adding new paragraphs (s), (t), (u), and (v) to read as follows:

§ 23.1305 Powerplant instruments.

* * * * *

(s) For each turbine engine, an indicator to indicate the functioning of the powerplant ice protection system.

(t) For each turbine engine, an indicator for the fuel strainer or filter required by § 23.997 to indicate the occurrence of contamination of the strainer or filter before it reaches the capacity established in accordance with § 23.997(d).

(u) For each turbine engine, a warning means for the oil strainer or filter required by § 23.1019, if it has no bypass, to warn the pilot of the occurrence of contamination of the strainer or filter screen before it reaches the capacity established in accordance with § 23.1019(a)(2).

(v) An indicator to indicate the functioning of any heater used to prevent ice clogging of fuel system components.

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

13. Section 25.951 is amended by adding new paragraph (c) to read as follows:

§ 25.951 General.

* * * * *

(c) Each fuel system for a turbine engine must be capable of sustained operation throughout its flow and pressure range with fuel initially saturated with water at 80° F and having 0.75cc of free water per gallon added and cooled to the most critical condition for icing likely to be encountered in operation.

14. Section 25.977 is amended by revoking paragraph (b). As amended, § 25.997 reads as follows:

§ 25.997 Fuel strainer or filter.

There must be a fuel strainer or filter between the fuel tank outlet and the inlet of either the fuel metering device or an engine driven positive displacement pump, whichever is nearer the fuel tank outlet. This fuel strainer or filter must—

(a) Be accessible for draining and cleaning and must incorporate a screen or element which is easily removable;

(b) Have a sediment trap and drain except that it need not have a drain if the strainer or filter is easily removable for drain purposes;

(c) Be mounted so that its weight is not supported by the connecting lines or by the inlet or outlet connections of the strainer or filter itself; and

(d) Have the capacity (with respect to operating limitations established for the engine) and the mesh to ensure that engine fuel system functioning is not impaired, with the fuel contaminated to a degree (with respect to particle size and density) that is greater than that established for the engine in Part 33 of this chapter.

15. Section 25.1013 is amended by deleting the second sentence of paragraph (a) and amending paragraph (b)(1) and paragraph (e) to read as follows:

§ 25.1013 Oil tanks.

* * * * *

(b) * * *

(1) Each oil tank used with a reciprocating engine must have an expansion

space of not less than the greater of 10 percent of the tank capacity or 0.5 gallon, and each oil tank used with a turbine engine must have an expansion space of not less than 10 percent of the tank capacity.

* * * * *

(e) *Outlet.* There must be means to prevent entrance into the tank itself, or into the tank outlet, of any object that might obstruct the flow of oil through the system. No oil tank outlet may be enclosed by any screen or guard that would reduce the flow of oil below a safe value at any operating temperature. There must be a shutoff valve at the outlet of each oil tank used with a turbine engine, unless the external portion of the oil system (including the oil tank supports) is fireproof.

16. Section 25.1015 is amended by revising paragraph (b)(1) to read as follows:

§ 25.1015 Oil tank tests.

* * * * *

(b) * * *

(1) The test pressure—

(i) For pressurized tanks used with a turbine engine, may not be less than 5 p.s.i. plus the maximum operating pressure of the tank instead of the pressure specified in § 25.965(a); and

(ii) For all other tanks may not be less than 5 p.s.i. instead of the pressure specified in § 25.965(a); and

* * * * *

17. Section 25.1019 is amended to read as follows:

§ 25.1019 Oil strainer or filter.

(a) Each turbine engine installation must incorporate an oil strainer or filter through which all of the engine oil flows and which meets the following requirements:

(1) Each oil strainer or filter that has a bypass must be constructed and installed so that oil will flow at the normal rate through the rest of the system with the strainer or filter completely blocked.

(2) The oil strainer or filter must have the capacity (with respect to operating limitations established for the engine) and the mesh to ensure that engine oil system functioning is not impaired when the oil is contaminated to a degree (with respect to particle size and density) that is greater than that established for the engine under Part 33 of this chapter.

(3) The oil strainer or filter, unless it is installed at an oil tank outlet, must incorporate an indicator that will indicate contamination of the screen before it reaches the capacity established in accordance with paragraph (a)(2) of this section.

(4) The bypass of a strainer or filter must be constructed and installed so that the release of collected contaminants is minimized by appropriate location of the bypass to ensure that collected contaminants are not in the bypass flow path.

(5) An oil strainer or filter that has no bypass, except one that is installed at an oil tank outlet, must have a means to connect it to the warning system required in § 25.1305(c)(7).

(b) Each oil strainer or filter in a powerplant installation using reciprocating engines must be constructed and installed so that oil will flow at the normal rate through the rest of the system with the strainer or filter element completely blocked.

18. Section 25.1093 is amended by amending paragraph (b) to read as follows:

§ 25.1093 Induction system deicing and anti-icing provisions.

* * * * *

(b) *Turbine engines.* Each turbine engine must—

(1) Operate throughout its flight power range (including idling) without adverse effect on engine operation or serious loss of power or thrust under the icing conditions specified in Appendix C of this part, and in snow, both falling and blowing, within the limitations established for the airplane; and

(2) Idle for 30 minutes on the ground with the air bleed available for engine icing protection at its critical condition, without adverse effect, in an atmosphere that is at a temperature of 29°F and has a liquid water content of 0.6 grams per cubic meter in the form of drops having a mean effective diameter of 40 microns, followed by a momentary operation at takeoff power or thrust.

19. Section 25.1183 is amended by amending the heading and paragraph (a) to read as follows:

§ 25.1183 Flammable fluid-carrying components.

(a) Except as provided in paragraph (b) of this section, each line, fitting, and other component carrying flammable fluid in any area subject to engine fire conditions, and each component which conveys or contains flammable fluid in a designated fire zone must be fire resistant, except that flammable fluid tanks and supports in a designated fire zone must be fireproof or be enclosed by a fireproof shield unless damage by fire to any non-fireproof part will not cause leakage or spillage of flammable fluid. Components must be shielded or located to safeguard against the ignition of leaking flammable fluid. An integral oil sump of less than 20 quart capacity on a reciprocating engine need not be fireproof nor be enclosed by a fireproof shield.

* * * * *

20. Section 25.1305 is amended by adding new paragraphs (c) (5) through (8) to read as follows:

§ 25.1305 Powerplant instruments.

* * * * *

(c) For turbine engine powered airplanes.

* * * * *

(5) An indicator to indicate the functioning of the powerplant ice protection system for each engine.

(6) An indicator for the fuel strainer or filter required by § 25.997 to indicate the occurrence of contamination of the strainer or filter before it reaches the capacity established in accordance with § 25.997(d).

(7) A warning means for the oil strainer or filter required by § 25.1019, if it has no bypass, to warn the pilot of the occurrence of contamination of the strainer or filter screen before it reaches the capacity established in accordance with § 25.1019(a)(2).

(8) An indicator to indicate the proper functioning of any heater used to prevent ice clogging of fuel system components.

* * * * *

PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT

21. Section 27.951 is amended by adding a new paragraph (c) to read as follows:

§ 27.951 General.

* * * * *

(c) Each fuel system for a turbine engine must be capable of sustained operation throughout its flow and pressure range with fuel initially saturated with water at 80° F. and having 0.75cc of free water per gallon added and cooled to the most critical condition for icing likely to be encountered in operation.

22. Section 27.997 is amended to read as follows:

§ 27.997 Fuel strainer or filter.

There must be a fuel strainer or filter between the fuel tank outlet and the inlet of either the fuel metering device or an engine driven positive displacement pump, whichever is nearer the fuel tank outlet. This fuel strainer or filter must—

(a) Be accessible for draining and cleaning and must incorporate a screen or element which is easily removable;

(b) Have a sediment trap and drain except that it need not have a drain if the strainer or filter is easily removable for drain purposes;

(c) Be mounted so that its weight is not supported by the connecting lines or by the inlet or outlet connections of the strainer or filter itself; and

(d) Have the capacity (with respect to operating limitations established for the engine) and the mesh to ensure that engine fuel system functioning is not impaired, with the fuel contaminated to a degree (with respect to particle size and density) that is greater than that established for the engine in Part 33 of this Chapter.

23. Section 27.1013 is amended by revoking paragraph (b) and marking it "reserved," and by amending paragraph (c) to read as follows:

§ 27.1013 Oil tanks.

* * * * *

(b) [Reserved]

(c) Where used with a reciprocating engine, it has an expansion space of not less than the greater of 10 percent of the tank capacity or 0.5 gallon, and where used with a turbine engine, it has

an expansion space of not less than 10 percent of the tank capacity.

* * * * *

24. A new § 27.1015 is added to read as follows:

§ 27.1015 Oil tank tests.

Each oil tank must be designed and installed so that it can withstand, without leakage, an internal pressure of 5 p.s.i., except that each pressurized oil tank used with a turbine engine must be designed and installed so that it can withstand, without leakage, an internal pressure of 5 p.s.i., plus the maximum operating pressure of the tank.

25. Section 27.1019 is amended to read as follows:

§ 27.1019 Oil strainer or filter.

(a) Each turbine engine installation must incorporate an oil strainer or filter through which all of the engine oil flows and which meets the following requirements:

(1) Each oil strainer or filter that has a bypass must be constructed and installed so that oil will flow at the normal rate through the rest of the system with the strainer or filter completely blocked.

(2) The oil strainer or filter must have the capacity (with respect to operating limitations established for the engine) and the mesh to ensure that engine oil system functioning is not impaired when the oil is contaminated to a degree (with respect to particle size and density) that is greater than that established for the engine under Part 33 of this chapter.

(3) The oil strainer or filter, unless it is installed at an oil tank outlet, must incorporate an indicator that will indicate contamination of the screen before it reaches the capacity established in accordance with paragraph (a)(2) of this section.

(4) The bypass of a strainer or filter must be constructed and installed so that the release of collected contaminants is minimized by appropriate location of the bypass to ensure that collected contaminants are not in the bypass flow path.

(5) An oil strainer or filter that has no bypass, except one that is installed at an oil tank outlet, must have a means to connect it to the warning system required in § 27.1305(r).

(b) Each oil strainer or filter in a powerplant installation using reciprocating engines must be constructed and installed so that oil will flow at the normal rate through the rest of the system with the strainer or filter element completely blocked.

26. Section 27.1093 is amended by amending paragraph (b) to read as follows:

§ 27.1093 Induction system icing protection.

* * * * *

(b) *Turbine engines.* Each turbine engine must—

(1) Operate throughout its flight power range (including idling) without adverse effect on engine operation or serious loss of power or thrust, under the icing conditions specified in Appendix C of Part 25 of this chapter, and in snow, both falling and blowing, within the limitations established for the rotorcraft; and

(2) Idle for 30 minutes on the ground with the air bleed available for engine icing protection at its critical condition, without adverse effect, in an atmosphere that is at a temperature of 29°F and has a liquid water content of 0.6 grams per cubic meter in the form of drops having a mean effective diameter of 40 microns, followed by a momentary operation at takeoff power or thrust.

27. Section 27.1183 is amended by amending the heading and paragraph (a) to read as follows:

§ 27.1183 Flammable fluid-carrying components.

(a) Except as provided in paragraph (b) of this section, each line, fitting, and other component carrying flammable fluid in any area subject to engine fire conditions must be fire resistant, except that flammable fluid tanks and supports which are part of and attached to the engine must be fireproof or be enclosed by a fireproof shield unless damage by fire to any non-fireproof part will not cause leakage or spillage of flammable fluid. Components must be shielded or located so as to safeguard against the ignition of leaking flammable fluid. An integral oil sump of less than 20 quart capacity on a reciprocating engine need not be fireproof nor be enclosed by a fireproof shield.

* * * * *

28. Section 27.1305 is amended by adding new paragraphs (p), (q), (r), and (s) to read as follows:

§ 27.1305 Powerplant instruments.

* * * * *

(p) For each turbine engine, an indicator to indicate the functioning of the powerplant ice protection system.

(q) For each turbine engine an indicator for the fuel strainer or filter required by § 27.997 to indicate the occurrence of contamination of the strainer of filter before it reaches the capacity established in accordance with § 27.997 (d).

(r) For each turbine engine, a warning means for the oil strainer or filter required by § 27.1019, if it has no bypass, to warn the pilot of the occurrence of contamination of the strainer or filter before it reaches the capacity established in accordance with § 27.1019(a)(2).

(s) An indicator to indicate the proper functioning of any heater used to prevent ice clogging of fuel system components.

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

29. Section 29.951 is amended by adding a new paragraph (c) to read as follows:

§ 29.951 General.

* * * * *

(c) Each fuel system for a turbine engine must be capable of sustained operation throughout its flow and pressure range with fuel initially saturated with water at 80° F and having 0.75cc of free water per gallon added and cooled to the most critical condition for icing likely to be encountered in operation.

30. Section 29.997 is amended to read as follows:

§ 29.997 Fuel strainer or filter.

There must be a fuel strainer or filter between the fuel tank outlet and the inlet of either the fuel metering device or an engine driven positive displacement pump, whichever is nearer the fuel tank outlet. This fuel strainer or filter must—

(a) Be accessible for draining and cleaning and must incorporate a screen or element which is easily removable;

(b) Have a sediment trap and drain, except that it need not have a drain if the strainer or filter is easily removable for drain purposes;

(c) Be mounted so that its weight is not supported by the connecting lines or by the inlet or outlet connections of the strainer or filter itself; and

(d) Have the capacity (with respect to operating limitations established for the engine) and the mesh to ensure that engine fuel system functioning is not impaired, with the fuel contaminated to a degree (with respect to particle size and density) that is greater than that established for the engine in Part 33 of this Chapter.

31. Section 29.1013 is amended by deleting the second sentence in paragraph (a) and by amending paragraph (b)(1) and paragraph (e) to read as follows:

§ 29.1013 Oil tanks.

* * * * *

(b) * * *

(1) Each oil tank used with a reciprocating engine has an expansion space of not less than the greater of 10 percent of the tank capacity or 0.5 gallon, and each oil tank used with a turbine engine has an expansion space of not less than 10 percent of the tank capacity;

* * * * *

(e) *Outlet.* There must be means to prevent entrance into the tank itself, or into the tank outlet, of any object that might obstruct the flow of oil through the system. No oil tank outlet may be enclosed by a screen or guard that would reduce the flow of oil below a safe value at any operating temperature. There must be a shutoff valve at the outlet of each oil tank used with a turbine engine unless the external portion of the oil system (including oil tank supports) is fireproof.

* * * * *

32. Section 29.1015 is amended by amending paragraph (b) to read as follows:

§ 29.1015 Oil tank tests.

* * * * *

(b) It meets the requirements of § 29.965, except that instead of the pressure specified in § 29.965(b)—

(1) For pressurized tanks used with a turbine engine, the test pressure may not be less than 5 p.s.i. plus the maximum operating pressure of the tank; and

(2) For all other tanks, the test pressure may not be less than 5 p.s.i.

33. Section 29.1019 is amended to read as follows:

§ 29.1019 Oil strainer or filter.

(a) Each turbine engine installation must incorporate an oil strainer or filter through which all of the engine oil flows and which meets the following requirements:

(1) Each oil strainer or filter that has a bypass must be constructed and installed so that oil will flow at the normal rate through the rest of the system with the strainer or filter completely blocked.

(2) The oil strainer or filter must have the capacity (with respect to operating limitations established for the engine) and the mesh to ensure that engine oil system functioning is not impaired when the oil is contaminated to a degree (with respect to particle size and density) that is greater than that established for the engine under Part 33 of this chapter.

(3) The oil strainer or filter, unless it is installed at an oil tank outlet, must incorporate an indicator that will indicate contamination of the screen before it reaches the capacity established in accordance with paragraph (a)(2) of this section.

(4) The bypass of a strainer or filter must be constructed and installed so that the release of collected contaminants is minimized by appropriate location of the bypass to ensure that collected contaminants are not in the bypass flow path.

(5) An oil strainer or filter that has no bypass, except one that is installed at an oil tank outlet, must have a means to connect it to the warning system required in § 29.1305(a)(18).

(b) Each oil strainer or filter in a powerplant installation using reciprocating engines must be constructed and installed so that oil will flow at the normal rate through the rest of the system with the strainer or filter element completely blocked.

34. Section 29.1093 is amended by amending paragraph (b) to read as follows:

§ 29.1093 Induction system icing protection.

* * * * *

(b) *Turbine engines.* Each turbine engine must—

(1) Operate throughout its flight power range (including idling), without adverse effect on engine operation or serious loss of power or thrust, under the icing conditions specified in Appendix C of Part 25 of this chapter, and in snow, both falling and blowing, within the limitations established for the rotorcraft; and

(2) Idle for 30 minutes on the ground, with the air bleed available for engine icing protection at its critical condition, without adverse effect in an atmosphere that is at a temperature of 29°F and has a liquid water content of 0.6 grams per cubic meter in the form of drops having a mean effective diameter of 40 microns, followed by a momentary operation at takeoff power or thrust.

35. Section 29.1183 is amended by amending the heading and paragraph (a) to read as follows:

§ 29.1183 Flammable fluid-carrying components.

(a) Except as provided in paragraph (b) of this section, each line, fitting, and other component carrying flammable fluid in any area subject to engine fire conditions and each component which conveys or contains flammable fluid in a designated fire zone must be fire resistant, except that flammable fluid tanks and supports in a designated fire zone must be fireproof or be enclosed by a fireproof shield unless damage by fire to any non-fireproof part will not cause leakage or spillage of flammable fluid. Components must be shielded or located so as to safeguard against the ignition of leaking flammable fluid. An integral oil sump of less than 20 quart capacity on a reciprocating engine need not be fireproof nor be enclosed by a fireproof shield.

* * * * *

36. Section 29.1305(a) is amended by deleting the word "and" at the end of paragraph (14), by changing the period to a semicolon at the end of paragraph (15), and by adding new paragraphs (16), (17), (18), and (19) to read as follows:

§ 29.1305 Powerplant instruments.

(a) For each rotorcraft—

* * * * *

(16) For each turbine engine, an indicator to indicate the functioning of the powerplant ice protection system;

(17) An indicator for the fuel strainer or filter required by § 29.997 to indicate the occurrence of contamination of the strainer or filter before it reaches the capacity established in accordance with § 29.997(d);

(18) For each turbine engine, a warning means for the oil strainer or filter required by § 29.1019, if it has no bypass, to warn the pilot of the occurrence of contamination of the strainer or filter before it reaches the capacity established in accordance with § 29.1019(a)(2); and

(19) An indicator to indicate the proper functioning of any heater used to prevent ice clogging of fuel system components.

PART 33—AIRWORTHINESS STANDARDS: AIRCRAFT ENGINES

37. Section 33.5 is amended to read as follows:

§ 33.5 Instructions.

Each applicant must prepare and make available to the Administrator prior to the issuance of the type certificate and to the owner at the time of delivery of the engine, instructions for installing, operating, servicing, and maintaining the engine. The instructions must include at least the following:

(a) *Installation instructions.* (1) The location of engine mounting attachments, the method of attaching the engine to the aircraft, and the maximum allowable load for the mounting attachments and related structure.

(2) The location and description of engine connections to be attached to accessories, pipes, wires, cables, ducts, and cowling.

(3) An outline drawing of the engine including overall dimensions.

(b) *Operation instructions.* (1) The operating limitations established by the Administrator.

(2) The power or thrust ratings and procedures for correcting for nonstandard atmosphere.

(3) The recommended procedures, under normal and extreme ambient conditions for—

(i) Starting;

(ii) Operating on the ground; and

(iii) Operating during flight.

(c) *Service instructions.* (1) The techniques and methods of service.

(2) The frequency of service.

(3) The fuel, lubricant, and hydraulic fluid that may be used in the engine.

(d) *Maintenance and inspection instructions.* (1) The techniques and methods for performing inspections.

(2) The frequency of checking, cleaning, lubricating, and adjusting.

(e) *Overhaul and replacement instructions.* (1) The frequency of the overhauls.

(2) The life limits of components requiring replacement.

(3) The techniques and methods of replacing components which have life limits.

(4) The techniques and methods of disassembly and reassembly.

(5) The fits and clearances of each component.

(6) The techniques for testing each component after overhaul or replacement of the component.

38. Section 33.7 is amended to read as follows:

§ 33.7 Engine ratings and operating limitations.

(a) Engine ratings and operating limitations are established by the Administrator and included in the engine certificate data sheet specified in § 21.41 of this chapter, including ratings and limitations based on the operating conditions and information specified in this section, as applicable, and any other information found necessary for safe operation of the engine.

(b) For reciprocating engines, ratings and operating limitations are established relating to the following:

(1) Horsepower or torque, r.p.m., manifold pressure, and time at critical pressure altitude and sea level pressure altitude for—

(i) Rated maximum continuous power (relating to unsupercharged operation or to operation in each supercharger mode as applicable); and

(ii) Rated takeoff power (relating to unsupercharged operation or to operation in each supercharger mode as applicable).

(2) Fuel grade or specification.

(3) Oil grade or specification.

(4) Temperature of the—

(i) Cylinder;

(ii) Oil at the oil inlet; and

(iii) Turbosupercharger turbine wheel inlet gas.

(5) Pressure of—

(i) Fuel at the fuel inlet; and

(ii) Oil at the main oil gallery.

(6) Accessory drive torque and overhang moment.

(7) Component life.

(8) Turbosupercharger turbine wheel r.p.m.

(c) For turbine engines, ratings and operating limitations are established relating to the following:

(1) Horsepower, torque, or thrust, r.p.m., gas temperature, and time for—

(i) Rated maximum continuous power or thrust (augmented);

(ii) Rated maximum continuous power or thrust (unaugmented);

(iii) Rated takeoff power or thrust (augmented);

(iv) Rated takeoff power or thrust (unaugmented);

(v) Rated 30 minute power; and

(vi) Rated 2½ minute power.

(2) Fuel designation or specification.

(3) Oil grade or specification.

(4) Hydraulic fluid specification.

(5) Temperature of—

(i) Oil at the oil inlet;

(ii) Induction air at the inlet face of a supersonic engine, including steady state operation and transient over-temperature and time allowed;

(iii) Hydraulic fluid of a supersonic engine;

(iv) Fuel at a location on a supersonic engine that is specified by the applicant; and

(v) External surfaces of the engine, if specified by the applicant.

(6) Pressure of—

(i) Fuel at the fuel inlet;

(ii) Oil at the main oil gallery;

(iii) Induction air at the inlet face of a supersonic engine, including steady state operation and transient overpressure and time allowed; and

(iv) Hydraulic fluid.

(7) Accessory drive torque and overhang moment.

(8) Component life.

(9) Fuel filtration.

(10) Oil filtration.

(11) Bleed air.

(12) The number of start-stop stress cycles approved for each rotor disc and spacer.

(13) Inlet air distortion at the engine inlet.

(14) Transient rotor shaft overspeed r.p.m., and number of overspeed occurrences.

(15) Transient gas overtemperature, and number of overtemperature occurrences.

(16) Engine rotor windmilling rotational r.p.m.

(17) Time for first overhaul.

§ 33.13 [Revoked]

39. Section 33.13 is revoked and marked "reserved."

40. A new § 33.14 is added to read as follows:

§ 33.14 Start-stop cyclic stress (low-cycle fatigue).

An operating limitation must be established that specifies as a service life the number of start-stop stress cycles for each rotor disc and each rotor spacer of the compressor and the turbine. A start-stop stress cycle consists of starting the engine, accelerating it to its maximum rated power or thrust and maintaining the power setting until the disc and spacer temperatures are stabilized, after which the engine is stopped and disc and spacer temperatures are again stabilized or reduced to a value which can be shown to produce the same stress range as stabilization. The number of start-stop stress cycles initially established as an operating limitation for any spacer or disc may not exceed one-third of the number of cycles determined to be the maximum number of cycles that can be sustained without failure for that disc or spacer. The initial limitation may be increased for any disc or spacer by testing at least three samples of that disc or spacer, that have been operated through the limiting number of cycles in actual service, through an additional number of cycles equal to at least twice the number of cycles comprising the increase in the limit.

41. Section 33.17 is amended to read as follows:

§ 33.17 Fire prevention.

(a) The design and construction of the engine and the materials used must minimize the probability of the occurrence and spread of fire.

(b) Except as provided in paragraphs (c), (d), and (e) of this section, each external line, fitting, and other component, which contains or conveys flammable fluid must be fire resistant. Components must be shielded or located to safeguard against the ignition of leaking flammable fluid.

(c) Flammable fluid tanks and supports which are part of and attached to the engine must be fireproof or be enclosed by a fireproof shield unless damage by fire to any non-fireproof part will not cause leakage or spillage of flammable fluid. For a reciprocating engine having an integral oil sump of less than 20-quart capacity, the oil sump need not be fireproof nor be enclosed by fireproof shield.

(d) For turbine engines type certificated for use in supersonic aircraft, each external component which conveys or contains flammable fluid must be fireproof.

(e) Unwanted accumulation of flammable fluid and vapor must be prevented by draining and venting.

42. Section 33.25 is amended to read as follows:

§ 33.25 Accessory attachments.

The engine must operate properly with the accessory drive and mounting attachments loaded. Each accessory drive and mounting attachment used only for an aircraft service must be loaded with the limit load specified by the applicant for the engine drive or attachment point during rated maximum continuous power and higher output. Each engine accessory drive and mounting attachment must be sealed to prevent contamination of or leakage from the engine interior. A drive and mounting attachment requiring lubrication of external drive splines or coupling by engine oil must be sealed to prevent loss of oil and to prevent contamination from sources outside the chamber enclosing the drive connection. The design of the engine must allow for the examination, adjustment, or removal of each accessory required for engine operation.

43. Section 33.27 is amended to read as follows:

§ 33.27 Turbine, compressor, and turbosupercharger rotors.

(a) Turbine, compressor, and turbosupercharger rotors must have sufficient strength to withstand the rotor speed, temperature, and vibration test conditions specified in paragraph (c) of this section.

(b) The design and functioning of engine control devices, systems, and instruments must give reasonable assurance that those engine operating limitations that affect turbine, compressor, and turbosupercharger rotor structural integrity will not be exceeded in service.

(c) The turbine rotor, the compressor rotor, and the turbosupercharger rotor sustaining the highest operating stress at the maximum limiting r.p.m., of all such rotors, respectively, in an engine or turborsupercharger, must each be tested—

(1) At its maximum operating temperature, except as provided in paragraph (c)(3)(v) of this section;

(2) For a period of 5 minutes; and

(3) At a speed of—

(i) 120 percent of its maximum limiting r.p.m. if on a rig and the rotor disc is equipped with either blades or blade weights;

(ii) 115 percent of its maximum limiting r.p.m. if on an engine;

(iii) Maximum limiting r.p.m. if on an engine and the rotor disc section is thinner than specified in the type design so that the operating stress induced at maximum limiting r.p.m. is the same as for a rotor conforming to type design at 115 percent of its maximum limiting r.p.m.;

(iv) 115 percent of its maximum limiting r.p.m. if on a turbosupercharger driven by a hot gas supply from a special burner rig; or

(v) 120 percent of the r.p.m. at which, while cold spinning, the disc is subject to the same operating stresses that are induced at the maximum limiting temperature and r.p.m.: *Provided, That* disc temperature survey data from operating engines and data on hot strength properties

of the disc material establish the effect of temperature on stress.

Following the test, each rotor must be within the dimensional limits allowed by the type design for installation in an engine and may not be cracked.

44. A new § 33.29(a) is added to read as follows:

§ 33.29 Instrument connection.

(a) Unless it is constructed to prevent its connection to an incorrect instrument, each connection provided for powerplant instruments required by aircraft airworthiness regulations or necessary to insure operation of the engine in compliance with any engine limitation must be marked to identify it with its corresponding instrument.

* * * * *

45. A new § 33.42 is added to read as follows:

§ 33.42 General.

Before each endurance test required by this subpart, the adjustment setting and functioning characteristic of each component having an adjustment setting and a functioning characteristic that can be established independent of installation on the engine must be established and recorded.

46. Section 33.43 is amended to read as follows:

§ 33.43 Vibration test.

(a) Each engine must undergo a vibration survey to establish the torsional and bending vibration characteristics of the crankshaft and the propeller shaft or other output shaft, over the range of crankshaft speed and engine power, under steady state and transient conditions, from idling speed to either 110 percent of the desired maximum continuous speed rating or 103 percent of the maximum desired takeoff speed rating, whichever is higher. The survey must be repeated with that cylinder not firing that has the most adverse vibration effect, except that the speed range need be only from idle to the maximum desired takeoff speed rating. The survey must be conducted using, for airplane engines, the same configuration of the propeller type which is used for the endurance test, and using, for other engines, the same configuration of the loading device type which is used for the endurance test.

(b) The torsional and bending vibration stresses of the crankshaft and the propeller shaft or other output shaft may not exceed the endurance limit stress of the material from which the shaft is made. If the maximum stress in the shaft cannot be shown to be below the endurance limit by measurement, the vibration frequency and amplitude must be measured. The peak amplitude must be shown to produce a stress below the endurance limit; if not, the engine must be run at the condition producing the peak amplitude until, for steel shafts, 10 million stress reversals have been sustained without fatigue failure and, for other shafts, until it is shown that fatigue will not occur within the endurance limit stress of the material.

(c) Each accessory drive and mounting attachment must be loaded, with the loads imposed by each accessory used only for an aircraft service being the limit load specified by the applicant for the drive or attachment point.

47. Section 33.45 is amended by deleting the final period and adding to the last sentence of the present rule the words "with only those accessories installed which are essential for engine functioning."; by designating the present rule as amended as paragraph (a); and by adding a new paragraph (b) to read as follows:

§ 33.45 Calibration tests.

* * * * *

(b) A power check at sea level conditions must be accomplished on the endurance test engine after the endurance test. Any change in power characteristics which occurs during the endurance test must be determined. Measurements taken during the final portion of the endurance test may be used in showing compliance with the requirements of this paragraph.

48. Section 33.49, paragraph (a) and the headings and lead-in sentences of paragraphs (b) and (c) are amended, and a new paragraph (e) is added, to read as follows:

§ 33.49 Endurance test.

(a) *General.* Each engine must be subjected to an endurance test that includes a total of 150 hours of operation (except as provided in paragraph (e)(1)(iii) of this section) and, depending upon the type and contemplated use of the engine, consists of one of the series of runs specified in paragraphs (b) through (e) of this section, as applicable. The runs must be made in the order found appropriate by the Administrator for the particular engine being tested. During the endurance test the engine power and the crankshaft rotational speed must be kept within ±3 percent of the rated values. During the runs at rated takeoff power and for at least 35 hours at rated maximum continuous power, one cylinder must be operated at not less than the limiting temperature, the other cylinders must be operated at a temperature not lower than 50 degrees F below the limiting temperature, and the oil inlet temperature must be maintained within ±10 degrees F of the limiting temperature. An engine that is equipped with a propeller shaft must be fitted for the endurance test with a propeller that thrust-loads the engine to the maximum thrust which the engine is designed to resist at each applicable operating condition specified in this section. Each accessory drive and mounting attachment must be loaded. During operation at rated takeoff power and rated maximum continuous power, the load imposed by each accessory used only for an aircraft service must be the limit load specified by the applicant for the engine drive or attachment point.

(b) *Unsupercharged engines and engines incorporating a gear-driven single-speed supercharger.* For engines not incorporating a supercharger and for engines incorporating a gear-driven single-speed supercharger the applicant must conduct the following runs: * * *

(c) *Engines incorporating a gear-driven two-speed supercharger.* For engines incorporating a gear-driven two-speed supercharger the applicant must conduct the following runs: * * *

* * * * *

(e) *Turbosupercharged engines.* For engines incorporating a turbosupercharger the following apply except that altitude testing may be simulated provided the applicant shows that the engine and supercharger are being subjected to mechanical loads and operating temperatures no less severe than if run at actual altitude conditions:

(1) For engines used in airplanes the applicant must conduct the runs specified in paragraph (b) of this section, except—

(i) The entire run specified in paragraph (b)(1) of this section must be made at sea level altitude pressure;

(ii) The portions of the runs specified in paragraphs (b) (2) through (7) of this section at rated maximum continuous power must be made at critical altitude pressure and the portions of the runs at other power must be made at critical altitude pressure and the portions of the runs at other power must be made at 8,000 feet altitude pressure; and

(iii) The turbosupercharger used during the 150-hour endurance test must be run on the bench for an additional 50 hours at the limiting turbine wheel inlet gas temperature and rotational speed for rated maximum continuous power operation unless the limiting temperature and speed are maintained during 50 hours of the rated maximum continuous power operation.

(2) For engines used in helicopters the applicant must conduct the runs specified in paragraph (d) of this section, except—

(i) The entire run specified in paragraph (d)(1) of this section must be made at critical altitude pressure;

(ii) The portions of the runs specified in paragraphs (d) (2) and (3) of this section at rated maximum continuous power must be made at critical altitude pressure and the portions of the runs at other power must be made at 8,000 feet altitude pressure;

(iii) The entire run specified in paragraph (d)(4) of this section must be made at 8,000 feet altitude pressure;

(iv) The portion of the runs specified in paragraph (d)(5) of this section at 80 percent of rated maximum continuous power must be made at 8,000 feet altitude pressure and the portions of the runs at other power must be made at critical altitude pressure;

(v) The entire run specified in paragraph (d)(6) of this section must be made at critical altitude pressure; and

(vi) The turbosupercharger used during the endurance test must be run on

the bench for 50 hours at the limiting turbine wheel inlet gas temperature and rotational speed for rated maximum continuous power operation unless the limiting temperature and speed are maintained during 50 hours of the rated maximum continuous power operation.

49. Section 33.55 is amended to read as follows:

§ 33.55 Teardown inspection.

After completing the endurance test—

(a) Each engine must be completely disassembled;

(b) Each component having an adjustment setting and a functioning characteristic that can be established independent of installation on the engine must retain each setting and functioning characteristic within the limits that were established and recorded at the beginning of the test; and

(c) Each engine component must conform to the type design and be eligible for incorporation into an engine for continued operation, in accordance with information submitted in compliance with § 33.5(e).

50. Section 33.57 is amended by amending paragraph (b) to read as follows:

§ 33.57 General conduct of block tests.

* * * * *

(b) The applicant may service and make minor repairs to the engine during the block tests in accordance with the service and maintenance instructions submitted in compliance with § 33.5. If the frequency of the service is excessive, or the number of stops due to engine malfunction is excessive, or a major repair, or replacement of a part is found necessary during the block tests or as the result of findings from the teardown inspection, the engine or its parts may be subjected to any additional test the Administrator finds necessary.

51. A new § 33.62 is added to read as follows:

§ 33.62 Stress analysis.

A stress analysis must be performed on each turbine engine showing the design safety margin of each turbine engine rotor, spacer, and rotor shaft.

52. Section 33.65 is amended to read as follows:

§ 33.65 Surge and stall characteristics.

When the engine is operated in accordance with operating instructions required by § 33.5(b), starting, a change of power or thrust, power or thrust augmentation, limiting inlet air distortion, or inlet air temperature may not cause surge or stall to the extent that flameout, structural failure, overtemperature, or failure of the engine to recover power or thrust will occur at any point in the operating envelope.

53. A new § 33.66 is added to read as follows:

§ 33.66 Bleed air system.

The engine must supply bleed air without adverse effect on the engine, excluding reduced output, at the discharge flow condition established as a limitation. If bleed air used for engine anti-icing can be controlled, provision must be made for connecting the bleed air system to a means to indicate the functioning of the aircraft powerplant ice protection system.

54. Section 33.67 is amended to read as follows:

§ 33.67 Fuel system.

(a) With fuel supplied to the engine at the flow and pressure specified by the applicant, the engine must function properly under each operating condition required by this Part. Each fuel control adjusting means that may not be manipulated while the fuel control device is mounted on the engine must be secured by a locking device and sealed, or otherwise be inaccessible. All other fuel control adjusting means must be accessible and marked to indicate the function of the adjustment unless the function is obvious. Each fuel system must be capable of sustained operation throughout its flow and pressure range with fuel initially saturated with water at 80 degrees F and having 0.75cc. of free water per gallon added and cooled to the most critical condition for icing likely to be encountered in operation.

(b) There must be a fuel strainer or filter between the engine fuel inlet opening and the inlet of either the fuel metering device or the engine-driven positive displacement pump whichever is nearer the engine fuel inlet. In addition, the following provisions apply to each strainer or filter required by this paragraph (b):

(1) It must be accessible for draining and cleaning and must incorporate a screen or element that is easily removable.

(2) It must have a sediment trap and drain except that it need not have a drain if the strainer or filter is easily removable for drain purposes.

(3) It must be mounted so that its weight is not supported by the connecting lines or by the inlet or outlet connections of the strainer or filter.

(4) It must have the type and degree of fuel filtering specified as necessary for protection of the engine fuel system against foreign particles in the fuel. The applicant must demonstrate that foreign particles passing through the specified filtering means do not impair engine fuel system functioning.

(5) It must have the capacity (with respect to operating limitations established for the engine) and the mesh to ensure that engine fuel system functioning is not impaired with fuel contaminated to a degree (with respect to particle size and density) that is greater than that established for the engine in paragraph (b)(4) of this section.

(6) Any strainer or filter bypass must be designed and constructed so that the release of collected contaminants is minimized by appropriate location of the bypass to ensure that collected contaminants are not in the bypass flow path.

(7) The fuel system must incorporate means to indicate the occurrence of contamination of the strainer or filter before it reaches the capacity established in accordance with paragraph (b)(5) of this section.

55. A new § 33.68 is added to read as follows:

§ 33.68 Induction system icing.

Each engine, with all icing protection systems operating, must—

(a) Operate throughout its flight power range (including idling) without the accumulation of ice on the engine components that adversely affects engine operation or that causes a serious loss of power or thrust in continuous maximum and intermittent maximum icing conditions as defined in Appendix C of Part 25 of this chapter; and

(b) Idle for 30 minutes on the ground, with the available air bleed for engine icing protection at its critical condition, without adverse effect, in an atmosphere that is at a temperature of 29 degrees F and has a liquid water content of 0.6 grams per cubic meter in the form of drops having a mean effective diameter of 40 microns, followed by a momentary operation at takeoff power or thrust.

57. Section 33.69 is amended to read as follows:

§ 33.69 Ignitions system.

Each engine must be equipped with an ignition system for starting the engine on the ground and in flight. An electric ignition system must have at least two igniters and two separate secondary electric circuits, except that only one igniter is required for fuel burning augmentation systems.

57. Section 33.71 is amended to read as follows:

§ 33.71 Lubrication system.

(a) *General.* Each lubrication system must function properly in the flight attitudes and atmospheric conditions in which an aircraft is expected to operate.

(b) *Oil strainer or filter.* There must be an oil strainer or filter through which all of the engine oil flows and there must be a separate strainer or filter ahead of each scavenge pump. In addition:

(1) Each strainer or filter required by this paragraph that has a bypass must be constructed and installed so that oil will flow at the normal rate through the rest of the system with the strainer or filter element completely blocked.

(2) The type and degree of filtering necessary for protection of the engine oil system against foreign particles in the oil must be specified. The applicant must demonstrate that foreign particles passing through the specified filtering means do not impair engine oil system functioning.

(3) Each strainer or filter required by this paragraph must have the capacity (with respect to operating limitations established for the engine) and the mesh to ensure that engine oil system functioning is not impaired with the oil contaminated to a degree (with respect to

particle size and density) that is greater than that established for the engine in paragraph (b)(2) of this section.

(4) The oil system must incorporate means, for each strainer or filter required by this paragraph except the strainer or filter at an oil tank outlet or for a scavenge pump, to indicate contamination of the screen before it reaches the capacity established in accordance with paragraph (b)(3) of this section.

(5) Any filter bypass must be designed and constructed so that the release of collected contaminants is minimized by appropriate location of the bypass to ensure that the collected contaminants are not in the bypass flow path.

(6) Each strainer or filter required by this paragraph that has no bypass, except the strainer or filter at an oil tank outlet or for a scavenge pump, must have provisions for connection with a warning means to warn the pilot of the occurrence of contamination of the screen before it reaches the capacity established in accordance with paragraph (b)(3) of this section.

(7) Each strainer or filter required by this paragraph must be accessible for draining and cleaning.

(c) *Oil tanks.* (1) Each oil tank must have an expansion space of not less than 10 percent of the tank capacity.

(2) It must be impossible to inadvertently fill the oil tank expansion space.

(3) Each recessed oil tank filler connection that can retain any appreciable quantity of oil must have provision for fitting a drain.

(4) Each oil tank cap must provide an oil-tight seal.

(5) Each oil tank filler must be marked with the word "oil" and the tank capacity.

(6) Each oil tank must be vented from the top part of the expansion space, with the vent so arranged that condensed water vapor that might freeze and obstruct the line cannot accumulate at any point.

(7) There must be means to prevent entrance into the oil tank or into any oil tank outlet, of any object that might obstruct the flow of oil through the system.

(8) There must be a shutoff valve at the outlet of each oil tank, unless the external portion of the oil system (including oil tank supports) is fireproof.

(9) Each unpressurized oil tank may not leak when subjected to maximum operating temperature and an internal pressure of 5 p.s.i., and each pressurized oil tank may not leak when subjected to maximum operating temperature and an internal pressure that is not less than 5 p.s.i. plus the maximum operating pressure of the tank.

(10) Leaked or spilled oil may not accumulate between the tank and the remainder of the engine.

(11) Each oil tank must have an oil quantity indicator.

(d) *Oil drains.* There must be an accessible oil drain that will drain the entire oil system. The drain must have a manual or automatic means for positive locking in the closed position.

(e) *Oil radiators.* Each oil radiator must withstand, without failure, any vibration, inertia, and oil pressure load to which it is subjected during the block tests.

58. A new § 33.72 is added to read as follows:

§ 33.72 Hydraulic actuating systems.

Each hydraulic actuating system must function properly under all conditions in which the engine is expected to operate. Each filter or screen must be accessible for servicing and each tank must meet the design criteria of § 33.71.

59. A new § 33.75 is added to read as follows:

§ 33.75 Safety analysis.

It must be shown by analysis that any probable malfunction or any probable single or multiple failure, or any probable improper operation of the engine will not cause the engine to—

(a) Catch fire;

(b) Burst (penetrate its case);

(c) Generate loads greater than those specified in § 33.23; or

(d) Lose the capability of being shut down.

60. A new § 33.77 is added to read as follows:

§ 33.77 Foreign object ingestion.

(a) Ingestion of a 4-pound bird, a piece of tire tread, or a broken rotor blade, under the conditions set forth in paragraph (f) of this section, may not cause the engine to—

(1) Catch fire;

(2) Burst (penetrate its case);

(3) Generate loads greater than those specified in § 33.23; or

(4) Lose the capability of being shut down.

(b) Ingestion of 3-ounce birds, 1½-pound birds, or mixed gravel and sand, under the conditions set forth in paragraph (f) of this section, may not cause more than a sustained 25 percent power or thrust loss or require the engine to be shut down.

(c) Ingestion of water, ice, or hail, under the conditions set forth in paragraph (f) of this section may not cause a sustained power or thrust loss or require the engine to be shut down.

(d) For an engine that incorporates a protective device, compliance with this section need not be demonstrated with respect to foreign objects sought to be ingested under the conditions set forth in paragraph (f) of this section, if it is shown that—

(1) Such foreign objects are of a size that will not pass through the protective device;

(2) The protective device will withstand the impact of the foreign objects; and

(3) The foreign object or objects stopped by the protective device will not obstruct the flow of induction air into the engine.

(e) In showing compliance with paragraphs (a) and (b) of this section, the engine need be tested by ingesting only that foreign object specified in paragraph (a) of this section which the applicant shows has the most severe effect on the engine and by ingesting the mixed gravel and sand specified in paragraph (b) of this section and either the 3-ounce birds or the 1½-pound birds, as specified in paragraph (f) of this section.

(f) The prescribed foreign object ingestion conditions are as follows:

Foreign object	Test quantity	Speed of foreign object	Engine operation	Ingestion
Birds:				
3-oz size	One for each 50 in² of inlet area or fraction thereof up to a maximum of 16 birds. 3-oz bird ingestion not required if a 1½-lb bird will pass the inlet guide vanes into the rotor blades.	Liftoff speed of typical aircraft.	Takeoff	In rapid sequence to simulate a flock encounter.
1½-lb size	One for the first 300 in² of inlet area, if it can enter the inlet, plus one for each additional 600 in² of inlet area or fraction thereof up to maximum of 8 birds.	Initial climb speed of typical aircraft.	do	Do.
4-lb size	One if it can enter the inlet.	Maximum climb speed.	Maximum cruise	Aimed at critical area.
Ice	Maximum accumulation on inlet cowl and engine face resulting from a 30-second delay in actuating anti-icing system.	Sucked in	do	To simulate an intermittent maximum icing encounter at 25° F.

Foreign object	Test quantity	Speed of foreign object	Engine operation	Ingestion
Hail (0.8 to 0.9 specific gravity).	For subsonic and supersonic engines: With inlet areas of not more than 100 in²: one 1-in hailstone. With inlet area of more than 100 in²: one 1-in and one 2-in. hailstones for each 150 in² of inlet area of fraction thereof.	Rough air flight speed of typical aircraft.	Maximum cruise at 15,000 ft altitude.	In a volley to simulate a hailstone encounter. One half the number of hailstones aimed at random areas over the face of the inlet area and the other half aimed at the critical face area.
	For supersonic engines (in addition): 3 hailstones each having a diameter equal to that in a straight line variation from 1 in at 35,000 ft to ¼ in at 60,000 ft using diameter corresponding to the lowest supersonic cruise altitude expected.	Supersonic cruise velocity. Alternatively use subsonic velocities with larger hailstones to give equivalent kinetic energy.	Maximum cruise	Aimed for critical engine face area.
Water	4 percent of engine airflow by weight.	Sucked in	Takeoff and flight idle.	For 3 minutes at each engine operation condition as spray to simulate rain.
Mixed gravel and sand (one part stones with diameter not less than 3/16—nor more than ¼ in and 7 parts sand.)	1 oz for each 100 in² of inlet area or fraction thereof.	do	Takeoff	Over a 15-minute period.
Broken rotor blade: (The heaviest compressor or turbine blade, broken at the outermost retention groove or member or at least 80 percent of an integral blade.)	1		do	Release from rotor followed by 15-second delay prior to initiating shutdown.[1]
Tire tread (having width and length equal to full width of tread).	do	do	do	

[1] Blade containment must be demonstrated with a complete engine to evaluate secondary effects of blade loss and to determine blade fragment trajectories, except that in fan engines, the fan assembly may be tested separately for blade containment if it is demonstrated that fan blade or vane debris would not enter the compressor after a fan blade failure.

61. A new § 33.79 is added to read as follows:

§ 33.79 Fuel burning thrust augmentor.

Each fuel burning thrust augmentor, including the nozzle, must—

(a) Provide cutoff of the fuel burning thrust augmentor;

(b) Permit on-off cycling;

(c) Be controllable within the intended range of operation;

(d) Upon a failure or malfunction of augmentor combustion, not cause the engine to lose thrust other than that provided by the augmentor; and

(e) Have controls that function compatibly with the other engine controls and automatically shut off augmentor fuel flow if the engine rotor speed drops below the minimum rotational speed at which the augmentor is intended to function.

§ 33.81 [Amended]

62. Section 33.81 is amended by deleting the second sentence of the text.

63. A new § 33.82 is added to read as follows:

§ 33.82 General.

Before each endurance test required by this subpart, the adjustment setting and functioning characteristic of each component having an adjustment setting and a functioning characteristic that can be established independent of installation on the engine must be established and recorded.

64. Section 33.83 is amended to read as follows:

§ 33.83 Vibration test.

(a) Each engine must undergo a vibration survey to establish the vibration characteristics of the rotors, rotor shafts, and rotor and stator blades at the maximum inlet air distortion limit, over the range of rotor shaft speeds and engine power or thrust, under steady state and transient conditions, from idling speed to 103 percent of the maximum desired takeoff speed rating. The survey must be conducted using, for turbopropeller engines, the same configuration of the propeller type which is used for the endurance test, and using, for other engines, the same configuration of the loading device type which is used for the endurance test.

(b) The vibration stresses of the rotors, rotor shafts, and rotor and stator blades may not exceed the endurance limit stress of the material from which these parts are made. If the maximum stress in the shaft cannot be shown to be below the endurance limit by measurement, the vibration frequency and amplitude must be measured. The peak amplitude must be shown to produce a stress below the endurance limit; if not, the engine must be run at the condition producing the peak amplitude until, for steel parts, 10 million stress reversals have been sustained without fatigue failure and, for other parts, until it is shown that fatigue failure will not occur within the endurance limit stress of the material.

(c) Each accessory drive and mounting attachment must be loaded, with the load imposed by each accessory used only for an aircraft service being the limit load specified by the applicant for the engine drive or attachment point.

65. Section 33.85 is amended by deleting the period and adding to the last sentence of paragraph (a) the words "with no airbleed for aircraft services and with only those accessories installed which are essential for engine functioning.", and by amending paragraph (b) to read as follows:

§ 33.85 Calibration tests.

* * * * *

(b) A power check at sea level conditions must be accomplished on the endurance test engine after the endurance test and any change in power characteristics which occurs during the endurance test must be determined. Measurements taken during the final portion of the endurance test may be used in showing compliance with the requirements of this paragraph.

66. Section 33.87 is amended by deleting paragraphs (b)(7), (c)(7), and (d)(3), and by amending paragraph (a) and adding a new paragraph (e) to read as follows:

§ 33.87 Endurance test.

(a) *General.* Each engine must be subjected to an endurance test that includes a total of 150 hours of operation and, depending upon the type and contemplated use of the engine, consists of one of the series of runs specified in paragraphs (b) through (e) of this section, as applicable. The following test requirements apply:

(1) The runs must be made in the order found appropriate by the Administrator for the particular engine being tested.

(2) Any automatic engine control that is part of the engine must control the engine during the endurance test except for operations where automatic control is normally overridden by manual control or where manual control is otherwise specified for a particular test run.

(3) Power or thrust, gas temperature, rotor shaft rotational speed, and, if limited, temperature of external surfaces of the engine must be at least 100 percent of the value associated with the particular engine operation being tested. More than one test may be run if all parameters cannot be held at the 100 percent level simultaneously.

(4) The runs must be made using fuel, lubricants and hydraulic fluid which conform to the specifications specified in complying with § 33.7(c).

(5) Maximum air bleed for engine and aircraft services must be used during at least one-fifth of the runs.

(6) Each accessory drive and mounting attachment must be loaded. The load imposed by each accessory used only for an aircraft service must be the limit load specified by the applicant for the engine drive or attachment point during rated maximum continuous power or thrust and higher output.

(7) During the runs at any rated power or thrust the gas temperature and the oil inlet temperature must be maintained at the limiting temperature except where the test periods are not longer than 5 minutes and do not allow stabilization. At least one run must be made with fuel, oil, and hydraulic fluid at the minimum pressure limit and at least one run must be made with fuel, oil, and hydraulic fluid at the maximum pressure limit with fluid temperature reduced as necessary to allow maximum pressure to be attained.

(8) If the number of occurrences of either transient rotor shaft overspeed or transient gas overtemperature is limited, that number of the accelerations required by paragraphs (b), (c), (d), and (e) of this section must be made at the limiting overspeed or overtemperature. If the number of occurrences is not limited, half the required accelerations must be made at the limiting overspeed or overtemperature.

(9) For each engine type certificated for use on supersonic aircraft the following additional test requirements apply:

(i) To change the thrust setting, the power control lever must be moved from the initial position to the final position in not more than one second except for movements into the fuel burning thrust augmentor augmentation position if additional time to confirm ignition is necessary.

(ii) During the runs at any rated augmented thrust the hydraulic fluid temperature must be maintained at the limiting temperature except where the test periods are not long enough to allow stabilization.

(iii) During the simulated supersonic runs the fuel temperature and induction air temperature may not be less than the limiting temperature.

(iv) The endurance test must be conducted with the fuel burning thrust augmentor installed, with the primary and secondary exhaust nozzles installed, and with the variable area exhaust nozzles operated during each run according to the methods specified in complying with § 33.5(b).

(v) During the runs at thrust settings for maximum continuous thrust and percentages thereof, the engine must be operated with the inlet air distortion at the limit for those thrust settings.

* * * * *

(e) *Supersonic aircraft engines.* For each engine type certificated for use on supersonic aircraft the applicant must conduct the following:

(1) *Subsonic test under sea level ambient atmospheric conditions.* Thirty runs of one hour each must be made, consisting of—

(i) Two periods of 5 minutes at rated takeoff augmented thrust each followed by 5 minutes at idle thrust;

(ii) One period of 5 minutes at rated takeoff thrust followed by 5 minutes at not more than 15 percent of rated takeoff thrust;

(iii) One period of 10 minutes at rated takeoff augmented thrust followed by 2 minutes at idle thrust, except that if rated maximum continuous augmented thrust is lower than rated takeoff augmented thrust, 5 of the 10-minute periods must be at rated maximum continuous augmented thrust; and

(iv) Six periods of 1 minute at rated takeoff augmented thrust each followed by 2 minutes, including acceleration and deceleration time, at idle thrust.

(2) *Simulated supersonic test.* Each run of the simulated supersonic test must be preceded by changing the inlet air temperature and pressure from that attained at subsonic conditions to the temperature and pressure attained at supersonic velocity, and must be followed by a return to the temperature attained at subsonic condition. Thirty runs of 4 hours each must be made, consisting of—

(i) One period of 30 minutes at the thrust obtained with the power control lever set at the position for rated maximum continuous augmented thrust followed by 10 minutes at the thrust obtained with the power control lever set at the position for 90 percent of rated maximum continuous augmented thrust. The end of this period in the first five runs must be made with the induction air temperature at the limiting condition of transient overtemperature, but need not be repeated during the periods specified in paragraphs (e)(2)(ii) through (iv) of this section;

(ii) One period repeating the run specified in subdivision (i) of this subparagraph, except that it must be followed by 10 minutes at the thrust obtained with the power control lever set at the position for 80 percent of rated maximum continuous augmented thrust;

(iii) One period repeating the run specified in subdivision (i) of this subparagraph, except that it must be followed by 10 minutes at the thrust obtained with the power control lever set at the position for 60 percent of rated maximum continuous augmented thrust and then 10 minutes at not more than 15 percent of rated takeoff thrust;

(iv) One period repeating the runs specified in paragraphs (e)(2)(i) and (ii) of this section; and

(v) One period of 30 minutes with 25 of the runs made at the thrust obtained with the power control lever set at the position for rated maximum continuous augmented thrust, each followed by idle thrust and with the remaining 5 runs at the thrust obtained with the power control lever set at the position for rated maximum continuous augmented thrust for 25 minutes each, followed by subsonic operation at not more than 15 percent or rated takeoff thrust and accelerated to rated takeoff thrust for 5 minutes using hot fuel.

(3) *Starts.* One hundred starts must be made, of which 25 starts must be preceded by an engine shutdown of at least 2 hours. There must be at least 10 false engine starts, pausing for the applicant's specified minimum fuel drainage time before attempting a normal start. At least 10 starts must be normal restarts, each made no later than 15 minutes after engine shutdown. The starts may be made at any time, including the period of endurance testing.

67. A new § 33.88 is added to read as follows:

§ 33.88 Rotor tests.

Each engine must be run for 30 minutes at maximum rated r.p.m. and with the gas temperature 75 degrees F. higher than the maximum operating limit. Following the run each rotor must remain within the dimensional limits allowed by the type design and may not be cracked.

68. The present text of § 33.89 is designated as paragraph (a), present paragraphs (a), (b), (c)(1), (c)(2), (c)(3), and (d) are redesignated (1), (2), (3)(i), (3)(ii), (3)(iii) and (4) of paragraph (a) respectively, the references in redesignated paragraph (a)(4) are amended to read "paragraphs (a)(3) (ii) and (iii) of this section," and a new paragraph (b) is added to read as follows:

§ 33.89 Operation test.

* * * * *

(b) The operation test must include all testing found necessary by the Administrator to demonstrate the effect of maximum and minimum operating ambient temperature and maximum operating altitude on the engine. The operation test must include several power changes and the operation of the fuel burning thrust augmentor through several complete cycles from ignition to shutoff.

69. A new § 33.90 is added to read as follows:

§ 33.90 Overhaul test.

Each engine, except engines being type certificated through amendment of an existing type certificate or through supplemental type certification procedures, must undergo a test run simulating the conditions in which the engine is expected to operate in service, including start-stop cycles typical of expected service for the period of time established as the limitation on operation prior to the first overhaul under § 33.7. The test run must be accomplished on an engine which substantially conforms to the final type design.

70. New paragraphs (c) and (d) are added to § 33.91 to read as follows:

§ 33.91 Engine component tests.

* * * * *

(c) Each unpressurized hydraulic fluid tank may not fail or leak when subjected to maximum operating temperature and an internal pressure of 5 p.s.i., and each pressurized hydraulic fluid tank may not fail or leak when subjected to maximum operating temperature and an internal

pressure not less than 5 p.s.i. plus the maximum operating pressure of the tank.

(d) For an engine type certificated for use in supersonic aircraft, the systems, safety devices, and external components that may fail because of operation at maximum and minimum operating temperatures must be identified and tested at maximum and minimum operating temperatures and while temperature and other operating conditions are cycled between maximum and minimum operating values.

71. A new § 33.92 is added to read as follows:

§ 33.92 Windmilling tests.

(a) Unless means are incorporated in the engine to stop rotation of the engine rotors when the engine is shut down in flight, each engine rotor must either seize or be capable of rotation for 3 hours at the limiting windmilling rotational r.p.m. with no oil in the engine system, without the engine—

(1) Catching fire;

(2) Bursting (penetrating the case); or

(3) Generating loads greater than those specified in § 33.23.

(b) A turbojet or turbofan engine incorporating means to stop rotation of the engine rotors when the engine is shut down in flight must be subjected to 25 operations under the following conditions:

(1) Each engine must be shut down while operating at rated maximum continuous thrust.

(2) For engines certificated for use on supersonic aircraft, the temperature of the induction air and the external surfaces of the engine must be held at the maximum limit during the tests required by this paragraph.

72. Section 33.93 is amended to read as follows:

§ 33.93 Teardown inspection.

After completing the endurance test each engine must be completely disassembled, and—

(a) Each component having an adjustment setting and a functioning characteristic that can be established independent of installation on the engine must retain each setting and functioning characteristic within the limits that were established and recorded at the beginning of the test; and

(b) Each engine component must conform to the type design and be eligible for incorporation into an engine for continued operation, in accordance with information submitted in compliance with § 33.5.

73. Section 33.99 is amended by amending paragraph (b) to read as follows:

§ 33.99 General conduct of block tests.

* * * * *

(b) Each applicant may service and make minor repairs to the engine during the block tests in accordance with the service and maintenance instructions submitted in compliance with § 33.5. If the frequency of the service is excessive, or the number of stops due to engine malfunction is excessive, or a major repair, or replacement of a part is found necessary during the block tests or as the result of findings from the teardown inspection, the engine or its parts must be subjected to any additional tests the Administrator finds necessary.

Issued in Washington, D.C., on September 20, 1974.

JAMES E. DOW,
Acting Administrator.

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PART IV

FEDERAL ENERGY ADMINISTRATION

■

REPUBLICATION OF CERTAIN REGULATIONS

Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

Republication of Certain Regulations

Since the issuance of the Mandatory Petroleum Allocation and Price Regulations (Chapter II, Title 10 of the Code of Federal Regulations) on January 14, 1974, the Federal Energy Administration has issued several significant amendments and revisions to those regulations. In addition, Parts 202, 203, 204, and 215 have been added to FEA's regulations. From time to time, minor changes of a technical or clarifying nature have also been necessary.

In order to provide a compilation of its regulations reflecting these changes, FEA is hereby republishing its regulations other than the Mandatory Petroleum Price Regulations. This republication incorporates all changes made in FEA's regulations and published in the FEDERAL REGISTER through September 27, 1974. The Mandatory Petroleum Price Regulations (10 CFR Part 212), however, are not included in this republication. FEA anticipates that a compilation and republication of Part 212 will be issued in the near future.

Furthermore, this republication does not represent the conclusion of any proposed rulemaking outstanding on September 23, 1974. Such proposals are still under consideration by FEA and will be concluded by issuance of final regulations or other appropriate action.

FEA believes that this compilation will be useful in providing a single reference to FEA's regulations as they currently exist, other than Part 212. Of course, the conclusion of outstanding proposed rulemakings will mean revisions of this republication to a certain extent in the future. Thus, it will be necessary for users of this compilation to determine whether changes to these regulations have been made since the date of this republication. Until the compilation and any revision of the Mandatory Petroleum Price Regulations is issued, guidance with respect to FEA's price regulations must be sought with reference to the January 14, 1974 regulations as revised since that date.

This republication incorporates only minor changes to correct typographical errors and other minor errors which have appeared in the regulations as previously published in the FEDERAL REGISTER. Since this republication does not make any substantive change in the existing regulations, it is not necessary to provide notice of proposed rulemaking, opportunity for public participation, or any delay in effective date under either section 7(i) of the Federal Energy Administration Act of 1974 or (5 U.S.C. 553). And, in any event, because this is merely a republication of existing regulations, good cause exists for making this republication effective immediately.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159; Federal Energy Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 FR 23185).

In consideration of the foregoing, Chapter II of Title 10 of the Code of Federal Regulations except for Part 212 is republished in its entirety as set forth below, effective immediately.

Issued in Washington, D.C., September 25, 1974.

ROBERT E. MONTGOMERY, Jr.,
General Counsel.

PART 202—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

Subpart A—Production or Disclosure Under 5 U.S.C. 552

Sec.

Subpart B—Production or Disclosure in Response to Subpoenas or Demands of Courts or Other Authorities

AUTHORITY: Freedom of Information Act, 5 U.S.C. 552; Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159; Federal Energy Administration Act of 1974, Pub. L. 93-275, E.O. 11790, 39 FR 23185.

Subpart A—Production or Disclosure Under 5 U.S.C. 552

§ 202.1 Purpose and scope.

This subpart contains the regulations of the Federal Energy Administration (FEA) implementing 5 U.S.C. 552. The regulations of this subpart provide information concerning the procedures by which records may be obtained from all divisions within the FEA. Official records of the FEA made available pursuant to the requirements of 5 U.S.C. 552 shall be furnished to members of the public as prescribed by this subpart. Officers and employees of the FEA may furnish to the public, informally and without compliance with the procedures prescribed herein, information and records of types which prior to enactment of 5 U.S.C. 552 were furnished customarily in the regular performance of their duties to the public by other agencies. Persons seeking information or records of the FEA may find it useful to consult with FEA's Office of Public Affairs before invoking the formal procedures set out below. To the extent permitted by other laws, the FEA will make available records which it is authorized to withhold under 5 U.S.C. 552 unless it determines that such disclosure is not in the public interest.

§ 202.2 Public reference facilities.

(a) The National Office, FEA and Regional Offices, FEO will maintain in a public reading room or public reading area, the materials relating to that office which are required by 5 U.S.C. 552(a)(2) and 552(a)(4) to be made available for public inspection and copying. These materials will also be available at some additional locations within specific regions; their addresses and telephone numbers may be obtained from the Regional Offices, FEA, listed in § 205.12 of this chapter.

(b) Each of these public reference facilities will maintain and make available for public inspection and copying a current index of the materials available at that facility which are required to be indexed by 5 U.S.C. 552(a)(2), and the National Office, FEA will maintain and make available for public inspection and copying copies of all such indexes.

§ 202.3 Requests for identifiable records and copies.

(a) *Addressed to the Director of Public Affairs.* A request for a record of the FEA which is not customarily made available and which is not available in a public reference facility as described in § 202.2 shall be addressed to the Director of Public Affairs, Federal Energy Administration, Washington, D.C. 20461, and should be clearly marked on the envelope "Attention: Information Access Officer".

(b) *Request should be in writing and for identifiable records.* A request for access to records should be submitted in writing and should sufficiently identify the records requested to enable FEA personnel to locate them with a reasonable amount of effort. Where possible, specific information regarding dates, titles, file designations, and other information which may help identify the records should be supplied by the requester. If the request relates to a matter in pending litigation, the court and its location should be identified.

(c) *Form may be requested.* Where the information supplied by the requester is not sufficient to permit location of the records by FEA personnel with a reasonable amount of effort, the requester may be sent and asked to fill out and return a form which is designed to elicit the necessary information, pursuant to § 202.4(a).

(d) *Categorical requests*—(1) *Must meet identifiable records requirement.* A request for all records falling within a reasonably specific category shall be regarded as conforming to the statutory requirement that records be identifiable if it can reasonably be determined which particular records are sought in the requests, and the records can be searched for, collected, and produced without unduly burdening or interfering with FEA operations because of the staff time consumed or the resulting disruption of files.

(2) *Assistance in reformulating nonconforming requests.* If it is determined that a categorical request would unduly burden or interfere with the operations of the FEA under subparagraph (1) of this paragraph, the response denying the request on those grounds shall specify the reasons why and the extent to which compliance would burden or interfere with FEA operations, and shall extend to the requester an opportunity to confer with knowledgeable FEA personnel in an attempt to restate the request or reduce the request to manageable proportions by reformulation and by agreeing on an orderly procedure for the production of the records.

(e) *Requests for records of other agencies.* Some of the records in the files of the FEA have been obtained from other federal agencies. Where it is determined that the question of the availability of requested records is primarily the responsibility of another federal agency and and that such records may be exempt under 5 U.S.C. 552(b), the Information Access Officer will inquire of the originating agency as to whether it concurs in release of the records. If that agency does not concur, the Information Access Officer will refer the request to the originating agency, and inform the requester of the appropriate official with whom to pursue his request. The FEA will accompany such referral with a recommendation, based on the interest of FEA in such records, concerning the disclosure of the requested records.

§ 202.4 Time for response to request for records.

(a) *Response prepared by Information Access Officer.* An Information Access Officer, appointed by the Director of Public Affairs, shall be responsible for processing written requests for records submitted pursuant to this part. Upon receiving such a request, the Information Access Officer shall ascertain which division or divisions of the FEA have primary responsibility for, custody of, or concern with the records requested and forward the request to such division or divisions, who shall promptly identify and review the records encompassed by the request. After reviewing the material, the division or divisions concerned shall forward to the Information Access Officer either the requested material, a recommendation that the request be wholly or partially denied, or a recommendation that an interim response be made under the provisions of this subsection. A recommendation of an interim response shall specify the type of response suggested and the reasons for recommending an interim response. Any recommendation that a request be denied shall set forth the policy considerations supporting such denial and shall be forwarded, with the information sought or a representative sample thereof, by the Information Access Officer to the General Counsel for his review and recommendation. On the basis of the recommendations of the division or divisions, the Information Access Officer shall, within 48 hours (including Saturdays, Sundays, and Federal legal holidays) of receipt by the Director of Public Affairs of a request for FEA records, either (1) grant the request, (2) deny the request, (3) grant it in part and/or deny it in part, or (4) reply with an interim response stating (i) that the records requested cannot be collected and prepared within said 48 hour period; (ii) that further time is needed to evaluate whether the requested records are exempt under the Freedom of Information Act and should be withheld as a matter of sound public policy or disclosed only with appropriate deletions; (iii) that the request has been referred to another agency under § 202.3(e) of this part; or (iv) that additional information is needed from the requester to render the records identifiable. Such an interim response shall specify (A) the reason or reasons for delay in granting or denying the request; (B) any further information needed by the FEA from the requester; (C) the agency to whom the request has been referred, if any, and the name of the appropriate official of that agency with whom to pursue the matter; and (D) the expected time within which the request of records will be either granted or denied. All requests for which an interim response is made stating that further time is needed to collect and prepare the records, or to evaluate the status of the request under the Freedom of Information Act, shall be either granted or denied, or granted in part and denied in part, within 10 days of receipt of the request by the Director of Public Affairs, except that if circumstances require additional time before a decision on a request can be reached, and the person requesting records is promptly informed in writing of these circumstances and the Information Access Officer certifies to such person that such delay is unavoidable, the decision may be made within 20 days of receipt of the request by the Director of Public Affairs. A response granting a request or stating that the information will be available within 10 days or less of receipt of the request may be issued by officers or employees of FEA other than the Information Access Officer: *Provided,* That a copy of such response is forwarded to the Information Access Officer.

(b) *Petition if response not forthcoming.* If the Information Access Officer does not respond to or acknowledge a request for records within 48 hours, or does not act on a request within an extended deadline, as provided for in paragraph (a) of this section, or if the requester believes an extended deadline adopted pursuant to paragraph (a) of this section is unreasonable, the requester may petition the Deputy Administrator to take appropriate measures to assure prompt action on the request.

(c) For purposes of this section, the term "division" includes all administrative or operating units of the FEA.

§ 202.5 Responses by Information Access Officer: Form and content.

(a) *Form of grant.* When a requested record has been identified and is to be made available, the Information Access Officer or other appropriate official of FEA shall notify the requester as to when the record is available. The notification shall also advise the requester of any applicable fees under § 202.8.

(b) *Form of denial.* A reply denying a written request for a record shall be in writing signed by the Information Access Officer and shall include:

(1) *Exemption category.* A reference to the specific exemption under the Freedom of Information Act authorizing the withholdings of the record, and to the extent consistent with the purposes of the exemption, a brief explanation of how the exemption applies to the record withheld, and, if the Information Access Officer considers it appropriate, a statement of why the exempt record is being withheld; and,

(2) *Administrative appeal and judicial review.* A statement that the denial may be appealed within 30 days to the Deputy Administrator, and that judicial review will be thereafter available either in the district in which the requester resides or has a principal place of business or in which the agency records are situated.

(c) *Denial because record cannot be located or does not exist.* If a requested record is known to have been destroyed or otherwise disposed of, or if no such record was ever known to exist, the requester shall be so notified.

§ 202.6 Appeals to the Deputy Administrator from initial denials.

(a) *Appeal to Deputy Administrator.* When the Information Access Officer has denied a request for records in whole or in part, the requester may, within 30 days of its receipt, appeal the denial to the Deputy Administrator, FEA, Washington, D.C. The appeal shall be in writing.

(b) *Action within 10 days.* The Deputy Administrator will act upon the appeal within 10 days of its receipt, and more rapidly if practicable, except that if novel or difficult questions are involved, the Deputy Administrator may extend the time for final action by him for an additional 20 days upon notifying the requester of the reasons for the extended deadline and the date on which a final response may be expected.

(c) *Form of action on appeal.* The Deputy Administrator's action on an appeal shall be in writing. A denial in whole or in part of a request on appeal shall set forth the exemption relied on, a brief explanation consistent with the purpose of the exemption of how the exemption applies to the records withheld, and the reasons for asserting it.

§ 202.7 Maintenance of files.

(a) *Maintenance of file open to public.* The Information Access Officer shall maintain a file, open to the public, which shall contain copies of all grants or denials of all requests for information or appeals made under this subpart. The material shall be indexed by the exemption asserted by the FEA, if any, and, to the extent feasible, according to the type of records requested.

(b) *Protection of privacy.* Where the identity of a requester, or other identifying details related to a request, would constitute an invasion of a personal

privacy if made generally available, the Information Access Officer shall delete identifying details from the copies of documents maintained in the public file established under paragraph (a) of this section.

§ 202.8 Fees for provision of records.

(a) *When charged.* User fees pursuant to 31 U.S.C. 483a (1970), shall be charged according to the schedule contained in paragraph (b) of this section for services rendered in responding to requests for FEA records under this subpart unless the Information Access Officer determines, in conformity with the provisions of 31 U.S.C. 483, that such charges or a portion thereof are not in the public interest. Such a determination shall ordinarily not be made unless the service to be performed will be of benefit primarily to the public as opposed to the requester, or unless the requester is an indigent individual. Fees shall not be charged where they would amount, in the aggregate, for a request or series of related requests, to less than $3. Ordinarily, fees shall not be charged if the records requested are not found, or if all of the records located are withheld as exempt. However, if the time expended in processing the request is substantial, and if the requester has been notified of the estimated cost pursuant to paragraph (c) of this section and has been specifically advised that it cannot be determined in advance whether any records will be made available, fees may be charged.

(b) *Services charged for, and amount charged.* For the services listed below expended in locating or making available records or copies thereof, the following charges shall be assessed:

(1) *Copies.* For copies of documents (maximum of 5 copies will be supplied) $.10 per copy of each page.

(2) *Clerical searches.* For each one quarter hour spent by clerical personnel in excess of the first quarter hour in searching for and producing a requested record, $1.25.

(3) *Monitoring inspection.* For each one quarter hour spent in monitoring the requester's inspection of records, $1.25.

(4) *Certification.* For certification of true copies, each, $1.

(5) *Nonroutine, nonclerical searches.* Where a search cannot be performed by clerical personnel, for example, where the task of determining which records fall within a request and collecting them requires the time of professional or managerial personnel, and where the amount of time that must be expended in the search and collection of the requested records by such higher level personnel is substantial, charges for the search may be made at a rate in excess of the clerical rate, namely for each one quarter hour spent in excess of the first quarter hour by such higher level personnel in searching for a requested record, $3.75.

(6) *Examination and related tasks in screening records.* No charge shall be made for time spent in resolving legal or policy issues affecting access to records of known contents. In addition, no charge shall ordinarily be made for the time involved in examining records to determine whether they are exempt from mandatory disclosure and should be withheld as a matter of sound policy. However, where a broad request requires FEA personnel to devote a substantial amount of time to examining records for the purpose of screening out certain records or portions thereof in accordance with determinations that material of such a nature is exempt and should be withheld as a matter of sound policy, a fee may be assessed for the time consumed in such examination. Where such examination can be performed by clerical personnel, a fee may be assessed at the rate of $1.25 per quarter hour, and where higher level personnel are required, a fee may be assessed at the rate of $3.75 per quarter hour.

(7) *Computerized Records.* Fees for services in processing requests maintained in whole or part in computerized form shall be in accordance with this section so far as practicable. Services of personnel in the nature of a search will be charged for at rates prescribed in paragraph (b)(5) of this section unless the level of personnel involved permits rates in accordance with paragraph (b)(2) of this section. A charge may be made for the computer time involved, based upon the prevailing level of costs to governmental organizations and upon the particular types of computer and associated equipment and the amounts of time on such equipment that are utilized. A charge may also be made for any substantial amounts of special supplies or materials used to contain, present, or make available the output of computers, based upon prevailing levels of costs to governmental organizations and upon the type and amount of such supplies or materials that is used. Nothing in this paragraph shall be construed to entitle any person, as of right, to any services in connection with computerized records, other than services to which such person may be entitled under 5 U.S.C. 552 and under the provisions, not including paragraph (b) of this subpart.

(c) *Notice of anticipated fees in excess of $25.* Where it is anticipated that the fees chargeable under this section will amount to more than $25, and the requester has not indicated in advance his willingness to pay fees as high as are anticipated, the requester shall be promptly notified by the Information Access Officer of the amount of the anticipated fee or such portion thereof as can readily be estimated. An advance deposit may be required. The notice or request for an advance deposit shall extend an offer to the requester to confer with knowledgeable FEA personnel in an attempt to reformulate the request in a manner which will reduce the fees and meet the needs of the requester. Dispatch by certified mail of such a notice or request shall toll the running of the period for response by the FEA until a reply is received from the requester.

(d) *Form of payment.* Payment should be made by check or money order payable to the Treasury of the United States.

§ 202.9 Exemptions.

(a) 5 U.S.C. 552 exempts from all of its publication and disclosure requirements nine categories of records which are described in subsection (b) of that section. These categories include such matters as national defense and foreign policy information; investigatory files, internal procedures and communications; materials exempted from disclosure by other statutes, information given in confidence; and matters involving personal privacy. Specifically, the exemption in 5 U.S.C. 552(b) applies to matters that are—

(1) Specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;

(2) Related solely to the internal personnel rules and practices of an agency;

(3) Specifically exempted from disclosure by statute;

(4) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(b) The scope of the exemption is discussed generally in the Attorney General's Memorandum on the Public Information section of the Administrative Procedure Act, which was published in June 1967. The document is available from the Superintendent of Documents and may be consulted in considering questions arising under 5 U.S.C. 552.

§ 202.10 Computation of time.

Computation of a period of time, described as "days", prescribed or allowed by this subpart shall be pursuant to § 205.5(a) of this chapter.

Subpart B—Production or Disclosure in Response to Subpoenas or Demands of Courts or Other Authorities

§ 202.21 Purpose and scope.

(a) This subpart sets forth the procedures to be followed when a subpoena, order, or other demand (hereinafter referred to as a "demand") of a court or other authority is issued for the production or disclosure of (1) any material contained in the files of the Federal Energy Administration (FEA), (2) any information relating to material contained in the files of the FEA, or (3) any

information or material acquired by any person while such person was an employee of the FEA as a part of the performance of his official duties or because of his official status.

(b) For purposes of this subpart, the term "employee of the FEA" includes all officers and employees of the United States appointed by, or subject to the supervision, jurisdiction, or control of, the Administrator of FEA.

§ 202.22 Production or disclosure prohibited unless approved by appropriate FEA official.

No employee or former employee of the FEA shall, in response to a demand of a court or other authority, produce any material contained in the file of the FEA or disclose any information relating to material contained in the files of the FEA, or disclose any information or produce any material acquired as part of the performance of his official duties or because of his official status without prior approval of the General Counsel of FEA.

§ 202.23 Procedure in the event of a demand for production or disclosure.

(a) Whenever a demand is made upon an employee or former employee of the FEA for the production of material or the disclosure of information described in § 202.21(a), he shall immediately notify the Regional Counsel for the region where the issuing authority is located. The Regional Counsel shall immediately request instructions from the General Counsel of FEA.

(b) If oral testimony is sought by the demand, an affidavit, or, if that is not feasible, a statement by the party seeking the testimony or his attorney, setting forth a summary of the testimony desired, must be furnished for submission by the Regional Counsel to the General Counsel.

§ 202.24 Final action by the appropriate FEA official.

If the General Counsel approves a demand for the production of material or disclosure of information, he shall so notify the Regional Counsel and such other persons as circumstances may warrant.

§ 202.25 Procedure where a decision concerning a demand is not made prior to the time a response to the demand is required.

If response to the demand is required before the instructions from the General Counsel are received, a U.S. attorney or FEA attorney designated for the purpose shall appear with the employee or former employee of the FEA upon whom the demand has been made, and shall furnish the court or other authority with a copy of the regulations contained in this subpart and inform the court or other authority that the demand has been, or is being, as the case may be, referred for the prompt consideration of the appropriate FEA official and shall respectfully request the court or authority to stay the demand pending receipt of the requested instructions.

§ 202.26 Procedure in the event of an adverse ruling.

If the court or other authority declines to stay the effect of the demand in response to a request made in accordance with § 202.25 pending receipt of instructions, of if the court or other authority rules that the demand must be complied with irrespective of instructions not to produce the material or disclose the information sought, the employee or former employee upon whom the demand has been made shall respectfully decline to comply with the demand. "United States ex rel Touhy v. Ragen," 340 U.S. 462.

PART 203—STANDARDS OF CONDUCT

Sec.

AUTHORITY: EO 11222, 30 FR 6469, 3 CFR, 1964–1965 Comp., 306; 5 CFR 735.104.

§ 203.1 Purpose and scope.

(a) In order to assure that the business of FEA is conducted effectively, objectively and without improper influence or appearance thereof, all employees must be persons of integrity and observe unquestionable standards of behavior. An employee shall not engage in criminal, infamous, dishonest, immoral, or disgraceful conduct or other conduct prejudicial to the Government. An employee must avoid conflicts of his private interests with his public duties and responsibilities. Also, he must not do indirectly that which is improper for him to do directly. For example, members of his family may not accomplish for him that which he, himself may not do. The propriety of any activity must be considered in relation to general ethical standards of the highest order.

(b) This part is intended to foster the foregoing concepts. It is issued in compliance with the requirements of Executive Order No. 11222 of May 8, 1965, and is based upon the provisions of that order, the regulations of the Civil Service Commission issued thereunder (Part 735 of 5 CFR, Chapter I), and the statutes cited elsewhere in this part.

(c) This part, among other things, reflects prohibitions and requirements imposed by the criminal and civil laws of the United States. However, the paraphrased restatements of criminal and civil statutes contained in this part are designed for information purposes only and in no way constitute an interpretation or construction thereof that is binding upon the Federal Government. Moreover, this part does not purport to paraphrase or enumerate all restrictions or requirements imposed by statutes, Executive Orders, regulations or otherwise upon Federal employees and former Federal employees. The omission of a reference to any such restriction or requirement in no way alters the legal effect of that restriction or requirement and any such restriction or requirement, as the case may be, continues to be applicable to employees in accordance with its own terms. Furthermore, attorneys employed by FEA are subject to the Code of Professional Responsibility and, where applicable, the canons of Professional Ethics of the American Bar Association.

§ 203.2 Applicability.

(a) The regulations in this part apply to all officers and employees of FEA.

(b) Except where specifically provided otherwise, or where limited in terms or by the context to regular employees, all provisions of this part relating to employees are applicable also to special Government employees.

§ 203.3 Definitions.

In this part—

(a) "Employee" or "regular employee" means an officer or employee of FEA but does not include a special Government employee.

(b) "FEA" means the Federal Energy Administration.

(c) "Person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

(d) "Special Government employee" means an officer or employee of FEA who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed 130 days during any period of 365 consecutive days, temporary duties, either on a full-time or intermittent basis.

§ 203.4 General standards of conduct.

(a) All employees should conduct themselves on the job in such a manner that the work of FEA is efficiently accomplished and courtesy, consideration, and promptness are observed in dealings with the Congress, the public, and other governmental agencies.

(b) All employees should conduct themselves off the job in such a manner as not to reflect adversely upon FEA or the Federal service.

(c) In all circumstances employees should conduct themselves so as to exemplify the highest standards of integrity. An employee should avoid any action, whether or not specifically prohibited by this part, which might result in, or create the appearance of:

(1) Using public office for private gain;
(2) Giving preferential treatment to any person;
(3) Impeding Government efficiency or economy;
(4) Losing complete independence or impartiality;
(5) Making a Government decision outside official channels; or
(6) Affecting adversely the confidence of the public in the integrity of the Government.

§ 203.5 Responsibilities of supervisors and employees.

(a) Supervisors, because of their day-to-day relationships with employees, are responsible to a large degree for maintaining high standards of conduct. They must become familiar with the FEA Standards of Conduct regulations and apply the standards to work they do and supervise.

(b) The Director of Personnel shall distribute copies of these regulations to each employee and special Government employee in the national office within 30 days after the effective date thereof. In the case of a new employee or special Government employee entering on duty after the date of such distribution, a copy shall be furnished at the time of his processing for appointments. In each Regional Office the distribution will be made by the Director of Personnel. All employees and special Government employees shall familiarize themselves with the contents of this regulation.

(c) Copies of Executive Order No. 11222, regulations, and statutes referred to in § 203.1, together with various explanatory materials, are available for inspection in the Office of Personnel at any time during regular business hours. Employees are encouraged to consult these basic materials in any case of doubt as to the proper application or interpretation of the provisions of this part. Regional Counselors shall provide such materials to personnel of the regions.

(d) Attention of all employees is directed to House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. B12, the "Code of Ethics for Government Service", which is attached to this part as Appendix A.

§ 203.6 Interpretation and advisory service: counseling.

(a) The General Counsel will serve as Standards of Conduct Counselor for FEA and shall serve also as the FEA's representative to the Civil Service Commission on matters covered by this part.

(b) The General Counsel shall:

(1) Coordinate the agency's counseling services and assure that counseling and interpretations on questions of conflicts of interest and other matters covered by the regulations in this part are available as needed to Regional Counselors.

(2) Render authoritative advice and guidance on matters covered by the regulations in this part which are presented to him by employees, special Government employees, management or personnel offices in the Washington, D.C., metropolitan area; and

(3) Receive information on and resolve or forward to the Administrator of FEA for consideration conflicts or apparent conflicts which appear in the Statements of Employment and Financial Interests submitted under this part, which are not resolved at a lower level.

(c) The Regional Counsels are designated Regional Counselors for all employees of FEA at the Regional level within their respective regions. Regional Counselors shall:

(1) Give authoritative advice and guidance when requested to employees, special Government employees, management officials and personnel offices within their areas of jurisdiction.

(2) Receive information on and attempt to resolve, or refer to the Counselor for FEA, conflicts of interest or appearances of conflicts of interest in Statements of Employment and Financial Interests submitted by employees and special Government employees to whom they are required to give advice and guidance, which are not resolved at lower levels.

(d) Communications between the Counselor and Regional Counselors and an employee shall be confidential, except as deemed necessary by the Administrator or the Counselor to carry out the purposes of this part.

(e) Supervisors shall advise employees who come to them with questions on matters covered by the regulations in this part, or, as they consider appropriate, shall refer such questions to the Counselor or Regional Counselors who have been designated in accordance with paragraphs (b) and (c) of this section.

(f) The Counselor for FEA shall notify all employees and special Government employees of the availability of counseling services. Such notification shall be made within 30 days after the effective date of this part, and periodically thereafter.

(1) The names and addresses of the Counselor and Regional Counselors will be made available to employees by appropriate bulletins, circulars, or other releases of a current nature. Any employee may also obtain the name and address of his Counselor or Regional Counselor through the personnel office and may seek advice and guidance therefrom, either indirectly through his supervisor or the personnel office, or directly in person, by telephone, or by mail.

(2) In the case of a new employee or special Government employee appointed after the date of such notification, notification shall be given at the time of his entrance on duty.

§ 203.7 Disciplinary action.

(a) A violation of any provision of this part by an employee may be cause for appropriate disciplinary action which may be in addition to any penalties prescribed by law. (As to remedial action in cases where an employee's financial interests result in a conflict or apparent conflict of interest, see § 203.27.)

(b) Any disciplinary or remedial action taken pursuant to this part shall be effected in accordance with any applicable laws, Executive Orders, and regulations.

§ 203.8 Conflicts of interest.

(a) A conflict of interest may exist whenever an employee has a personal or private interest in a matter which involves his duties and responsibilities as an employee. The maintenance of public confidence in Government clearly demands that an employee take no action which would constitute the use of his official position to advance his personal or private interests.

(b) Neither the pertinent statutes nor the standards of conduct prescribed in this part are to be regarded as completely comprehensive. Each employee must, in each instance involving a personal or private interest in a matter which also involves his duties and responsibilities as an employee, make certain that his actions do not have the effect or the appearance of the use of his official position for the furtherance of his own interests or those of his family or his business associates.

(c) The principal statutory provisions relating to bribery, graft, and conflicts of interest are contained in Chapter 11 of the Criminal Code, 18 U.S.C. 201–224. Severe penalties are provided for violations, including fine, imprisonment, dismissal from office, and disqualification from holding any office of honor, trust, or profit under the United States.

§ 203.9 Disqualification because of private financial interests.

(a) Unless authorized to do so as provided hereafter in this section, no employee shall participate personally and substantially as a Government employee in a particular matter in which, to his knowledge, he has a financial interest (18 U.S.C. 208).

(1) For purposes of this section—

(i) An employee participates personally and substantially in a particular matter through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise;

(ii) A particular matter is a judicial or other proceeding, application, request

for ruling or other determination, contract, claim, controversy, charge, accusation or arrest, and

(iii) A financial interest is the interest of the employee himself or his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment.

(b) An employee who has a financial interest (other than a financial interest exempted under this paragraph or paragraph (c) of this section) in a particular matter which is within the scope of his official duties shall make a full disclosure of that interest to both his supervisor and the Counselor or a Regional Counselor in writing. He shall not participate in such matter unless and until he receives a written determination by the Administrator of FEA pursuant to section 208 of Title 18, United States Code, that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect of him. No such determination can be effective until the procedures of paragraph (d) of this section are met. An employee seeking such a determination must submit a written request to the General Counsel of FEA which describes: (1) the interest concerning which a conflict or potential conflict exists; (2) the duties of the employee; (3) the nature of the conflict, potential conflict, or appearance of a conflict of interest; and (4) the reason why the conflict is not likely to affect the employee's services to FEA. The General Counsel shall review all requests submitted pursuant to this paragraph and make such recommendations to the Administrator as he deems appropriate. If the Administrator does not make a determination that the financial interest should be exempted, he shall direct such remedial action as may be appropriate under the provisions of § 203.27.

(c) Pursuant to the provisions of section 208(b)(2) of Title 18, United States Code, the Administrator hereby exempts financial interests in widely diversified mutual funds from the restrictions of paragraph (a) of this section and of section 208(a) of Title 18 as being too remote or inconsequential to affect the integrity of an employee's services in a matter, provided that no exemption under this paragraph can be effective until the procedures of paragraph (d) of this section are met.

(d) In order to give effect to the exemptions provided for in paragraphs (b) and (c) of this section, the Administrator shall:

(1) Send to Congress, ten days prior to the effective date of any such exemption, a written report containing notice of his intention to invoke subsection 208 (b) of Title 18, United States Code, a detailed statement of the subject matter concerning which a conflict exists; and in the case of an exemption set forth in paragraph (b) of this section, the nature of an officer's or employee's financial interest; or in the case of an exemption set forth in paragraph (c) of this section, the name and statement of financial interest of each person who will come within such exemption; and

(2) Publish such written report in the FEDERAL REGISTER.

§ 203.10 Additional prohibitions—regular employees.

(a) In addition to the disqualification described in § 203.9, a regular employee is subject to the following major prohibitions.

(1) He may not, except in the discharge of his official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest. This prohibition applies both to paid and unpaid representation of another (18 U.S.C. 203 and 205).

(2) He may not, after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government (18 U.S.C. 207(a)).

(3) He may not for 1 year after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his official responsibility during the last year of his Government service (18 U.S.C. 207(b)). (This temporary restraint is permanent if the matter is one in which he participated personally and substantially. See paragraph (a)(2) of this section.)

(4) He may not receive any salary, or supplementation of his Government salary, from a private source as compensation for his services to the Government (18 U.S.C. 209). (See § 203.13.)

(b) Exemptions or exceptions from the prohibitions described in paragraph (a) of this section are permitted under certain circumstances in accordance with the provisions of § 203.12.

§ 203.11 Conduct and responsibilities of special Government employees.

(a) In addition to the disqualification described in § 203.9, a special Government employee is subject to the following major prohibitions.

(1) He may not, except in the discharge of his official duties—

(i) Represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest and in which he has at any time participated personally and substantially for the Government (18 U.S.C. 203 and 205), or

(ii) Represent anyone else in a matter pending before FEA unless he served there no more than 60 days during the previous 365 days (18 U.S.C. 203 and 205). He is bound by this restraint despite the fact that the matter is not one in which he has ever participated personally and substantially.

(2) He may not, after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government (18 U.S.C. 207(a)).

(3) He may not, for 1 year after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his official responsibility during the last year of his Government service (18 U.S.C. 207(b)). (This temporary restraint is permanent if the matter is one in which he participated personally and substantially. See paragraph (a)(2) of this section).

(b) Exemptions or exceptions from the prohibitions described in pragraph (a) of this section are permitted under certain circumstances, in accordance with the provisions of paragraph (d) of § 203.12.

(c) A special Government employee must conduct himself according to ethical behavior of the highest order. In particular,

(1) He must refrain from any use of his office which is, or appears to be motivated by a private gain for himself or other persons, particularly those with whom he has family, business, or financial ties. The fact that the desired gain, if it materializes, will not take place at the expense of the Government makes his actions no less improper.

(2) He must conduct himself in a manner devoid of any suggestion that he is exploiting his Government employment for private advantage. He must not, on the basis of any inside information, enter into any speculation or recommend speculation to members of his family or business associates, in commodities, land, or the securities of any private company. He must obey this injunction even though his duties have no connection whatever with the Government programs or activities which may affect the value of such commodities, land, or securities. He should be careful in his personal financial activities to avoid any appearance of acting on the basis of information obtained in the course of his Government work.

(3) He must not use information not generally available to those outside the Government for the special benefit of a business or other entity by which he is employed or retained or in which he has a financial interest. Information not available to private industry should remain confidential in his hands and not divulged to his private employer or client. In cases of doubt whether information is generally available to the public, the special Government employee should confer with the person who assigns work to him, with the office having functional responsibility for a specific type of information, or, as appropriate, with the Director of Public Affairs or the officials designated in § 203.6 to give interpretative and advisory service.

(4) He must, where requested by a private enterprise to act for it in a consultant or advisory capacity and the request appears motivated by the desire for inside information, make a choice be-

tween acceptance of the tendered private employment and continuation of his Government consultancy. He may not engage in both.

(5) He must not use his position in any way to coerce, or give the appearance of coercing, anyone to provide a financial benefit to him or another person, particularly one with whom he has family, business, or financial ties.

(6) Special government employees are subject to the provisions of paragraphs (a) and (b) of § 203.14, regarding solicitation and receipt of gifts, gratuities, loans, entertainment, favors and other things of value by regular employees.

(7) He may teach, lecture, publish, or write in a manner not inconsistent with the provisions of § 203.16 governing such activities for regular employees.

(d) A special Government employee who has questions about conflicts of interest or the application of the regulations in this part to him or his assigned work should make inquiry of the person who assigns his work. That person will direct him to the Counselor or a Regional Counselor for interpretative and advisory services.

(e) Attention of special Government employees is directed to the provisions of § 203.2 making the provisions of this part generally applicable to their activities.

§ 203.12 Exemptions and exceptions from prohibitions of conflict of interest statutes.

(a) Nothing in this part shall be deemed to prohibit an employee, if it is not otherwise inconsistent with the faithful performance of his duties, from acting without compensation as agent or attorney for any person in a disciplinary, loyalty, or other Federal personnel administration proceeding involving such person.

(b) Nothing in this part shall be deemed to prohibit an employee from acting, with or without compensation, as agent or attorney for his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary, except in those matters in which he has participated personally and substantially as a Government employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which are the subject of his official responsibility, as defined in section 202(b) of Title 18 of the United States Code, provided that the employee obtains prior approval in accordance with the provisions of § 203.16 regarding outside employment.

(c) Nothing in this part shall be deemed to prohibit an employee from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt.

(d) In addition to the exemptions and exceptions described in this section and in § 203.9 the conflict of interest statutes permit certain exemptions and exceptions in specific circumstances. Such exemptions may be sought by the following procedure:

(1) Any regular employee or special Government employee who desires approval or certification of his activities as provided for by section 205 of Title 18, United States Code, shall make application therefor in writing to the Counselor for FEA.

(2) A former employee, including a former special Government employee, who desires certification with regard to his activities under section 207 of Title 18, United States Code, shall make application therefor in writing to the Counselor for FEA.

(3) The Counselor for FEA shall report promptly to the Administrator of FEA all matters reported to him under this part which require consideration of approvals, certifications, or determinations provided for in sections 205, 207, or 208 of Title 18, United States Code.

§ 203.13 Salary of employee payable only by United States.

(a) No employee, other than a special Government employee or an employee serving without compensation, shall receive any salary, or any contribution to or supplementation of salary, as compensation for his services as an employee, from any source other than the Government of the United States, except as may be contributed out of the treasury of any State, county, or municipality (18 U.S.C. 209).

(b) Nothing in this part shall be deemed to prohibit an employee from continuing to participate in a bona fide pension, retirement, group life, health, or accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by a former employer, which does not cause a conflict of interest, appearance of conflict or potential conflict, nor from accepting contributions, awards, or other expenses under Chapter 41 of Title 5, United States Code (the Government Employees Training Act).

§ 203.14 Gratuities.

(a) Except as provided in paragraph (b) of this section, FEA personnel will not solicit or accept any gift, gratuity, favor, (including complimentary meals and beverages) entertainment, loan, or any other thing of monetary value either directly or indirectly from any interested party. For the purpose of this section, a gift, gratuity, favor, entertainment, etc., includes any tangible item, intangible benefits, discounts, tickets, passes, transportation, and accommodations or hospitality given or extended to or on behalf of the recipient. An "interested party" is any person, firm, corporation, or other entity which:

(1) Is engaged or is endeavoring to engage in procurement activities or business or financial transactions of any sort with FEA;

(2) Conducts operations or activities that are regulated by FEA; or

(3) Has interests that may be substantially affected by the performance or nonperformance of the official duty of the FEA personnel concerned.

Gifts, gratuities, favors, entertainment, etc., bestowed upon members of the immediate families of FEA personnel are viewed in the same light as those bestowed upon FEA personnel. Acceptance of gifts, gratuities, favors, entertainment, etc., no matter how innocently tendered and received, from those who have or seek business with FEA may be a source of embarrassment to FEA and the personnel involved, may affect the objective judgment of the recipient and impair public confidence in the integrity of the business relations between FEA and industry.

(b) The restrictions in paragraph (a) of this section do not apply to the following:

(1) Instances in which the interests of the Government are served by participation of FEA personnel in widely attended luncheons, dinners, and similar gatherings sponsored by industrial, technical, and professional associations for the discussion of matters of mutual interest to Government and industry. Participation by FEA personnel is appropriate when the host is an assocciation and not an interested party. Acceptance of gratuities or hospitality from private companies in connection with such association's activities is prohibited.

(2) Speciality advertising items of nominal intrinsic value.

(3) Customary exchange of social amenities between personal friends and relatives when motivated by such relationship and extended on a personal basis.

(4) Things available impersonally to the general public or classes of the general public, such as a free exhibition by an interested party at a world's fair.

(5) Trophies, entertainment, rewards, prizes, given to competitors in contests which are open to the public generally.

(6) Transactions between and among relatives which are personal and consistent with the relationship.

(7) The acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans.

(8) Local transportation provided by an interested party while on official business and when alternative arrangements are clearly impracticable.

(9) Participation in civic and community activities by FEA personnel when the relationship with the interested party can reasonably be characterized as remote, for example, participation in a little league or Combined Federal Campaign luncheon which is subsidized by an interested party.

(10) The acceptance of accommodations, subsistence, or services furnished in kind in connection with official travel, when authorized by the Administrator or his designee as in the overall Governmental interest. When accommodations, subsistence, or services in kind are furnished to FEA personnel by private sources, appropriate deductions shall be made in the travel, per diem, and other allowances otherwise payable to the personnel. FEA personnel may not accept personal reimbursement from a private source for expenses incident to official travel, unless authorized pursuant to 5

U.S.C. 4111 or other express statutory authority. Rather, any reimbursement must be made to the Government by check payable to the Treasurer of the United States; personnel will be reimbursed by the Government in accordance with regulations relating to reimbursement. In no case shall FEA personnel accept—either in kind or on a reimbursable basis—benefits which are under prudent standards extravagant or excessive in nature.

(11) Situations not specifically covered by paragraph (b)(1)—(10) of this section but in which, in the judgment of the individual concerned, the Government's interest will be served by participation by FEA personnel in activities at the expense of an interested party and in which the Counselor has granted prior approval. When prior consultation with the Counselor is impractical, in those situations in which FEA personnel are offered any gratuity, favor, entertainment, etc., either directly or indirectly from any interested party, and in their judgment the Government's interest is served by acceptance, FEA personnel may accept such offer but must report the circumstances within 48 hours to the Counselor or in the case of regional employees, the Regional Counselor.

(c) Personnel on official business may not accept contractor-provided transportation, meals or overnight accommodations in connection with such official business so long as Government or commercial transportation or quarters are reasonably available. Where, however, the overall Governmental interest would be served by acceptance by FEA personnel of such transportation or accommodations in specific cases, the Administrator or his delegate may authorize it.

(d) The Constitution (article I, section 9, clause 8) prohibits acceptance from foreign governments, except with the consent of Congress, of any emolument, office, or title. The Congress has provided for the receipt and disposition of foreign gifts and decorations in 5 U.S.C. 7342. (See also Executive Order No. 11320, 31 FR 15789, and the regulations pursuant thereto in 22 CFR Part 3 (as added, 32 FR 6569)). Any such gift or thing which cannot appropriately be refused shall be submitted to the Counselor for transmittal to the State Department.

§ 203.15 Prohibition of contributions or presents to superiors.

FEA personnel shall not solicit a contribution from other officers or employees for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an officer or employee receiving less pay than themselves (5 U.S.C. 7351). However, this section does not prohibit a voluntary gift of nominal value or donation in nominal amount made on a special occasion such as marriage, illness or resignation.

§ 203.16 Outside employment and other activity.

(a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of his Government employment. Incompatible activities include, but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, a conflict of interest; or

(2) Outside employment which tends to impair the employee's mental or physical capacity to perform his Government duties and responsibilities in an acceptable manner.

(3) Work which identifies FEA or any employee in his official capacity with any organization commercializing products relating to work conducted by FEA or with any commercial advertising matter, or work performed under such circumstances as to give the impression that it is an official act of FEA or represents an official point of view.

(4) Outside work or activity that takes the employee's time and attention during his official work hours.

(b) Within the limitations imposed by this section, employees are encouraged to engage in teaching, lecturing, and writing. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing that is dependent on information obtained as a result of his Government employment, except when that information has been made available to the general public or will be made available on request, or when the Administrator of FEA gives written authorization for the use of non-public information on the basis that the use is in the public interest. In addition, FEA personnel shall not receive compensation or anything of monetary value (such as an honorarium) for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of FEA, or which draws substantially on official data or ideas which have not become part of the body of public information.

(c) An employee shall not engage in outside employment with a State or local government, except in accordance with applicable regulations of the Civil Service Commission (Part 734 of 5 CFR, Chapter I).

(d) Neither this section nor § 203.14 precludes an employee from:

(1) Receipt of bona fide reimbursement unless prohibited by law, for actual expenses for travel and such other necessary subsistence as is compatible with this part and for which no Government payment or reimbursement is made.

(2) Participation in the activities of national or State political parties not proscribed by law. (See § 203.24 regarding political activities.)

(3) Participation in the affairs of, or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational or recreational, public service, or civic organization.

(e) An employee who intends to engage in outside employment shall obtain the advance approval of his immediate supervisor. In addition, empolyees required by § 203.25(d) to file a Confidential Statement of Employment and Financial Interest will also obtain approval of the Counselor or, in the case of regional employees, the Regional Counselor. A record of each approval under this paragraph shall be filed in the employee's official personnel folder. In addition, a record of each approval shall be forwarded to the relevant Assistant Administrator or Office Director.

(f) This section does not apply to special Government employees, who are subject to the provisions of § 203.11.

§ 203.17 Financial interests.

(a) An employee may not have a financial interest which—

(1) Is a personal or private industry in a matter which involves his duties and responsibilities as an employee (except as permitted by § 203.9 or authorized pursuant to § 203.12(d); or

(2) Is entered into in reliance upon, or as a result of, information obtained through his employment; or

(3) Results from active and continuous trading (as distinguished from the making of bona fide investments) which is conducted on such a scale as to interfere with the proper performance of his duties.

(b) Aside from the restrictions prescribed or cited in this part, employees are free to engage in lawful financial transactions to the same extent as any citizen. Employees should be aware that the financial interests of their spouses or minor children may be regarded, for the purposes of this section, as financial interests of the employees themselves. In addition, the financial interests of blood relatives who are full time residents of their households may be regarded as financial interests of the employees themselves.

(c) This section does not apply to special Government employees, who are subject to the provisions of § 203.11.

§ 203.18 Use of Government property.

An employee shall not directly or indirectly use, or allow the use of, Government property or any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property including equipment, supplies, and other property entrusted or issued to him.

§ 203.19 Nondiscrimination.

An employee shall not be discriminated against because of race, color, religion, national origin, sex, age, politics, marital status, or on the basis of a physical handicap with respect to any position the duties of which may be efficiently performed by a person with a physical handicap. This prohibition applies to both employment and utilization of Federal employees.

§ 203.20 Misuse of information.

(a) For the purpose of furthering a private interest, an employee shall not, except as provided in paragraph (b) of § 203.16, directly or indirectly use, or

allow the use of, official information obtained through or in connection with his Government employment which has not been made available to the general public.

(b) An officer or employee of FEA shall not divulge or disclose any trade secrets, processes, financial data or other business information which is submitted to or filed with FEA on a confidential basis and which falls within the purview of 18 U.S.C. 1905.

§ 203.21 Indebtedness.

An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For the purpose of this section a "just financial obligation" means one acknowledged by the employee, or reduced to judgment by a court, and "in a proper and timely manner" means in a manner which FEA determines does not, under the circumstances, reflect adversely on the Government as his employer. In the event of dispute between an employee and an alleged creditor, this section does not require FEA to determine the validity or amount of the disputed debt.

§ 203.22 Gambling, betting, and lotteries.

An employee shall not participate, while on Government-owned or leased property or while on duty for the Government, in any gambling activity, including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket.

§ 203.23 Political activity.

(a) All employees in the Executive Branch of the Federal Government are subject to basic political activity restrictions in subchapter III of Chapter 73 of title 5, U.S.C. (commonly known as the Hatch Act) and Civil Service Rule IV. Employees are individually responsible for refraining from prohibited political activity. Ignorance of a prohibition does not excuse a violation. This section summarizes provisions of law and regulation concerning political activity of employees.

(b) Intermittent employees are subject to the restrictions when in active duty status only and for the entire 24 hours of any day of actual employment.

(c) Employees on leave, on leave without pay, or on furlough or terminal leave, even though the employees' resignations have been accepted are subject to the restrictions. A separated employee who has received a lump-sum payment for annual leave, however, is not subject to the restriction during the period covered by the lump-sum payment or thereafter, provided he does not return to Federal employment during that period. An employee is not permitted to take leave of absence to work with a political candidate, committee, or organization or become a candidate for office with the understanding that he will resign his position if nominated or elected.

(d) An employee is accountable for political activity by another person acting as his agent or under the employee's direction or control if he is thus accomplishing indirectly what he may not lawfully do directly and openly.

(e) Section 7324 of title 5, U.S.C. (derived from 9(a) of the Hatch Act) provides that employees have the right to vote as they please and the right to express their opinions on political subjects and candidates. Generally, however, they are prohibited from taking an active part in political management or political campaigns or using official authority or influence to interfere with an election or affect its results. The following are exemptions from the restrictions of the statute:

(1) Employees may engage in political activity in connection with any question not specifically identified with any National or State political party. They also may engage in political activity in connection with an election if none of the candidates represents a party any of whose candidates for presidential elector received votes at the last preceding election at which presidential electors were selected.

(2) An exception relates to political campaigns in communities adjacent to the District of Columbia or in communities the majority of whose voters are employees of the Federal Government. Communities in which the exception applies are specifically designated by the Civil Service Commission. Information regarding the localities and the conditions under which the exceptions are granted may be obtained from the personnel office or the FEA Counselor or Regional Counselor.

(3) Intermittent employees are exempt during such time as they are not in active duty status.

(4) The Administrator and Assistant Administrators of FEA, as well as other officials appointed by the President by and with the advice and consent of the Senate, who determine policies to be pursued by the United States in its relations with foreign powers or in the nationwide administration of Federal laws are exempt from the prohibitions concerning active participation in political management and political campaigns.

(f) There are restrictions other than those imposed by subchapter III of Chapter 73 of title 5, U.S.C. (the Hatch Act) and Rule IV which relate to:

(1) Political contributions and assessments.
(2) Circulars of solicitation.
(3) Solicitation in Federal buildings.
(4) Solicitation by letter.
(5) Payment by one employee to another.
(6) Discrimination because of political contributions.
(7) Purchase and sale of public office.
(8) Political recommendations and discrimination.
(9) Other criminal offenses discussed in 18 United States Code, Chapter 29.

Further information concerning these restrictions may be obtained from the Standards of Conduct Counselor.

§ 203.24 Miscellaneous statutory provisions.

Each employee shall acquaint himself with each statute that relates to his ethical and other conduct as an employee of his agency and of the Government. In particular, attention of employees is directed to the following statutory provisions:

(a) Chapter 11 of Title 18, United States Code, relating to bribery, graft, and conflicts of interest, as appropriate to the employees concerned (See §§ 203.9, 203.10, and 203.11).

(b) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(c) The prohibition against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

(d) The prohibition against the employment of a member of a Communist organization (50 U.S.C. 784).

(e) The prohibition against (1) the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783) and (2) the disclosure of confidential business information (18 U.S.C. 1905).

(f) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(g) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a(c)).

(h) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(i) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(j) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(k) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(l) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(m) The prohibitions against (1) embezzlement of Government money or property (18 U.S.C. 641); (2) failing to account for public money (18 U.S.C. 643); and (3) embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).

(n) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(o) The prohibition against political activities in subchapter III of chapter 73 of title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608.

(p) The prohibition against an employee acting as the agent of a foreign principal registered under Foreign Agents Registration Act (18 U.S.C. 219).

§ 203.25 Reporting of employment and financial interests—regular employees.

(a) Not later than 30 days after the effective date of this part, an employee designated in paragraph (d) of this

section shall submit through his supervisor to the Counselor or his designee a statement (Appendix B to this part) and a supplemental questionnaire (Appendix D to this part), made available in the Office of Personnel, setting forth the following information:

(1) A list of the names of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations, and educational or other institutions with or in which he, his spouse, minor child or other member of his immediate household has—

(i) Any connection as an employee, officer, owner, director, member, trustee, partner, adviser or consultant including an offer for future employment or a temporary absence from employment, such as a leave of absence; or

(ii) Any continuing financial interest, through a pension or retirement plan, shared income, or other arrangement as a result of any current or prior employment or business or professional association; or

(iii) Any financial interest through the ownership of stock, stock options, bonds, securities, or other arrangements including trusts.

(2) A list of the names of his creditors and the creditors of his spouse, minor child or other member of his immediate household, other than those creditors to whom they may be indebted by reason of a mortgage on property which he occupies as a personal residence or to whom they may be indebted for current and ordinary household and living expenses such as those incurred for household furnishings, an automobile, education, vacations, or the like.

(3) A list of his interests and those of his spouse, minor child or other member of his immediate household in real property or rights in lands, other than property which he occupies as a personal residence.

(b) For the purpose of this section "member of his immediate household" means a full-time resident of the employee's household who is related to him by blood.

(c) Before a final offer of employment may be made to an applicant for employment with FEA,

(1) The FEA supervisor to whom the applicant would report shall obtain and review a Confidential Statement of Employment and Financial Interest from the applicant;

(2) The supervisor to whom the applicant would report shall certify that there is no conflict, appearance of conflict or potential conflict of interest between the interests disclosed on the statement and the proposed duties of the applicant; and

(3) The Counselor or his designee shall make a determination that there is no conflict, appearance of conflict or potential conflict of interest between the interests disclosed on the statement and the proposed duties of the applicant.

(d) Statements of employment and financial interests are required of the following:

(1) Employees paid at a level of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code, except a Presidential appointee required to file a statement of financial interests under section 401 of Executive Order No. 11222 of May 8, 1965.

(2) Employees in classified positions of grade GS–13 or above, or the equivalent thereof.

(3) Employees occupying positions as auditors, investigators and case resolution officers in classified positions of grade GS–11 or above.

(e) Changes in, or additions to, the information contained in an employee's statement of employment and financial interests shall be reported in a supplementary statement as of June 30 each year. If no changes or additions occur, a negative report is required. Notwithstanding the filing of the annual report required by this paragraph, each employee shall at all times avoid acquiring a financial interest that could result in a violation of the conflicts-of-interest provisions of 18 U.S.C. 208.

(f) If any information required to be included on a statement of employment or financial interests or supplemental questionnaire, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit the information in his behalf.

(g) Paragraph (a) of this section does not require an employee to submit any information relating to his connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interests.

(h) FEA shall hold each statement of employment and financial interests and each supplemental questionnaire in confidence. Each person designated to review statements of employment and financial interests and supplemental questionnaires under § 203.27 is responsible for maintaining the statement in confidence and shall not allow access to, or allow information to be disclosed from, a statement or a questionnaire except to carry out the purpose of this part. FEA may not disclose information from a statement or a questionnaire except as the Civil Service Commission or the Administrator of FEA may determine for good cause shown.

(i) The statements of employment and financial interests and supplementary statements required of employees are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement by an employee does not permit him or any other person to participate in a matter in which his or the other person's participation is prohibited by law, order, or regulation.

(j) An employee who believes that his position has been improperly included as one requiring the submission of a statement of employment and financial interests is entitled to obtain a review of his complaint under FEA's grievance procedure.

(k) This section does not apply to special Government employees, who are subject to the provisions of § 203.11.

(l) A regional employee shall submit through his supervisor to the Regional Counselor for his region the statement of employment and financial interest referred to in §§ 203.26 and 203.27.

(m) The Counselor or his designee shall retain the Confidential Statements of employees of the national office. Regional Counselors shall retain the Confidential Statements of regional employees.

§ 203.26 Reporting of employment and financial interest—special Government employees.

(a) A special Government employee shall submit through his supervisor to the Counselor or his designee a statement of employment and financial interests (Appendix C to this part) and a supplemental questionnaire (Appendix D to this part), which reports (1) all current Federal Government employment, (2) the names of all corporations, companies, firms, State or local governmental organizations, research organizations, and educational or other institutions in or for which he is an employee, officer, member, owner, trustee, director, advisor, or consultant, with or without compensation, (3) any financial interest through the ownership of stock, stock options, bonds, securities, or other arrangements including trusts, and (4) the names of all partnerships in which he is engaged.

(b) The statement and supplemental questionnaire required under this section shall be submitted at the time of employment and shall be kept current throughout the term of a special Government employee's service with FEA. A supplementary statement shall be submitted at the time of any reappointment; a negative report will suffice if no changes have occurred since the submission of the last statement.

§ 203.27 Reviewing statements of financial interests.

(a) The Counselor or his designee in cooperation with the employee's supervisor shall review the statements required by §§ 203.25 and 203.26 to determine whether there exists a conflict, appearance of conflict or potential conflict, between the interests of the employee or special Government employee concerned and the performance of his service for the Government. In addition, the Counselor or designee shall review the Confidential Statements of regional employees when there exists an appearance of conflict or a potential conflict of interest, when a suspected violation by a

regional employee is reported or when a Confidential Statement or recommendation for remedial action is referred to him by a Regional Counselor for review. If the Counselor or designee determines that such a conflict or appearance of conflict exists, he shall discuss with the employee possible ways of eliminating the conflict or appearance of conflict. If he concludes that remedial action should be taken, he shall refer the statement to the Administrator of FEA with his recommendation for such action. The Administrator, after consideration of the employee's explanation and such investigation as he deems appropriate, shall direct appropriate remedial action if he deems it necessary.

(b) The Regional Counselors shall review the statements of regional employees to determine whether there exists a conflict, appearance of conflict or potential conflict between the interests of the employee or special government employee concerned and the performance of his service for the Government. If the Regional Counselor determines that such a conflict or appearance of conflict exists, he shall discuss with the employee possible ways of eliminating the conflict or appearance of conflict. If he concludes that remedial action should be taken, he shall refer the statement to the Counselor with his recommendation for such action.

(c) Remedial action pursuant to paragraph (a) of this section may include, but is not limited to:

(1) Changes in assigned duties.

(2) Divestment by the employee of his conflicting interest.

(3) Disqualification for a particular action.

(4) Exemption pursuant to paragraph (b) of § 203.9 or paragraph (d) of § 203.12.

(5) Disciplinary action.

§ 203.28 Membership in associations.

All FEA personnel who are members of nongovernmental associations or organizations must avoid activities on behalf of the association or organization that are incompatible with their official government positions.

§ 203.29 Reporting suspected violations.

Personnel who have information which causes them to believe that there has been a violation of a statute or policy set forth in this part will promptly report such incidents to their immediate superiors. If the superior believes there has been a violation, he will report the matter to the Standards of Conduct Counselor or, in the case of regional employees, to the Regional Counselor. Any question or doubt on the part of the immediate superior will be resolved in favor of reporting the matter.

APPENDIX A

Code of Ethics For Government Service

Resolved by the House of Representatives (the Sentate concurring) That it is the sense of the Congress that the following Code of Ethics should be adhered to by all Government employees, including officeholders:

Code of Ethics For Government Service

Any person in Government service should:

1. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.
2. Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion.
3. Give a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.
4. Seek to find and employ more efficient and economical ways of getting tasks accomplished.
5. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.
6. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.
7. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.
8. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.
9. Expose corruption wherever discovered.
10. Uphold these principles, ever conscious that public office is a public trust.

Passed July 11, 1958.

(72 STAT. B12)

APPENDIX B

CONFIDENTIAL STATEMENT OF EMPLOYMENT AND FINANCIAL INTERESTS
(FOR USE BY GOVERNMENT EMPLOYEES)

1. NAME *(last, first, initial)*	2. TITLE OF POSITION

3. DATE OF APPOINTMENT IN PRESENT POSITION	4. AGENCY AND MAJOR ORGANIZATIONAL SEGMENT

PART I. EMPLOYMENT AND FINANCIAL INTERESTS. List the names of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations, and educational, or other institutions: (a) with which you are connected as an employee, officer, owner, director, member, trustee, partner, adviser, or consultant; or (b) in which you have any continuing financial interests, through a pension or retirement plan, shared income, or other arrangement as a result of any current or prior employment or business or professional association; or (c) in which you have any financial interest through the ownership of stock, stock options, bonds, securities, or other arrangements including trusts. If none, write NONE.

NAME & KIND OF ORGANIZATION (USE PART I DESIGNATIONS WHERE APPLICABLE)	ADDRESS	POSITION IN ORGANIZATION. (USE PART I(a) DESIGNATIONS, IF APPLICABLE.)	NATURE OF FINANCIAL INTEREST, e.g., STOCK, PRIOR BUSINESS INCOME. (USE PART I(b) & (c) DESIGNATIONS IF APPLICABLE.)

PART II. CREDITORS. List the names of your creditors other than those to whom you may be indebted by reason of a mortgage on property which you occupy as a personal residence or to whom you may be indebted for current and ordinary household and living expenses such as household furnishings, automobile, education, vacation, and similar expenses. If none, write NONE.

NAME AND ADDRESS OF CREDITOR	CHARACTER OF INDEBTEDNESS, e.g., PERSONAL LOAN, NOTE, SECURITY

PART III. INTERESTS IN REAL PROPERTY. List your interest in real property or rights in lands, other than property which you occupy as a personal residence. If none, write NONE.

NATURE OF INTEREST, e.g., OWNERSHIP, MORTGAGE, LIEN, INVESTMENT TRUST	TYPE OF PROPERTY, e.g., RESIDENCE, HOTEL, APARTMENT, FARM, UNDEVELOPED LAND	ADDRESS. (IF RURAL, GIVE RFD. OR COUNTY AND STATE.)

PART IV. INFORMATION REQUESTED OF OTHER PERSONS. If any information is to be supplied by other persons, e.g., trustee, attorney, accountant, relative, please indicate the name and address of such persons, the date upon which you requested that the information be supplied, and the nature of subject matter involved. If none, write NONE.

NAME AND ADDRESS	DATE OF REQUEST	NATURE OF SUBJECT MATTER

I certify that the statements I have made are true, complete, and correct to the best of my knowledge and belief.

(Date) _____ *(Signature)* _____

PART V. TO BE COMPLETED BY SUPERVISOR

I certify that I have reviewed the confidential Statement of Employment and Financial Interests of _____ in light of his responsibilities as an employee of the Federal Energy Administration under my supervision. It is my opinion that the financial interests disclosed to me present no conflict with the duties now assigned this employee.

Date _____

Name and Title of Immediate Supervisor (typed or printed) _____

Signature of Immediate Supervisor _____

FEA-F-82 GPO 879-278

CONFIDENTIAL STATEMENT OF EMPLOYMENT AND FINANCIAL INTERESTS

For use by an officer or employee as required by section 402 of Executive Order 11222, dated May 8, 1965, Prescribing Standards of Ethical Conduct for Government Officers and Employees.

GENERAL REQUIREMENTS.

The information to be furnished in this statement is required by Executive Order 11222 and the regulations of the Civil Service Commission issued thereunder and may not be disclosed except as the Commission or the agency head may determine for good cause shown.

The Order does not require the submission of any information relating to an employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or any similar organization not conducted as a business enterprise and which is not engaged in the ownership or conduct of a business enterprise. Educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed to be "business enterprises" for purposes of this report and should be included.

The information to be listed does not require a showing of the amount of financial interest, indebtedness, or the value of real property.

In the event any of the required information, including holdings placed in trust, is not known to you but is known to another person, you should request that other person to submit the information on your behalf and should report such request in Part IV of your statement.

The interest, if any, of a spouse, minor child, or other member of your immediate household shall be reported in this statement as your interest. If that information is to be supplied by others, it should be so indicated in Part IV. "Member of your immediate household" includes only those blood relations who are full-time residents of your household.

APPENDIX C

CONFIDENTIAL STATEMENT OF EMPLOYMENT AND FINANCIAL INTERESTS
(FOR USE BY SPECIAL GOVERNMENT EMPLOYEES)

PART I.–TO BE COMPLETED BY AGENCY

1. NAME *(last, first, initial)*	2. AGENCY AND MAJOR ORGANIZATIONAL SEGMENT
3. BIRTH DATE *(month, day, year)*	4. PERIOD OF APPOINTMENT, THIS AGENCY– FROM: TO:

5a. Estimated number of days on which services are expected to be performed–(1) with this agency _____ ; (2) with other Federal Agencies _____ ; Sum of (1) and (2) _____

b. Number of days already worked for this and other Federal agencies during applicable 365-day period _____

c. Total number of days (sum of a and b) ..... _____

PART II.–TO BE COMPLETED BY APPOINTEE

1. **FEDERAL GOVERNMENT EMPLOYMENT.**–List all other Federal agencies and other organizational segments of this Agency in which you are presently employed. If none, write NONE.

AGENCY AND LOCATION	TITLE OR KIND OF POSITION	APPOINTMENT PERIOD		ESTIMATED NO. OF DAYS
		FROM	TO	

2. **NON-FEDERAL EMPLOYMENT.**–Name all corporations, companies, firms, State or local Governmental organizations, research organizations, and educational or other institutions in which you are serving as employee, officer, member, owner, trustee, director, expert, adviser, or consultant, with or without compensation. If none, write NONE.

NAME AND KIND OF ORGANIZATION *(e.g., manufacturing, research, insurance)*	LOCATION *(City, State)*	TITLE OR KIND OF POSITION

3. **FINANCIAL INTERESTS.**

NAME OF ORGANIZATION	KIND OF ORGANIZATION *(manufacturing, storage, public utilities, etc.)*	NATURE OF INTEREST AND IN WHOSE NAME HELD

I CERTIFY that the statements I have made are true, complete, and correct to the best of my knowledge and belief. UNDERSTAND that if, during the period of my appointment, I undertake a new employment, I must promptly file an amended statement

_____ *(Date)* _____ *(Signature)*

PART III.–TO BE COMPLETED BY SUPERVISOR

I certify that I have reviewed the Confidential Statement of Employment and Financial Interests of _____ in light of his responsibilities as an employee of the Federal Energy administration under my supervision. It is my opinion that the financial interests disclosed to me present no conflict with the duties now assigned this employee.

_____ Date

_____ Name and Title of Immediate Supervisor (typed or printed)

_____ Signature of Immediate Supervisor

FEA-F-83

GPO 879-277

CONFIDENTIAL STATEMENT OF EMPLOYMENT AND FINANCIAL INTERESTS

For use by a special Government employee as required by section 30b of Executive Order 11222, dated May 8, 1965, Prescribing Standards of Ethical Conduct for Government Officers and Employees.

GENERAL REQUIREMENTS

The information to be furnished in this statement is required by Executive Order 11222 and the regulations of the Civil Service Commission issued thereunder and may not be disclosed except as the Commission or the agency head may determine for good cause shown.

The Order does not require the submission of any information relating to an employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or any similar organization not conducted as a business enterprise and which is not engaged in the ownership or conduct of a business enterprise. Educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed to be "business enterprises" for purposes of this report and should be included.

APPENDIX D

Supplemental Questions to Confidential Statement of Employment and Financial Interests

1. Name: _____

2. Employment status with FEA ( ) applicant, or ( ) present employee.

3. Date of entrance onto duty (or projected date if applicant): _____

4. Job title: _____

5. Type of employment (e.g., emergency indefinite, transfer) and whether full-time or intermittent (if intermittent, estimate number of days expected to serve with Government during one year period): _____

6. Grade: _____

7. Office and division: _____

8. Room number and telephone extension (if applicant, give telephone number where you can be reached): _____

9. Place of previous employment: _____

10. Kind of previous employment: _____

11. Do you now have or do you expect to have continuing financial interest through a pension retirement, group life, health or accident insurance, profit-sharing, stock bonus or other welfare or benefit plan maintained by a former employer? If so, describe the interest.

12. Do you now receive or do you expect to receive during or after your employment with the Federal Energy Administration any compensation from a former employer? If so, describe the arrangement under which the compensation is being or will be paid including a statement of the purpose for which it is being or will be paid.

13. Are you now or do you expect to be a party to any kind of arrangement with a former employer under which you are entitled to return to their employment, such as being on a leave of absence? If so, describe the arrangement.

14. Have you received or do you expect to receive any payment or reimbursement for travel costs (e.g., transportation, moving) to or from the duty station by a former employer or client? If so, describe the arrangement and the purpose for which such payment or reimbursement was or will be paid.

15. To your knowledge, does any employer or organization (e.g., business firm, association, union) with which you (a) were formerly associated (i.e., your most recent previous employment or association), (b) are presently associated, or (c) are negotiating concerning future association, have a particular matter pending before the Federal Energy Administration? Do you expect it to have a matter before FEA in the future? If the answer is yes to any of the above, describe the particulars.

PART 204—RECORDS OF ORAL COMMUNICATION WITH PERSONS OUTSIDE FEA

Sec.
204.1 Purpose and scope.
204.2 Definitions.
204.3 Preparation of record of outside contact forms.
204.4 Preparation of meeting logs.
204.5 Public record of meetings.

AUTHORITY: Federal Energy Administration Act of 1974, Pub. L. 93-275; E. O. 11790, 39 FR 23185.

§ 204.1 Purpose and Scope.

This part establishes regulations for the preparation and maintenance, by specified FEA employees, of written reports and meeting logs regarding certain types of oral communications received from and meetings held with persons from outside the agency. Procedures are also established for the preparation and distribution to the public of a list of all meetings that have occurred between the Administrator, the Deputy Administrator, Assistant Administrators, or the General Counsel and persons from outside the agency during the preceeding two-week period. These regulations and procedures are designed to maintain the integrity of FEA's decision making process, to insure that FEA programs and policies are developed and implemented in an open atmosphere, and to promote public confidence in FEA.

§ 204.2 Definitions.

As used in this part—

(a) "Appeal" means a request for further view of an order or interpretation, or of any action taken in response to an application.

(b) "Application" means a request for an exception, exemption, assignment or adjustment, modification or recision, or stay.

(c) "Enforcement proceeding" means a proceeding relating to the preparation and issuance by FEA of notices of probable violation or remedial orders.

(d) "FEA" means the Federal Energy Administration.

(e) "Noninvolved person" means a person with whom contact would normally not be made in the routine processing by FEA personnel of an application, interpretation request, petition for special redress, appeal, investigation or enforcement proceeding and includes, but is not limited to, a Member of Congress or his staff, an employee or official of another government agency or of the Executive Branch, and any other person in public or private life not directly involved in the matter. It does not include an official or employee of FEA, or a person from outside the agency with whom an employee would be expected routinely to communicate in the normal course of processing the matter, including but not limited to, the applicant, the person requesting an interpretation, an appellant, a petitioner for special redress, a person under investigation, an informant in an investigation, a person charged with a violation, a party or witness to a proceeding or the attorney representing such persons.

(f) "Person from outside the agency" means a person not employed by FEA or detailed to FEA by another Federal agency.

(g) "Petition for special redress" means a "Petition for Special Redress and Other Relief" filed with the FEA Office of Private Grievances and Redress pursuant to section 21 of the Federal Energy Administration Act and Part 205 of this chapter.

§ 204.3 Preparation of record of outside contact forms.

(a) All FEA employees in grades GS-15 and above shall prepare a "Record of Outside Contact Form" ("Record Form") on each oral communication received (in person, by telephone or otherwise) from a non-involved person expressing an opinion or viewpoint on a specific application, interpretation request, appeal, petition for redress, investigation, or enforcement proceeding pending before FEA: *Provided*, That no Record Form shall be prepared for routine requests for information concerning the status of a matter, including, but not limited to, inquiries regarding when FEA actions were or may be taken, the identity of parties or staff personnel responsible for a matter, or the availability and location of public information concerning a matter.

(b) The form set forth below, entitled "Record of Outside Contact Form", shall be used in complying with the provisions of paragraph (a) of this section.

RECORD OF OUTSIDE CONTACT

(Identity of Application, Petition for Redress, Appeal, Interpretation Request, Investigation or Enforcement Proceeding Involved)

Name of Communicant_____
Organizations or Entities Represented_____

Date and time of Communication_____
Place or Method of Communication_____
Brief Summary of Subject Matter(s) Discussed:

Completed by:
Name _____
Office _____

(c) Completed Record Forms shall be placed in the appropriate subject matter or case file and shall thereafter become part of the public record, if and when a public record of that particular matter is established. If the communication concerns an appeal before the Office of Exceptions and Appeals, the completed Record Form shall be immediately transmitted to that Office where it shall be placed in the appropriate application or enforcement proceeding file: *Provided, however*, That such Record Forms shall be maintained separately from the materials upon which the Review Committee may rely in reaching a final decision.

§ 204.4 Preparation of meeting logs.

(a) The Administrator, the Deputy Administrator, the General Counsel, and all Assistant Administrators and Directors of FEA Offices shall maintain logs of their meetings with persons from outside the agency concerning FEA policy questions.

(b) The meeting logs prepared pursuant to paragraph (a) of this section shall reflect, at a minimum, the date and place of each meeting, the name of each participant in the meeting, the organizations or entities represented by each participant, and a brief summary of the subject matter or matters discussed.

§ 204.5 Public record of meetings.

(a) Within one week after the 15th and the end of each month, the Administrator, the Deputy Administrator, each Assistant Administrator, and the General Counsel shall submit to the Office of Public Affairs a list of all meetings that they have held with persons from outside FEA during the preceeding half-month period. The list shall contain the date of each meeting, the names of all participants, the entities represented, and the general subject discussed.

(b) The Office of Public Affairs shall make the lists prepared pursuant to paragraph (a) of this section available to the public, upon request, in its Public Reference Room. In addition, the Office of Public Affairs shall distribute copies of the lists to interested parties on a regular basis.

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

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AUTHORITY: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159; Federal Administration Act of 1974, Pub. L. 93-275; E.O. 11790, 39 FR 23185.

Subpart A—General Provisions

§ 205.1 Purpose and scope.

(a) This part establishes the procedures to be utilized and identifies the sanctions that are available in proceedings before the Federal Energy Administration and State Offices, in accordance with Parts 210, 211, 212, and 215 of this chapter.

(b) This subpart defines certain terms and establishes procedures that are applicable to each proceeding described in this part.

§ 205.2 Definitions.

The definitions set forth in other parts of this chapter shall apply to this part, unless otherwise provided. In addition, as used in this part, the term:

"Action" means an order, interpretation, notice of probable violation or ruling issued, or a rulemaking undertaken by the FEA or, as appropriate, by a State Office.

"Adjustment" means a modification of the base period volume or other measure of allocation entitlement in accordance with Part 211 of this chapter.

"Aggrieved", for purposes of administrative proceedings, describes and means a person with an interest sought to be protected under the FEAA or EPAA who is adversely affected by an order or interpretation issued by the FEA or a State Office.

"Appropriate Regional Office or appropriate State Office" means the office located in the State or FEA region in which the product will be physically delivered.

"Assignment" means an action designating that an authorized purchaser be supplied at a specified entitlement level by a specified supplier.

"Conference" means an informal meeting, incident to any proceeding, between FEA or State officials and any person aggrieved by that proceeding.

"Duly authorized representative" means a person who has been designated to appear before the FEA or a State Office in connection with a proceeding on behalf of a person interested in or aggrieved by that proceeding. Such appearance may consist of the submission of applications, petitions, requests, statements, memoranda of law, other documents, or of a personal appearance, verbal communication, or any other participation in the proceeding.

"EPAA" means the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159).

"Exception" means the waiver or modification of the requirements of a regulation, ruling or generally applicable requirement under a specific set of facts.

"Exemption" means the release from the obligation to comply with any part or parts, or any subpart thereof, of this chapter.

"FEA" means the Federal Energy Administration, created by the FEAA and includes the FEA National Office and Regional Offices.

"FEAA" means the Federal Energy Administration Act of 1974 (Pub. L. 93-275).

"Federal legal holiday" means New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Christmas Day, and any other day appointed as a national holiday by the President or the Congress of the United States.

"Interpretation" means a written statement issued by the FEA General Counsel or a Regional Counsel, in response to a written request, that applies the regulations, rulings, and other precedents previously issued by the FEA to the particular facts of a prospective or completed act or transaction.

"Notice of probable violation" means a written statement issued to a person by the FEA that states one or more alleged violations of the provisions of this chapter or any order issued pursuant thereto.

"Order" means a written directive or verbal communication of a written directive, if promptly confirmed in writing, issued by the FEA or a State Office. It may be issued in response to an application, petition or request for FEA action or in response to an appeal from an order, or it may be a remedial order or other directive issued by the FEA or a State Office on its own initiative. A notice of probable violation is not an order. For purposes of this definition a "written directive" shall include telegrams, telecopies and similar transcriptions.

"Person" means any individual, firm, estate, trust, sole proprietorship, partnership, association, company, joint-venture, corporation, governmental unit or instrumentality thereof, or a charitable, educational or other institution, and includes any officer, director, owner or duly authorized representative thereof.

"Proceeding" means the process and activity, and any part thereof, instituted by the FEA or a State Office, either on its own initiative or in response to an application, complaint, petition or request submitted by a person, that may lead to an action by the FEA or a State Office.

"Remedial order" means a directive issued by the FEA requiring a person to cease a violation or to eliminate or to compensate for the effects of a violation, or both.

"Ruling" means an official interpretative statement of general applicability issued by the FEA General Counsel and published in the FEDERAL REGISTER that applies the FEA regulations to a specific set of circumstances.

"State Office" means a State Office of Petroleum Allocation certified by the FEA upon application pursuant to Part 211 of this chapter.

Throughout this part the use of a word or term in the singular shall include the plural and the use of the male gender shall include the female gender.

§ 205.3 Appearance before the FEA or a State Office.

(a) A person may make an appearance, including personal appearances in the discretion of the FEA, and participate in any proceeding described in this part on his own behalf or by a duly authorized representative. Any application, appeal, petition, request or complaint filed by a duly authorized representative shall contain a statement by such person certifying that he is a duly authorized representative, unless an FEA form requires otherwise. Falsification of such certification will subject such person to the sanctions stated in 18 U.S.C. 1001 (1970).

(b) Suspension and disqualification: The FEA or a State Office may deny, temporarily or permanently, the privilege of participating in proceedings, including oral presentation, to any individual who is found by the FEA—

(1) To have made false or misleading statements, either verbally or in writing;

(2) To have filed false or materially altered documents, affidavits or other writings;

(3) To lack the specific authority to represent the person seeking an FEA or State Office action; or

(4) To have engaged in or to be engaged in contumacious conduct that substantially disrupts a proceeding.

§ 205.4 Filing of documents.

(a) Any document, including, but not limited to, an application, request, complaint, petition and other documents submitted in connection therewith, filed with the FEA or a State Office under this chapter is considered to be filed when it has been received by the FEA National Office, a Regional Office or a State Office. Documents transmitted to the FEA must be addressed as required by § 205.12. All documents and exhibits submitted become part of an FEA or a State Office file and will not be returned.

(b) Notwithstanding the provisions of paragraph (a) of this section, an appeal, a response to a denial of an appeal or application for modification or recision in accordance with §§ 205.106(a)(3) and 205.135(a)(3), respectively, a reply to a notice of probable violation, the appeal of a remedial order or remedial order for immediate compliance, a response to denial of a claim of confidentiality, or a comment submitted in connection with any proceeding transmitted by registered or certified mail and addressed to the appropriate office is considered to be filed upon mailing.

(c) Hand-delivered documents to be filed with the Office of Exceptions and Appeals shall be submitted to Room 8002 at 2000 M Street, NW., Washington, D.C. All other hand-delivered documents to be filed with the FEA National Office shall be submitted to the Executive Secretariat at 12th and Pennsylvania Avenue, NW., Washington, D.C. Hand-delivered documents to be filed with a Regional Office shall be submitted to the Office of the Regional Administrator. Hand-delivered documents to be filed with a State Office shall be submitted to the office of the chief executive officer of such office.

(d) Documents received after regular business hours are deemed filed on the next regular business day. Regular business hours for the FEA National Office are 8 a.m. to 4:30 p.m. Regular business hours for a Regional Office or a State Office shall be established independently by each.

§ 205.5 Computation of time.

(a) *Days.* (1) Except as provided in paragraph (b) of this section, in computing any period of time prescribed or allowed by these regulations or by an order of the FEA or a State Office, the day of the act, event, or default from which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday, or Federal legal holiday, in which event the period runs until the end of the next day that is neither a Saturday, Sunday, nor a Federal legal holiday.

(2) Saturdays, Sundays or intervening Federal legal holidays shall be excluded from the computation of time when the period of time allowed or prescribed is 7 days or less.

(b) *Hours.* If the period of time prescribed in an order issued by the FEA or a State Office is stated in hours rather than days, the period of time shall begin to run upon actual notice of such order, whether by verbal or written communication, to the person directly affected, and shall run without interruption, unless otherwise provided in the order, or unless the order is stayed, modified, suspended or rescinded. When a written order is transmitted by verbal communication, the written order shall be served as soon thereafter as is feasible.

(c) *Additional time after service by mail.* Whenever a person is required to perform an act, to cease and desist therefrom, or to initiate a proceeding under this part within a prescribed period of time after issuance to such person of an order, notice, interpretation or other document and the order, notice, interpretation or other document is served by mail, 3 days shall be added to the prescribed period.

§ 205.6 Extension of time.

When a document is required to be filed within a prescribed time, an extension of time to file may be granted by the office with which the document is required to be filed upon good cause shown.

§ 205.7 Service.

(a) All orders, notices, interpretations or other documents required to be served under this part shall be served personally or by registered or certified mail or by regular United States mail (only when service is effected by the FEA or a State Office), except as otherwise provided.

(b) Service upon a person's duly authorized representative shall constitute service upon that person.

(c) Service by registered or certified mail is complete upon mailing. Official United States Postal Service receipts from such registered or certified mailing shall constitute *prima facie* evidence of service.

§ 205.8 Subpoenas; witness fees.

(a) The Administrator of the FEA, his duly authorized agent, the FEA General Counsel, or the agency official designated to conduct a hearing or public hearing convened in accordance with Subpart M of this part may sign and issue subpoenas either on his own initiative or, upon an adequate showing that the information sought will materially advance the proceeding, upon the request of any person participating in that proceeding.

(b) A subpoena may require the attendance of a witness, or the production of documentary or other tangible evidence in the possession or under the control of the person served, or both.

(c) A subpoena may be served personally by any person who is not an interested person and is not less than 18 years of age, or by certified or registered mail.

(d) Service of a subpoena under the person named therein shall be made by delivering a copy of the subpoena to such person and by tendering the fees for one day's attendance and mileage as specified by paragraph (f) of this section. When a subpoena is issued at the instance of any officer or agency of the United States, fees and mileage need not be tendered at the time of service. Delivery of a copy of a subpoena and tender of the fees to a natural person may be made by handing them to the person, leaving them at his office with the person in charge thereof, leaving them at his dwelling place or usual place of abode with some person of suitable age and discretion then residing therein, by mailing them by registered or certified mail to him at his last known address, or by any method whereby actual notice is given to him and

the fees are made available prior to the return date. When the person to be served is not a natural person, delivery of a copy of the subpoena and tender of the fees may be effected by handing them to a registered agent for service, or to any officer, director, or agent in charge of any office of such person, or by mailing them by registered or certified mail to such representative at his last known address or by any method whereby actual notice is given to such representative and the fees are made available prior to the return date. If any person is an entity with offices and operations in more than one jurisdiction, such person may designate one address to which any subpoena may be served by filing such designation with the General Counsel at the address specified in § 205.12.

(e) The original subpoena bearing a certificate of service shall be filed with the FEA office with the responsibility for the proceeding in connection with which the subpoena was issued.

(f) A witness subpoenaed by the FEA shall be paid the same fees and mileage as would be paid to a witness in a proceeding in the district courts of the United States. The witness fees and mileage shall be paid by the person at whose instance the subpoena was issued.

(g) Notwithstanding the provisions of paragraph (f) of this section, and upon request, the witness fees and mileage shall be paid by the FEA when it is shown that:

(1) The presence of the subpoenaed witness will materially advance the proceeding; and

(2) The person at whose instance the subpoena was issued would suffer a serious hardship if required to pay the witness fees and mileage.

The designated FEA official issuing the subpoena shall make the determination required by this paragraph.

(h) (1) Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 10 days after the date of service of such subpoena, apply to the designated FEA official who issued the subpoena, or if he is unavailable, to the Administrator, to quash or modify such subpoena. The application shall contain a brief statement of the reasons relied upon in support of the action sought therein.

(2) The Administrator or such other designated FEA official specified in paragraph (h) (1) of this section may (i) deny the application, (ii) quash or modify the subpoena, or (iii) condition denial of the application to quash or modify the subpoena upon the satisfaction of certain just and reasonable requirements. Such denial may be summary.

(i) If there is a refusal to obey a subpoena served upon any person under the provisions of this section, the FEA may request the Attorney General to seek the aid of the District Court of the United States for any district in which such person is found to compel such person, after notice, to appear and give testimony, or to appear and produce the subpoenaed documents before the agency, or both.

§ 205.9 General filing requirements.

(a) *Purpose and scope.* The provisions of this section shall apply to all documents required or permitted to be filed with the FEA or with a State Office.

(b) *Signing.* All applications, petitions, requests, appeals, comments or any other documents that are required to be signed, shall be signed by the person filing the document or a duly authorized representative. Any application, appeal, petition, request, complaint or other document filed by a duly authorized representative shall contain a statement by such person certifying that he is a duly authorized representative, unless an FEA form otherwise requires. (A false certification is unlawful under the provisions of 18 U.S.C. 1001 (1970)).

(c) *Labeling.* An application, petition, or other request for action by the FEA or a State Office should be clearly labeled according to the nature of the action involved (*e.g.*, "Application for Assignment") both on the document and on the outside of the envelope in which the document is transmitted.

(d) *Obligation to supply information.* A person who files an application, petition, complaint, appeal or other request for action is under a continuing obligation during the proceeding to provide the FEA or a State Office with any new or newly discovered information that is relevant to that proceeding. Such information includes, but is not limited to, information regarding any other application, petition, complaint, appeal or request for action that is subsequently filed by that person with any FEA office or State Office.

(e) *The same or related matters.* A person who files an application, petition, complaint, appeal or other request for action by the FEA or a State Office shall state whether, to the best knowledge of that person, the same or related issue, act or transaction has been or presently is being considered or investigated by any FEA office, other Federal agency, department or instrumentality; or by a State Office, a state or municipal agency or court; or by any law enforcement agency; including, but not limited to, a consideration or investigation in connection with any proceeding described in this part. In addition, the person shall state whether contact has been made by the person or one acting on his behalf with any person who is employed by the FEA or any State Office with regard to the same issue, act or transaction or a related issue, act or transaction arising out of the same factual situation; the name of the person contacted; whether the contact was verbal or in writing; the nature and substance of the contact; and the date or dates of the contact.

(f) *Request for confidential treatment.* (1) If any person filing a document with the FEA or a State Office claims that some or all the information contained in the document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552 (1970)), is information referred to in 18 U.S.C. 1905 (1970), or is otherwise exempt by law from public disclosure, and if such person requests the FEA or a State Office not to disclose such information, such person shall file together with the document a second copy of the document from which has been deleted the information for which such person wishes to claim confidential treatment. The person shall indicate in the original document that it is confidential or contains confidential information and may file a statement specifying the justification for non-disclosure of the information for which confidential treatment is claimed. If the person states that the information comes within the exception in 5 U.S.C. 552(b) (4) for trade secrets and commercial or financial information, such person shall include a statement specifying why such information is privileged or confidential. If the person filing a document does not submit a second copy of the document with the confidential information deleted, the FEA or a State Office may assume that there is no objection to public disclosure of the document in its entirety.

(2) The FEA or a State Office retains the right to make its own determination with regard to any claim of confidentiality. Notice of the decision by the FEA or a State Office to deny such claim, in whole or in part, and an opportunity to respond shall be given to a person claiming confidentiality of information no less than five days prior to its public disclosure.

(g) *Separate applications, petitions or requests.* Each application, petition or request for FEA action shall be submitted as a separate document, even if the applications, petitions, or requests deal with the same or a related issue, act or transaction, or are submitted in connection with the same proceeding.

§ 205.10 Effective date of orders.

Any order issued by the FEA or a State Office under this chapter is effective as against all persons having actual notice thereof upon issuance, in accordance with its terms, unless and until it is stayed, modified, suspended, or rescinded. An order is deemed to be issued on the date, as specified in the order, on which it is signed by an authorized representative of the FEA or a State Office, unless the order provides otherwise.

§ 205.11 Order of precedence.

(a) If there is any conflict or inconsistency between the provisions of this part and any other provision of this chapter, the provisions of this part shall control with respect to procedure.

(b) Notwithstanding paragraph (a) of this section, Subpart I of Part 212 of this chapter shall control with respect to prenotification and reporting and Subpart J of Part 212 of this chapter shall control with respect to accounting and financial reporting requirements.

§ 205.12 Addresses for filing documents with the FEA.

(a) All applications, requests, petitions, appeals, reports, FEA or FEO forms, written communications and other documents to be submitted to or filed with the FEA National Office in accordance with this chapter shall be addressed as provided in this section. The FEA National Office has facilities for the receipt of transmissions via TWX and FAX. The FAX is a 3M full duplex 4 or 6 minute (automatic) machine.

FAX Numbers	*TWX Numbers*
(202) 254-6175	(701) 822-9454
(202) 254-6461	(701) 822-9459

(1) Documents for which a specific address and/or code number is not provided in accordance with paragraphs (2)-(7) below shall be addressed as follows: Federal Energy Administration, Attn: (name of person to receive document, if known, or subject), Washington, D.C. 20461.

(2) Documents to be filed with the Office of Exceptions and Appeals, as provided in this part or otherwise, shall be addressed as follows. Office of Exceptions and Appeals, Federal Energy Administration, Attn: (name of person to receive document, if known, and/or labeling as specified in § 205.9(c)), Washington, D.C. 20461.

(3) Documents to be filed with the Office of General Counsel, as provided in this part or otherwise, shall be addressed as follows: Office of the General Counsel, Federal Energy Administration, Attn: (name of person to receive document, if known, and/or labeling as specified in § 205.9(c)), Washington, D.C. 20461.

(4) Documents to be filed with the Office of Private Grievances and Redress, as provided in this part or otherwise, shall be addressed as follows: Office of Private Grievances and Redress, Federal Energy Administration, Attn: (name of person to receive document, if known and/or labeling as specified in § 205.9 (c)), Washington, D.C. 20461.

(5) All other documents filed, except those concerning price (see paragraph (a)(6) of this section), those designated as FEA or FEO forms (see paragraph (a)(7) of this section), and "Surplus Product Reports" (see paragraph (a)(8) of this section), but including those pertaining to compliance and allocation (adjustment and assignment) of allocated products, are to be identified by one of the code numbers stated below and addressed as follows: Federal Energy Administration, Code ——, labeling as specified in § 205.9(c), Washington, D.C. 20461.

CODE NUMBERS

Product:	*Code*
Crude oil	10
Naphtha and gas oil	15
Propane, butane and natural gasoline	25
Other products	30
Bunker fuel	40
Residual fuel (nonutility)	50
Motor gasoline	60
Middle distillates	70
Aviation fuels	80
Submissions by specific entities:	
Electric utilities	45
Department of Defense	55

(6) Documents pertaining to the price of covered products, except those to be submitted to other offices as provided in this part, shall be addressed to the Federal Energy Administration, Code 1000, Attn: (name of person to receive document, if known, and/or labeling as specified in § 205.9(c)), Washington, D.C. 20461.

(7) Documents designated as FEA or FEO forms shall be submitted in accordance with the instructions stated in the form.

(8) "Surplus Product Reports" shall be submitted to the Federal Energy Administration, Post Office Box 19407, Washington, D.C. 20036.

(b) All reports, applications, requests, notices, complaints, written communications and other documents to be submitted to or filed with an FEA Regional Office in accordance with this chapter shall be directed to one of the following addresses, as appropriate:

REGION 1

Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont; Regional Office, Federal Energy Administration, 150 Causeway Street, Boston, Massachusetts 02114.

REGION 2

New Jersey, New York, Puerto Rico, Virgin Islands; Regional Office, Federal Energy Administration, 26 Federal Plaza, New York, New York 10007.

REGION 3

Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia; Regional Office, Federal Energy Administration, Federal Office Building, 1421 Cherry Street, Philadelphia, Pennsylvania 19102.

REGION 4

Alabama, Canal Zone, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina; Regional Office, Federal Energy Administration, 1655 Peachtree Street NW., Atlanta, Georgia 30309.

REGION 5

Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin; Regional Office, Federal Energy Administration, 175 West Jackson Street, Chicago, Illinois 60604.

REGION 6

Arkansas, Louisiana, New Mexico, Oklahoma, Texas; Regional Office, Federal Energy Administration, 212 North Saint Paul Street, Dallas, Texas 75201.

REGION 7

Iowa, Kansas, Missouri, Nebraska; Regional Office, Federal Energy Administration, Federal Office Building, P.O. Box 15000, 112 East 12th Street, Kansas City, Missouri 64106.

REGION 8

Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming; Regional Office, Federal Energy Administration, Post Office Box 26247, Belmar Branch, Denver, Colorado 80226.

REGION 9

American Samoa, Arizona, California, Guam, Hawaii, Nevada, Trust Territory of the Pacific Islands; Regional Office, Federal Energy Administration, 111 Pine Street, San Francisco, California 94111.

REGION 10

Alaska, Idaho, Oregon, Washington; Regional Office, Federal Energy Administration, Federal Office Building, 909 First Avenue, Room 3098, Seattle, Washington 98104.

§ 205.13 Where to file.

(a) Except as otherwise specifically provided in other subparts of this part, all documents to be filed with the FEA pursuant to this part shall be filed with the appropriate FEA Regional Office, except that all documents shall be filed with the FEA National Office that relate to:

(1) The allocation and pricing of crude oil pursuant to Subpart C of Part 211 and Part 212 of this chapter;

(2) Refinery yield controls pursuant to Subpart C of Part 211 of this chapter;

(3) The allocation and pricing of butane and natural gasoline pursuant to Subpart E of Part 211 and Part 212 of this chapter;

(4) The allocation and pricing of aviation fuel pursuant to Subpart H of Part 211 and Part 212 of this chapter, filed by civil air carriers and public air carriers;

(5) The allocation and pricing of residual fuel oil pursuant to Subpart I of Part 211 and Part 212 of this chapter, filed by electric utilities;

(6) The allocation and pricing of naphtha and gas oil pursuant to Subpart J of Part 211 and Part 212 of this chapter;

(7) The allocation and pricing of other products pursuant to Subpart K of Part 211 and Part 212 of this chapter;

(8) An application for an exemption under Subpart E of this part; requests for a rulemaking proceeding under Subpart L of this part or for the issuance of a ruling under Subpart K of this part; and petitions to the Office of Private Grievances and Redress under Subpart R of this part;

(9) The pricing of products pursuant to Part 212 of this chapter, filed by a refiner; and

(10) The allocation of crude oil and other allocated products to meet Department of Defense needs pursuant to Part 211 of this chapter.

(b) Applications by end-users and wholesale purchasers for an allocation under the state set-aside system in accordance with § 211.17 shall be filed with the appropriate State Office.

(c) Applications to a State Office or an FEA Regional Office shall be directed to the office located in the state or region in which the allocated product will be physically delivered. An applicant doing business in more than one state or region must apply separately to each State or region in which a product will be physically delivered, unless the State Offices or Regional Offices involved agree otherwise.

§ 205.14 Ratification of prior directives, orders and actions.

All interpretations, orders, notices of probable violation or other directives issued, all proceedings initiated, and all other actions taken in accordance with Part 205 as it existed prior to the effec-

tive date of this amendment, are hereby confirmed and ratified, and shall remain in full force and effect as if issued under this amended Part 205, unless or until they are altered, amended, modified or rescinded in accordance with the provisions of this part.

§ 205.15 Public docket room.

There shall be established at the FEA National Office, 12th and Pennsylvania Avenue, NW., Washington, D.C., a public docket room in which shall be made available for public inspection and copying:

(a) A list of all persons who have applied for an exception, an exemption, or an appeal, and a digest of each application;

(b) Each decision and statement setting forth the relevant facts and legal basis of an order, with confidential information deleted, issued in response to an application for an exception or exemption or at the conclusion of an appeal;

(c) The comments received during each rulemaking proceeding, with a verbatim transcript of the public hearing if such a public hearing was held; and

(d) Any other information required by statute to be made available for public inspection and copying, and any information that the FEA determines should be made available to the public.

Subpart B—Adjustment

§ 205.20 Purpose and scope.

This subpart establishes the procedures for filing an application for an adjustment or a request for FEA validation of an adjustment as provided in Part 211, and the procedures for the consideration of such applications and requests by the FEA or a State Office, as appropriate.

§ 205.21 What to file.

(a) A person filing under this subpart shall file an "Application for Adjustment," which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

(b) An application shall be the appropriate FEA form. If such form is not current or available, the application shall consist of the information required in § 205.24(b).

(c) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in § 205.9 (f) shall apply.

§ 205.22 Where to file.

(a) A wholesale purchaser shall submit an application for adjustment to his supplier prior to its submission to the FEA. The supplier shall certify that to the best of the supplier's knowledge the information contained in the application is correct and accurate and, within 10 days of receipt of the application, shall file the certification and the application with the FEA office specified in § 205.13, at the address provided in § 205.12.

(b) If the supplier cannot make such certification, the supplier shall file the application and provide an explanation for the absence of the certification.

(c) A request for FEA validation of an application for adjustment for unusual growth in accordance with § 211.13(b) or increased current requirements in accordance with § 211.13(d) shall be filed with the appropriate Regional Office at the address provided in § 205.12. Such request for validation shall be made not sooner than ten days after the certification has been presented to the supplier.

§ 205.23 Notice.

(a) The FEA shall serve notice on any person readily identifiable by the FEA as one who will be aggrieved by the FEA action and may serve notice on any other person that written comments regarding the application for adjustment will be accepted if filed within 10 days of service of the notice; or may determine that notice should be published in the FEDERAL REGISTER.

(b) Any person submitting written comments to the FEA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9 (f), to the applicant. The person shall certify to the FEA that he has complied with the requirements of this paragraph. The FEA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 205.24 Contents.

(a) The application shall be the appropriate FEA form, which shall be completed in accordance with instructions that accompany the form. If there is not a current FEA form appropriate or available, the applicant shall file an application that contains the information required by paragraph (b) of this section.

(b) The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application and to the FEA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction; a description of the acts or transactions that would be affected by the requested action; and a full discussion of the pertinent provisions and facts contained in any relevant documents. Copies of all contracts, agreements, leases, instruments, and other documents relevant to the application shall be submitted to the FEA upon its request. When the application pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction shall be submitted. The application shall also include the following information:

(1) Description of applicant's business or end use of the product;

(2) The anticipated use of the product in applicant's operation, including the present and anticipated needs of priority customers, if applicable;

(3) An estimate of the anticipated effect that denial of the requested adjustment would have on the applicant's operations;

(4) A description of the extent to which the applicant has investigated the possibilities of converting to an alternative fuel or product, and the applicant's conclusion as to the feasibility of making that conversion;

(5) The identification of any previous order relevant to the present application that has been issued to the applicant or to any person who controls or is controlled by the applicant;

(6) A certification of the accuracy of the application by the chief executive officer of the applicant or his duly authorized representative; and

(7) A statement that the increased allocations shall be used only for the purpose stated in the application, shall not be diverted to other uses, and that if needs decline the applicant shall file an amended application for a downward adjustment to its base period use.

§ 205.25 FEA evaluation.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may solicit and accept submissions from third persons relevant to any application provided that the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application, the FEA may consider any other source of information. The FEA on its own initiative may convene a conference, if, in its discretion, it considers that such will advance its evaluation of the application.

(2) If the FEA determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the FEA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the FEA may dismiss the application with prejudice.

(b) *Criteria.* An application for adjustment will only be granted or validated in the circumstances permitted or required by Part 211 of this chapter. In considering such an application, the FEA will apply the criteria stated in § 4(b) of the EPAA.

§ 205.26 Decision and order.

(a) Upon consideration of the application or request and other relevant information received or obtained during the proceeding, the FEA shall issue an appropriate order.

(b) The order shall include a brief written statement summarizing the factual and legal basis upon which the order was issued. The order shall provide that any person aggrieved thereby may file an appeal with the FEA Office of Exceptions and Appeals or the appro-

priate Regional Office in accordance with Subpart H of this part.

(c) The FEA shall serve a copy of the order upon the applicant and any other person who participated in the proceeding and upon any other person readily identifiable by the FEA as one who is aggrieved by such order.

§ 205.27 Timeliness.

If the FEA fails to take action on any application filed under this subpart within 90 days of filing, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart.

§ 205.28 Appeal.

Any person aggrieved by an order issued by the FEA under this subpart may file an appeal with the FEA Office of Exceptions and Appeals or with the appropriate Regional Office in accordance with Subpart H of this part. The appeal shall be filed within 30 days of service of the order from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Subpart C—Assignment

§ 205.30 Purpose and scope.

This subpart establishes the procedures for the filing of an application for an assignment, other than an application for assignment under the state set-aside system as provided in Subpart Q of this part.

§ 205.31 What to file.

(a) A person filing under this subpart shall file an "Application for Assignment" or an "Application for Temporary Assignment" as provided in § 205.39, which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

(b) An application shall be the appropriate FEA form. If such form is not available, the application shall consist of the information required in § 205.34(b).

(c) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in § 205.9(f) shall apply.

§ 205.32 Where to file.

(a) Except as provided in paragraph (b), all applications for assignment shall be filed with the office specified in § 205.13, at the address provided in § 205.12.

(b) All applications for assignment by a new end-user who cannot agree on an allocation requirement with his supplier or who cannot locate a supplier shall be filed with the appropriate State Office.

§ 205.33 Notice.

(a) The FEA shall serve notice on any person readily identifiable by the FEA as one who will be aggrieved by the FEA action and may serve notice on any other person that written comments regarding the application for assignment will be accepted if filed within 10 days of service of the notice; or may determine that notice should be published in the FEDERAL REGISTER.

(b) Any person submitting written comments to the FEA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to the applicant. The person shall certify to the FEA that it has complied with the requirements of this paragraph. The FEA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 205.34 Contents.

(a) The application shall be the appropriate FEA form, which shall be completed in accordance with the instructions that accompany the form. If there is not a current FEA form appropriate or available, the applicant shall file an application that contains the information required by paragraph (b) of this section.

(b) The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application and to the FEA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction; a description of the acts or transactions that would be affected by the requested action; and a full discussion of the pertinent provisions and facts contained in any relevant documents. Copies of all contracts, agreements, leases, instruments, and other documents relevant to the application shall be submitted to the FEA upon its request. When the application pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction shall be submitted. In addition to such information, the applicant shall include the following information:

(1) Description of applicant's business;

(2) The anticipated use of the allocated product in applicant's operation, including present and anticipated needs of priority customers, if applicable;

(3) An estimate of the anticipated effect that denial of the requested assignment would have on the applicant's operation;

(4) A description of the extent to which the applicant has investigated the possibilities of converting to an alternative fuel or product, and the applicant's conclusion as to the feasibility of making such conversion;

(5) A description of applicant's efforts to find other suppliers;

(6) The identification of any previous assignment order relevant to the present application that has been issued to the applicant or to any person that controls or is controlled by the applicant.

(7) A statement as to whether the applicant had no supplier during the requisite base period, or as to whether the applicant's base period supplier or new supplier is unable to supply his requirements;

(8) The identification of any persons who will be aggrieved by the FEA action sought, including potential suppliers; and

(9) Wholesale purchasers shall provide documentary evidence justifying its proposed base period volume as normal and reasonable for its intended use.

§ 205.35 FEA evaluation.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may solicit and accept submissions from third persons relevant to any application provided that the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application, the FEA may consider any other source of information. The FEA on its own initiative may convene a conference, if, in its discretion, it considers that a conference will advance its evaluation of the application.

(2) If the FEA determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the FEA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the FEA may dismiss the application with prejudice.

(b) *Criteria.* (1) An application for assignment may be granted in the situations specified in Part 211 of this chapter when such assignment will assure an allocation that to the maximum extent possible provides for—

(i) The protection of public health, safety, and welfare, (including maintenance of residential heating, such as individual homes, apartments, and similar occupied dwelling units) and the national defense;

(ii) Maintenance of all public services (including facilities and services provided by municipally, cooperatively, or investor owned utilities or by any State or local government or authority, and including transportation facilities and services which serve the public at large);

(iii) Maintenance of agricultural operations, including farming, ranching, dairy, and fishing activities, and services directly related thereto;

(iv) Preservation of an economically sound and competitive petroleum industry; including the priority needs to restore and foster competition in the producing, refining, distribution, marketing, and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners, small refiners, non-branded independent mar-

keters, and branded independent marketers;

(v) The allocation of suitable types, grades, and quality of crude oil to refineries in the United States to permit such refineries to operate at full capacity;

(vi) Equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refiners, small refiners, non-branded independent marketers, branded independent marketers, and among all users;

(vii) Allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of, exploration for, and production or extraction of, fuels, and for required transportation related thereto;

(viii) Economic efficiency; and

(ix) Minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms.

(2) In the assignment of a base period volume to a wholesale purchaser, as defined in § 211.51, the FEA also shall consider the criteria provided in Part 211 of this chapter and FEA guidelines, rulings and decisions on appeal.

(3) In connection with the assignment of a supplier or a base period volume to a person planning to construct a synthetic natural gas plant after May 1, 1974, or to expand an existing one, the FEA also shall consider the criteria provided in § 211.29 of this chapter and FEA guidelines, rulings and decisions on appeal.

(4) In selecting a supplier for an assignment, the FEA shall consider the goal of equalizing allocation fractions among suppliers and the capability of the supplier to provide the product to an applicant on short notice.

(c) If an assignment is sought in connection with circumstances not referred to in Part 211 of this chapter, application for an exception should be filed with the FEA Office of Exceptions and Appeals at the address provided in § 205.12.

§ 205.36 Decision and order.

(a) Upon consideration of the application and other relevent information received or obtained during the proceeding, the FEA shall issue an appropriate order. The order shall state the duration of the assignment, which may be for the duration of the allocation program or for any lesser period specified therein.

(b) The order shall include a brief written statement summarizing the factual and legal basis upon which the order was issued. The order shall provide that any person aggrieved thereby may file an appeal with the FEA Office of Exceptions and Appeals or the appropriate Regional Office in accordance with Subpart H of this part.

(c) Prior to issuance of an assignment order, the FEA shall contact the proposed supplier for the purpose of determining the accuracy of the facts upon which it intends to base the proposed assignment order and the impact such order may have upon the proposed supplier's operations, and to give the supplier a reasonable opportunity to comment on the proposed order. To the extent a proposed supplier's comments present facts or other information that materially differs from those in the application, the applicant shall be advised and given an opportunity to respond verbally. The notice and comment provided herein may be in writing if time permits.

(d) The FEA shall serve a copy of the order upon the person who thereby will be directed to supply the product or to establish a base period volume, the applicant and upon any other person readily identifiable by the FEA as one who is aggrieved by said order.

§ 205.37 Timeliness.

(a) If the FEA fails to take action on any application filed under this subpart within 90 days of filing, the applicant may treat the application as having been denied in all respect and may appeal therefrom as provided in this subpart.

(b) Notwithstanding the provisions of paragraph (a) of this section, if the FEA fails to take action on any application recommended for approval by a State Office pursuant to Subpart Q of this part within 30 days of receipt of such application by the FEA, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart.

§ 205.38 Appeal.

(a) Any person aggrieved by an order issued by the FEA under this subpart may file an appeal with the FEA Office of Exceptions and Appeals or with the appropriate Regional Office in accordance with Subpart H of this part. The appeal shall be filed within 30 days of service of the order from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

(b) If an appeal is filed in connection with the issuance of an temporary assignment order in accordance with § 205.39, and subsequent to such appeal an assignment order from which said person also appeals is issued to the recipient of the temporary assignment order, the appeal from both the temporary assignment order and the subsequent assignment order shall be consolidated and considered in the same appellate proceeding.

§ 205.39 Temporary assignment.

(a) In certain circumstances and upon receipt of an application from a wholesale purchaser-reseller, other than one who requires an assignment to supply wholesale purchaser-consumers or end-users experiencing hardship or emergency, the FEA may issue a temporary assignment order to certain wholesale purchaser-resellers. End-users, wholesale purchaser-consumers and wholesale purchaser-resellers supplying end-users and wholesale purchaser-consumers experiencing hardship or emergency requirements shall apply to the appropriate State Office for an assignment from the state set-aside system, in accordance with Subpart Q of this part for emergency or hardship requirements. The ordering of a temporary assignment shall occur only in dire circumstances and when it is not feasible to issue an assignment order that conforms to the FEA guidelines, including, but not limited to, the requirement that assignment orders for a month be issued, to the maximum extent possible, by the 15th of the preceding month. Temporary assignments are intended to be issued when circumstance do not permit the issuance of an assignment order in the normal time period, *i.e.*, prior to the 15th day of the month preceeding the month for which there is the requirement for the assignment. Thus, a temporary assignment is an "off-phase" order. The "Application for Temporary Assignment" is to conform to the requirements of § 205.34, except that such requirements may be waived in whole or in part by the FEA for good cause shown. The application shall fully describe why the assignment must be made out of phase with the normal issuance of assignment orders. A temporary assignment order shall have a duration of not longer than 60 days. It is intended that a temporary assignment order shall be a one-time order that pertains to a specific situation, and it may not be extended by issuance of another temporary assignment order. If the applicant anticipates the requirement for an assignment of longer than 60 days duration, he shall file contemporaneously with the application for a temporary assignment, or as soon thereafter as feasible, an "Application for Assignment."

(b) A temporary assignment order shall conform to the requirements of § 205.35 and shall be issued only upon a finding that circumstances do not permit issuance of an assignment on-phase with the processing of assignment orders in accordance with FEA guidelines, which finding shall be stated in the order.

(c) The supplier selected shall be given notice of the temporary assignment order at least 24 hours in advance of its issuance.

(d) A temporary assignment order shall be appealable in accordance with § 205.38.

Subpart D—Exception

§ 205.50 Purpose and scope.

(a) This subpart establishes the procedures for applying for an exception from a regulation, ruling or generally applicable requirement based on an assertion of serious hardship or gross inequity and for the consideration of such application by the FEA.

(b) A request for an interpretation or other specific action which includes, or could be construed to include, an application for an exception may be treated solely as a request for an interpretation or other action, and processed as such by FEA.

(c) The filing of an appliction for an exception shall not constitute grounds for non-compliance with the requirements of the regulation, ruling or generally applicable requirement from which

an exception is sought, unless a stay has been issued in accordance with Subpart I of this part.

§ 205.51 What to file.

(a) A person filing under this subpart shall file an "Application for Exception," which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

(b) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in § 205.9(f) shall apply.

§ 205.52 Where to file.

(a) Except as provided in paragraph (b) of this section, all applications for exception shall be filed with the Office of Exceptions and Appeals at the address provided in § 205.12.

(b) All applications for exception to Part 212 that relate to the retail sale of motor gasoline, heating oil, diesel fuel, or propane shall be filed with the appropriate Regional Office at the address provided in § 205.12.

§ 205.53 Notice.

(a) The applicant shall send by United States mail a copy of the application and any subsequent amendments or other documents relating to the application, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to each person who is reasonably ascertainable by the applicant as a person who will be aggrieved by the FEA action sought. The copy of the application shall be accompanied by a statement that the person may submit comments regarding the application to the FEA office with which the application was filed within 10 days. The application filed with the FEA shall include certification to the FEA that the applicant has complied with the requirements of this paragraph and shall include the names and addresses of each person to whom a copy of the application was sent.

(b) Notwithstanding the provisions of paragraph (a) of this section, if an applicant determines that compliance with paragraph (a) of this section would be impracticable, the applicant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and practicable to notify; and

(2) Include with the application a description of the persons or class or classes of persons to whom notice was not sent.

The FEA may require the applicant to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the FEDERAL REGISTER.

(c) The FEA shall serve notice on any other person readily identifiable by the FEA as one who will be aggrieved by the FEA action sought and may serve notice on any other person that written comments regarding the application will be accepted if filed within 10 days of service of such notice.

(d) Any person submitting written comments to the FEA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to the applicant. The person shall certify to the FEA that he has complied with the requirements of this paragraph. The FEA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

(e) At regular intervals, the FEA shall publish a list of all persons who have applied for an exception under this subpart, with a brief description of the factual situation and the relief requested.

§ 205.54 Contents.

(a) The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application and to the FEA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction; a description of the acts or transactions that would be affected by the requested action; and a full discussion of the pertinent provisions and relevant facts contained in the documents submitted with the application. Copies of all relevant contracts, agreements, leases, instruments, and other documents shall be submitted with the application. When the application pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction shall be submitted.

(b) The applicant shall state whether he requests or intends to request that there be a conference or hearing regarding the application. Any request not made at the time the application is filed shall be made as soon thereafter as possible, to insure that the conference or hearing is held when it will be most beneficial. The request and the FEA's determination regarding it shall be made in accordance with Subpart M of this part.

(c) The application shall include a discussion of all relevant authorities, including, but not limited to, FEA rulings, regulations, interpretations and decisions on appeals and exceptions relied upon to support the particular action sought therein.

(d) The application shall specify the exact nature and extent of the relief requested.

§ 205.55 FEA evaluation.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may solicit and accept submissions from third persons relevant to any application provided that the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application, the FEA may consider any other source of information. The FEA on its own initiative may convene a hearing or conference, if, in its discretion, it considers that such hearing or conference will advance its evaluation of the application.

(2) If the FEA determines that there is insufficient information upon which to base a decision and if upon request additional information is not submitted by the applicant, the FEA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the FEA may dismiss the application with prejudice. If the applicant fails to provide the notice required by § 205.53, the FEA may dismiss the application without prejudice.

(b) *Criteria.* (1) The FEA shall only consider an application for an exception when it determines that a more appropriate proceeding is not provided by this part.

(2) An application for an exception may be granted to alleviate or prevent serious hardship or gross inequity.

(3) An application for an exception shall be decided in a manner that is, to the extent possible, consistent with the disposition of previous applications for exception.

(4) With regard to an exception from the provisions of Part 215 of this chapter, the criteria shall be those provided in such part.

§ 205.56 Decision and order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, the FEA shall issue an order granting or denying the application.

(b) The order shall include a written statement setting forth the relevant facts and the legal basis of the order. The order shall provide that any person aggrieved thereby may file an appeal with the FEA Office of Exceptions and Appeals or the appropriate Regional Office in accordance with Subpart H of this part.

(c) The FEA shall serve a copy of the order upon the applicant, any other person who participated in the proceeding and upon any other person readily identifiable by the FEA as one who is aggrieved by such order. A copy of each order, with such modification as is necessary to insure the confidentiality of information protected from disclosure under 18 U.S.C. 1905 and 5 U.S.C. 552, will be on file in the public docket room described in § 205.15. If such copy contains information that has been claimed by an applicant or other person to be confidential, notice of the FEA's intention to place a copy in the docket room and an opportunity to respond shall be given to such person no less than five days prior to its placement in such room. The Office of Exceptions and Appeals

shall publish periodically a digest of all orders issued.

§ 205.57 Timeliness.

(a) When the FEA has received all substantive information deemed necessary to process any application filed under this subpart, the FEA shall serve notice of that fact upon the applicant and all other persons who received notice of the proceeding pursuant to the provisions of § 205.53; and if the FEA fails to take action on the application within 90 days of serving such notice, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart.

(b) Notwithstanding the provisions of paragraph (a) of this section, if the FEA fails to take action on the application within 150 days from the filing of the application, the applicant may treat it as having been denied in all respects and may appeal therefrom as provided in this subpart.

§ 205.58 Appeal.

Any person aggrieved by an order issued by the FEA under this subpart may file an appeal with the FEA Office of Exceptions and Appeals or with the appropriate Regional Office in accordance with Subpart H of this part. The appeal must be filed within 30 days of service of the order from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of this part and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Subpart E—Exemption

§ 205.70 Purpose and scope.

This subpart establishes the procedures for filing an application for exemption and the consideration of such by the FEA. The applicant must be seeking an exemption from no less than an entire part, or subpart thereof, of this chapter. This subpart does not include the procedures for exemption of a product as provided in section 4(g) of the EPAA.

§ 205.71 Procedures.

(a) An exemption may be effected only by amendment to the regulations. Although an application for an exemption is a request for a rulemaking, the application is not subject to the procedures of Subpart L. If a rulemaking proceeding is convened, however, it shall be held in accordance with Subpart L.

(b) An application for an exemption shall be submitted separate and apart from any other application, appeal, petition or other request submitted in accordance with this part. If an application for exemption is included with any other application, appeal, petition, or other request, the application for exemption will not be processed, nor will it be severed for separate consideration.

§ 205.72 What to file.

A person filing under this subpart shall file an "Application for Exemption," which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

§ 205.73 Where to file.

An application for exemption shall be filed with the Office of Private Grievances and Redress at the address provided in § 205.12.

§ 205.74 Contents.

The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application and to the FEA action sought. The application shall identify the part or parts, or subparts thereof, of this chapter from which the exemption is sought; describe the business or other reason that would justify such exemption; identify the persons or classes of persons and acts or transactions that would be affected by such exemption and describe any adverse impact; describe the benefit to the person making the application, or others, that would result if the exemption were effected; and explain the reasons why the action sought by the application cannot be accomplished by any other proceeding provided in this part. Upon request, the applicant shall submit copies of relevant contracts, agreements, leases, instruments, and other documents that are representative of those that would be affected by the granting of the requested exemption.

§ 205.75 FEA evaluation.

(a) *Processing.* All applications for exemption shall be evaluated by FEA to determine if the institution of rulemaking is warranted and if the FEA action sought by the application could more appropriately be considered in any other proceeding provided by this part.

(b) *Criteria.* (1) Rulemaking proceedings for the purpose of considering an application for exemption will be instituted only if the FEA in its discretion determines that such a proceeding would be appropriate. Among the factors that the FEA will evaluate in making a determination with respect to a rulemaking are—

(i) The impact that granting the exemption would have on the regulatory scheme and objectives;

(ii) The number of persons who would be exempted; and

(iii) The economic justification for such exemption.

(2) The FEA may summarily deny an application for exemption if—

(i) The exemption sought is not from a part or parts, or a subpart thereof, of this chapter;

(ii) The granting of an exemption to the person making the application would not have sufficient national impact, economic or otherwise, to warrant rulemaking proceedings for the purpose of considering an amendment to the regulation;

(iii) It is determined that the statutory criteria cannot be met; or

(iv) It is determined that another proceeding provided by this part is more appropriate.

§ 205.76 Decision and order.

(a) Upon consideration of the application and other relevant information obtained during the proceeding, the FEA shall issue an appropriate order. If the application is not denied, the order shall provide for publication of a notice of proposed rulemaking regarding the application in the FEDERAL REGISTER.

(b) The order shall include a written statement setting forth the relevant facts and legal basis for the decision. The order denying the application shall state that any person aggrieved thereby may file an appeal with Office of Exceptions and Appeals in accordance with Subpart H of this part.

§ 205.77 Timeliness.

(a) If the FEA fails to take action on any application filed under this subpart within 90 days of filing, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart.

§ 205.78 Appeal.

Any person aggrieved by an order issued by the FEA under this subpart that denies an application for exemption may file an appeal with the Office of Exceptions and Appeals in accordance with Subpart H of this part. The appeal must be filed within 30 days of service of the order from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Subpart F—Interpretation

§ 205.80 Purpose and scope.

(a) This subpart establishes the procedures for the filing of a formal request for an interpretation and for the consideration of such request by the FEA. Interpretations shall be in writing and shall only be issued by the FEA General Counsel or by a Regional Counsel. Responses, which may include verbal or written responses to general inquiries or to other than formal written requests for interpretation filed with the General Counsel or a Regional Counsel are not interpretations and merely provide general information.

(b) A request for interpretation that includes, or could be construed to include an application for an exception or an exemption may be treated solely as a request for interpretation and processed as such.

§ 205.81 What to file.

(a) A person filing under this subpart shall file a "Request for Interpretation," which should be clearly labeled as such both on the request and on the outside of the envelope in which the request is transmitted, and shall be in writing and signed by the person filing

the request. The person filing the request shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

(b) If the person filing the request wishes to claim confidential treatment for any information contained in the request or other documents submitted under this subpart, the procedures set out in § 205.9(f) shall apply.

§ 205.82 Where to file.

A request for interpretation shall be filed with the General Counsel or with the appropriate Regional Counsel at the address provided in § 205.12.

§ 205.83 Contents.

(a) The request shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the request and to the FEA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable) and a full discussion of the pertinent provisions and relevant facts contained in the documents submitted with the request. Copies of all relevant contracts, agreements, leases, instruments, and other documents shall be submitted with the request. When the request pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction must be submitted.

(b) The request for interpretation shall include a discussion of all relevant authorities, including, but not limited to, FEA rulings, regulations, interpretations and decisions on appeals and exceptions relied upon to support the particular interpretation sought therein.

§ 205.84 FEA evaluation.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in a request and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may accept submissions from third persons relevant to any request for interpretation provided that the person making the request is afforded an opportunity to respond to all third person submissions. In evaluating a request for interpretation, the FEA may consider any other source of information. The FEA on its own initiative may convene a conference, if, in its discretion, it considers that such conference will advance its evaluation of the request.

(2) The FEA shall issue its interpretation on the basis of the information provided in the request, unless that information is supplemented by other information brought to the attention of the General Counsel or a Regional Counsel during the proceeding. The interpretation shall, therefore, depend for its authority on the accuracy of the factual statement and may be relied upon only to the extent that the facts of the actual situation correspond to those upon which the interpretation was based.

(3) If the FEA determines that there is insufficient information upon which to base a decision and if upon request additional information is not submitted by the person requesting the interpretation, the FEA may refuse to issue an interpretation.

(b) *Criteria.* (1) The FEA shall base an interpretation on the FEAA and EPAA and the regulations and published rulings of the FEA as applied to the specific factual situation.

(2) The FEA shall take into consideration previously issued interpretations dealing with the same or a related issue.

§ 205.85 Decision and effect.

(a) Upon consideration of the request for interpretation and other relevant information received or obtained during the proceeding, the General Counsel or a Regional Counsel shall issue a written interpretation.

(b) The interpretation shall contain a statement of the information upon which it is based and a legal analysis of and conclusions regarding the application of rulings, regulations and other precedent to the situation presented in the request.

(c) Only those persons to whom an intrepretation is specifically addressed and other persons upon whom the FEA serves the interpretation and who are directly involved in the same transaction or act may rely upon it. No person entitled to rely upon an interpretation shall be subject to civil or criminal penalties stated in Suppart P of this part for any act taken in reliance upon the interpretation, notwithstanding that the interpretation shall thereafter be declared by judicial or other competent authority to be invalid.

(d) An interpretation may be rescinded or modified at any time. Rescission or modification may be effected by notifying persons entitled to rely on the interpretation that it is rescinded or modified. This notification shall include a statement of the reasons for the recission or modification and, in the case of a modification, a restatement of the interpretation as modified.

(e) An interpretation is modified by a subsequent amendment to the regulations or ruling to the extent that it is inconsistent with the amended regulation or ruling.

§ 205.86 Appeal.

Any person aggrieved by an interpretation issued by the FEA, whether by the General Counsel or a Regional Counsel, under this subpart may file an appeal with the FEA Office of Exceptions and Appeals in accordance with Subpart H of this part. The appeal must be filed within 30 days of service of the interpretation from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of this part and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Subpart G—Other Proceedings

§ 205.90 Purpose and scope.

This subpart establishes the procedures for the filing of such other applications, petitions, or requests as may be required or permitted from time to time under the provisions of this chapter, but does not supplant any procedures presently provided for in this part, including petitions to the Office of Private Grievances and Redress filed in accordance with Subpart R of this part. This subpart specifically provides for applications by motor gasoline retail sales outlets in accordance with the provisions of § 211.106 and petitions to use multiple allocation fractions in accordance with the provisions of § 211.10(b) of this chapter.

§ 205.91 What to file.

(a) A person filing under this subpart shall file an "Application (petition or request, if applicable) for (identify action requested)," which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

(b) If the person wishes to claim confidential treatment for any information contained in the application, petition, request, or other documents submitted under this subpart, the procedures set out in § 205.9(f) shall apply.

§ 205.92 Where to file.

(a) All applications, petitions or requests not described in other subparts of this part shall be filed in accordance with any FEA forms and instructions that relate thereto. If no such forms and instructions have been issued by the FEA, all such applications, petitions or requests shall be filed with the FEA office specified in § 205.13, at the address provided in § 205.12.

(b) An application by a motor gasoline retail sales outlet in accordance with the provisions § 211.106 shall be filed with the Regional Office for the region in which the retail sales outlets are located. Applications which involve retail sales outlets located in more than one region shall be filed with the appropriate Regional Office in each affected region.

(c) An application to use multiple allocation fractions in accordance with the provisions of § 211.10(b) shall be filed with the FEA National Office at the address provided in § 205.12.

§ 205.93 Contents.

(a) Any application, petition or request filed under this subpart shall contain all the information that the FEA by regulation, ruling, form or other instruction may require.

(b) An application by a motor gasoline retail sales outlet in accordance with § 211.106 of this chapter shall conform to the requirements of FEA Ruling 1974–13 and any future amendments to or modifications of that ruling.

§ 205.94 FEA evaluation.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in an application, petition or request and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may solicit and accept submissions from third persons relevant to any application, petition or request provided that the person who filed is afforded an opportunity to respond to all third person submissions. In evaluating an application, petition or request, the FEA may consider any other source of information. The FEA on its own initiative may convene a conference, if, in its discretion, it considers that such conference will advance its evaluation of the application, petition or request.

(2) If the FEA determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the FEA may dismiss the application, petition or request without prejudice. If the failure to supply additional information is repeated or willful, the FEA may dismiss the application, petition or request with prejudice.

(b) *Criteria.* In considering an application, petition or request, the FEA will apply the criteria stated in any FEA regulation, ruling, form or instruction that relates to such application, petition or request.

§ 205.95 Decision and order.

(a) Upon consideration of the application, petition or request and other relevant information received or obtained during the proceeding, if FEA action is required, the FEA shall issue an appropriate order.

(b) The order shall include a written statement setting forth the relevant facts and the legal basis of the order. The order shall provide that any person aggrieved thereby may file an appeal with the FEA Office of Exceptions and Appeals or the appropriate Regional Office in accordance with Subpart H of this part.

(c) The FEA shall serve a copy of the order upon the person who filed and any other person who participated in the proceeding and may serve a copy of the order upon any person who is readily identifiable as one who is aggrieved by said order.

§ 205.96 Timeliness.

If the FEA fails to take action on any application filed under this subpart within 90 days of filing, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart.

§ 205.97 Appeal.

Any person aggrieved by an order issued by the FEA under this subpart may file an appeal with the FEA Office of Exceptions and Appeals or with the appropriate Regional Office in accordance with Subpart H of this part. The appeal shall be filed within 30 days of service of the order from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H of this part and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Subpart H—Appeal

§ 205.100 Purpose and scope.

(a) This subpart establishes the procedures for the filing of an administrative appeal of FEA actions taken under Supparts B, C, D, E, F, G, or O of this part or Subpart I of Part 212 and the consideration of such appeal by the FEA. Appeals of orders issued by State Offices shall be in accordance with Subpart R.

(b) A person who has appeared before the FEA in connection with a matter arising under Subparts B, C, D, E, F, G or O of this part or Subpart I of Part 212 has not exhausted his administrative remedies until an appeal has been filed under this subpart and an order granting or denying the appeal has been issued.

§ 205.101 Who may file.

Any person aggrieved by an order or interpretation issued by the FEA under Subpart B, C, D, E, F, G or O of this part or Subpart I of Part 212 may file an appeal under this subpart.

§ 205.102 What to file.

(a) A person filing under this subpart shall file an "Appeal of Order" or an "Appeal of Interpretation," which should be clearly labeled as such both on the appeal and on the outside of the envelope in which the appeal is transmitted, and shall be in writing and signed by the person filing the appeal. The appellant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

(b) If the appellant wishes to claim confidential treatment for any information contained in the appeal or other documents submitted under this subpart, the procedures set out in § 205.9(f) shall apply.

§ 205.103 Where to file.

(a) When the order upon which the appeal is based was issued by the FEA National Office, the appeal shall be filed with the Office of Exceptions and Appeals at the address provided in § 205.12.

(b) When the order upon which the appeal is based was issued by a Regional Office, the appeal shall be filed with that Regional Office at the address provided in § 205.12.

(c) When the appeal is based upon an interpretation, whether issued by the General Counsel or a Regional Counsel, the appeal shall be filed with the Office of Exceptions and Appeals of the address provided in § 205.12.

§ 205.104 Notice.

(a) The appellant shall send by United States mail a copy of the appeal and any subsequent amendments or other documents relating to the appeal, or a copy from which confidential information has been deleted in accordance with § 205.9 (f), to each person who is reasonably ascertainable by the appellant as a person who will be aggrieved by the FEA action sought, including those who participated in the prior proceeding. The copy of the appeal shall be accompanied by a statement that the person may submit comments regarding the appeal to the FEA office with which the appeal was filed within 10 days. The appeal filed with the FEA shall include certification to the FEA that the appellant has complied with the requirements of this paragraph and shall include the names and addresses of each person to whom a copy of the appeal was sent.

(b) Notwithstanding the provisions of paragraph (a) of this section, if an appellant determines that compliance with paragraph (a) of this section would be impracticable, the appellant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and possible to notify; and

(2) Include with the appeal a description of the persons or class or classes of persons to whom notice was not sent.

The FEA may require the appellant to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the FEDERAL REGISTER.

(c) The FEA shall serve notice on any other person readily identifiable by the FEA as one who will be aggrieved by the FEA action sought and may serve notice on any other person that written comments regarding the appeal will be accepted if filed within 10 days of service of that notice.

(d) Any person submitting written comments to the FEA with respect to an appeal filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to the appellant. The person shall certify to the FEA that it has complied with the requirements of this paragraph. The FEA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 205.105 Contents.

(a) The appeal shall contain a concise statement of grounds upon which it is brought and a description of the relief sought. It shall include a discussion of all relevant authorities, including, but not limited to, FEA rulings, regulations, interpretations and decisions on appeals and exceptions relied upon to support the appeal. If the appeal includes a request for relief based on significantly changed circumstances, there shall be a complete description of the events, acts, or transactions that comprise the significantly changed circumstances, and the appellant shall state why, if the significantly changed circumstance is new or newly discovered facts, such facts were not or could not have been presented during the prior proceeding. For purposes of this subpart, the term "significantly changed circumstances" shall mean—

(1) The discovery of material facts that were not known or could not have been known at the time of the prior proceeding;

(2) The discovery of a law, regulation, interpretation, ruling, order or decision on an appeal or an exception that was in effect at the time of the proceeding upon which the order or interpretation is based and which, if such had been made known to FEA, would have been relevant to the proceeding and would have substantially altered the outcome; or

(3) A substantial change in the facts or circumstances upon which an outstanding and continuing order or interpretation affecting the appellant was issued, which change has occurred during the interval between issuance of the order or interpretation and the date of the appeal and was caused by forces or circumstances beyond the control of the appellant.

(b) A copy of the order or interpretation that is the subject of the appeal shall be submitted with the appeal.

(c) The appellant shall state whether to the best of his knowledge the same or a related issue, act or transaction that is the subject of the appeal has been or presently is being considered or investigated by any FEA office, other Federal agency, department or instrumentality; or by a State Office, a state or municipal agency or court, or by any law enforcement agency; including, but not limited to, a consideration or investigation in connection with an FEA proceeding described in this part, other than the proceeding from which the appeal is taken. In addition, the appellant shall state whether contact has been made by the appellant or one acting on his behalf with any person who is employed by the FEA or any State Office subsequent to service of the order or interpretation that is being appealed with regard to the issue, act or transaction that is the subject of the appeal; the name of the person contacted; whether the contact was verbal or in writing; the nature and substance of the contact; and the date or dates of the contact. An appellant shall comply with this paragraph in lieu of § 205.9(e)).

(d) The appellant shall state whether he requests or intends to request that there be a conference or hearing regarding the appeal. Any request not made at the time the appeal is filed shall be made as soon thereafter as possible, to insure that the conference or hearing is held when it will be most beneficial. The request and the FEA's determination regarding it shall be made in accordance with Subpart M of this part.

§ 205.106 FEA evaluation.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in an appeal and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may solicit and accept submissions from third persons relevant to any appeal provided that the appellant is afforded an opportunity to respond to all third person submissions. In evaluating an appeal, the FEA may consider any other source of information. The FEA on its own initiative may convene a conference or hearing if, in its discretion, it considers that such conference or hearing will advance its evaluation of the appeal.

(2) If the FEA determines that there is insufficient information upon which to base a decision and if, upon request, the necessary additional information is not submitted, the FEA may dismiss the appeal with leave to amend within a specified time. If the failure to supply additional information is repeated or willful, the FEA may dismiss the appeal with prejudice. If the appellant fails to provide the notice required by § 205.104, the FEA may dismiss the appeal without prejudice.

(3) *Failure to satisfy requirements.* (i) If the appellant fails to satisfy the requirements of paragraph (b)(1) of this section, the FEA may issue an order denying the appeal. The order shall state the grounds for the denial and a copy of the order shall be served upon the appellant and any other person who participated in the proceeding.

(ii) The order denying the appeal shall become a final order of the FEA within 10 days of its service upon the appellant, unless within such 10-day period an amendment to the appeal that corrects the deficiencies identified in the order is filed with the Office of Exceptions and Appeals or the appropriate Regional Office.

(iii) Within 10 days of the filing of such amendment, as provided in paragraph (b)(1) of this section, the FEA shall notify the appellant whether the amendment corrects the specified deficiencies. If the amendment does not correct the deficiencies, that notice shall be an order dismissing the appeal as amended. Such order shall be a final order of the FEA of which appellant may seek judicial review.

(b) *Criteria.* (1) An appeal may be summarily denied if—

(i) It is not filed in a timely manner, unless good cause is shown; or

(ii) It is defective on its face for failure to state, and to present facts and legal argument in support thereof, that the FEA action was erroneous in fact or in law, or that it was arbitrary or capricious.

(2) The FEA may deny any appeal if the appellant does not establish that—

(i) The appeal was filed by a person aggrieved by an FEA action;

(ii) The FEA's action was erroneous in fact or in law; or

(iii) The FEA's action was arbitrary or capricious.

The denial of an appeal shall be a final order of FEA of which the appellant may seek judicial review.

§ 205.107 Decision and order.

(a) Upon consideration of the appeal and other relevant information received or obtained during the proceeding, the FEA shall enter an appropriate order, which may include the modification of the order or interpretation that is the subject of the appeal.

(b) The order shall include a written statement setting forth the relevant facts and the legal basis of the order. The order shall state that it is a final order of the FEA of which the appellant may seek judicial review.

(c) The FEA shall serve a copy of the order upon the appellant, any other person who participated in the proceeding and upon any other person readily identifable by the FEA as one who is aggrieved by such order.

(d) A copy of each order, with such modification as is necessary to insure the confidentiality of information protected from disclosure under 18 U.S.C. 1905 and 5 U.S.C. 552, will be filed in the public docket room described in § 205.15. If such copy contains information that has been claimed by an appellant or other person, to be confidential, notice of the FEA's intention to place a copy in the docket room and an opportunity to respond shall be given to such person no less than five days prior to its placement in such room.

§ 205.108 Appeal of a remedial order.

The appeal of a remedial order shall be in accordance with the procedures stated in this subpart, *except:*

(a) The appeal must be filed within 10 days of the service of the remedial order; and

(b) If the appeal is of a remedial order that was issued subsequent to a notice of probable violation that relates to an order or interpretation previously issued by the FEA, with respect to which there was an exhaustion of administrative remedies, no issues will be considered on the current appeal that were raised in that prior proceeding.

(c) If an issue raised on an appeal of a remedial order is also being considered in connection with any other FEA proceeding, the FEA may consolidate such issues and consider them in the appellate proceeding for the remedial order.

§ 205.109 Timeliness.

(a) When the FEA has received all substantive information deemed necessary to process any appeal filed under this subpart, the FEA shall serve notice of that fact upon the appellant and all other persons who received notice of the proceeding pursuant to the provisions of § 205.104; and if the FEA fails to take action on the appeal within 90 days of serving such notice, the appellant may treat the appeal as having been denied in all respects and may seek judicial review thereof.

(b) Notwithstanding the provisions of paragraph (a) of this section, if the FEA fails to take action on the appeal within 120 days of the filing of the appeal, the appellant may treat it as having been denied in all respects and may seek judicial review thereof.

Subpart I—Stay

§ 205.120 Purpose and scope.

This subpart establishes the procedures for the application for and granting of a stay by the FEA. An application for a stay will only be considered—

(a) Incident to or pending an appeal from an order of the FEA;

(b) Incident to an application for an exception from the application of any FEA regulations, rulings, or generally applicable requirements when the stay

sought is of the same regulation, ruling or generally applicable requirement from which the exception is sought; or

(c) Pending judicial review.

All FEA orders, regulations, rulings, and generally applicable requirements shall be complied with unless and until an application for a stay is granted.

§ 205.121 What to file.

(a) A person filing under this subpart shall file an "Application for Stay," which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

(b) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in § 205.9(f) shall apply.

§ 205.122 Where to file.

(a) An application for stay of an FEA order incident to an appeal from such order shall be filed with the Office of Exceptions and Appeals or with the appropriate Regional Office at the address provided in § 205.12.

(b) An application for stay of the application of any or all FEA regulations, rulings, or generally applicable requirements incident to an application for an exception therefrom shall be filed with the Office of Exceptions and Appeals or with the appropriate Regional Office as specified in § 205.52 at the address provided in § 205.12.

(c) An application for stay of an FEA order or of the application of any FEA regulations, rulings or generally applicable requirements pending judicial review shall be filed with the office that issued the order of which judicial review is sought.

§ 205.123 Notice.

(a) When administratively feasible, the FEA shall notify each person readily identifiable by the FEA as one who would be aggrieved by the FEA action sought that the applicant has filed for a stay and that the FEA will accept written comment on the application.

(b) Any person submitting written comments to the FEA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9 (f), to the applicant. The person shall certify to the FEA that it has complied with the requirements of this paragraph. The FEA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 205.124 Contents.

(a) The application shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the subject of the application and to the FEA action sought. Such facts shall include, but not be limited to, all information that relates to the satisfaction of the criteria in § 205.125(b).

(b) The application shall include a description of the proceeding incident to which the stay is being sought. This description shall contain a discussion of all FEA actions relevant to the proceeding.

(c) The applicant shall state whether he requests or intends to request that there be a conference regarding the application. Any request not made at the time the application is filed shall be made as soon thereafter as possible, to insure that the conference is held when it will be most beneficial. The request and the FEA's determination regarding it shall be made in accordance with Subpart M of this part.

§ 205.125 FEA evaluation.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may solicit and accept submissions from third persons relevant to any application provided that the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application, the FEA may consider any other source of information. The FEA on its own initiative may convene a conference, if, in its discretion, it considers that such conference will advance its evaluation of the application.

(2) If the FEA determines that there is insufficient information upon which to base a decision and if upon request additional information is not submitted by the applicant, the FEA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the FEA may dismiss the application with prejudice.

(3) The FEA shall process applications for stay as expeditiously as possible. When administratively feasible, the FEA shall grant or deny the application for stay within 10 business days after receipt of the application.

(4) Notwithstanding the provision for notice to third parties in § 205.123(a), the FEA may make a decision on an application for stay prior to the receipt of written comments.

(b) *Criteria.* The grounds for granting a stay are: (1) A showing that irreparable injury will result in the event that the stay is denied;

(2) A showing that denial of the stay will result in a more immediate serious hardship or gross inequity to the applicant than to the other persons affected by the proceeding;

(3) A showing that it would be desirable for public policy or other reasons to preserve the *status quo ante* pending a decision on the merits of the appeal or exception;

(4) A showing that it is impossible for the applicant to fulfill the requirements of the original order; and

(5) A showing that there is a likelihood of success on the merits.

§ 205.126 Decision and order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, the FEA shall issue an order granting or denying the application.

(b) The order shall include a written statement setting forth the relevant facts and the legal basis of the decision, and the terms and conditions of the stay.

(c) The FEA shall serve a copy of the order upon the applicant, any other person who participated in the proceeding and upon any other person readily identifiable by FEA as one who is aggrieved by such decision.

(d) The grant or denial of a stay is not an order of the FEA subject to administrative review.

(e) In its discretion and upon a determination that such is in accordance with the objectives of the regulations and the FEAA, or EPAA, the FEA may order a stay on its own initiative.

Subpart J—Modification or Rescission

§ 205.130 Purpose and scope.

This subpart establishes the procedures for the filing of an application for modification or rescission of an FEA order or interpretation. An application for modification or rescission is a summary proceeding that will be initiated only if the criteria described in § 205.135(b) are satisfied.

§ 205.131 What to file.

(a) A person filing under this subpart shall file an "Application for Modification (or Rescission)", which should be clearly labeled as such both on the application and on the outside of the envelope in which the application is transmitted, and shall be in writing and signed by the person filing the application. The applicant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

(b) If the applicant wishes to claim confidential treatment for any information contained in the application or other documents submitted under this subpart, the procedures set out in § 205.9 (f) shall apply.

§ 205.132 Where to file.

(a) When the order or interpretation sought to be modified or rescinded was issued by the FEA National Office, the application shall be filed with the Office of Exceptions and Appeals at the address provided in § 205.12.

(b) When the order or interpretation sought to be modified or rescinded was issued by a Regional Office, the application shall be filed with that Regional Office at the address provided in § 205.12.

§ 205.133 Notice.

(a) The applicant shall send by United States mail a copy of the application and any subsequent amendments or other documents relating to the application, from which confidential information has been deleted in accordance with § 205.9 (f), to each person who is reasonably ascertainable by the applicant as a person

who will be aggrieved by the FEA action sought, including persons who participated in the prior proceeding. The copy of the application shall be accompanied by a statement that the person may submit comments regarding the application to the FEA office with which the application was filed within 10 days. The application filed with the FEA shall include certification to the FEA that the applicant has complied with the requirements of this paragraph and shall include the names and addresses of each person to whom a copy of the application was sent.

(b) Notwithstanding paragraph (a) of this section, if an applicant determines that compliance with paragraph (a) of this section would be impracticable, the applicant shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and possible to notify; and

(2) Include with the application a description of the persons or class or classes of persons to whom notice was not sent.

The FEA may require the applicant to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the FEDERAL REGISTER.

(c) The FEA shall serve notice on any other person readily identifiable by the FEA as one who will be aggrieved by the FEA action sought and may serve notice on any other person that written comments regarding the application will be accepted if filed within 10 days of service of that notice.

(d) Any person submitting written comments to the FEA with respect to an application filed under this subpart shall send a copy of the comments, or a copy from which confidential information has been deleted in accordance with § 205.9 (f), to the applicant. The person shall certify to the FEA that it has complied with the requirements of this paragraph. The FEA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 205.134 Contents.

(a) The application shall contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the application and to the FEA action sought. Such facts shall include the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction; a description of the acts or transactions that would be affected by the requested action; and a full description of the pertinent provisions and relevant facts contained in any relevant documents. Copies of all contracts, agreements, leases, instruments, and other documents relevant to the application shall be submitted to the FEA upon its request. A copy of the order or interpretation of which modification or rescission is sought shall be included with the application. When the application pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction shall be submitted.

(b) The applicant shall state whether he requests or intends to request that there be a conference regarding the application. Any request not made at the time the application is filed shall be made as soon thereafter as possible, to insure that the conference is held when it will be most beneficial. The request and the FEA's determination regarding it shall be made in accordance with subpart M of this part.

(c) The applicant shall fully describe the events, acts, or transactions that comprise the significantly changed circumstances, as defined in § 205.135(b)(2), upon which the application is based. The applicant shall state why, if the significantly changed circumstance is new or newly discovered facts, such facts were not or could not have been presented during the prior proceeding.

(d) The application shall include a discussion of all relevant authorities, including, but not limited to, FEA rulings, regulations, interpretations and decisions on appeal and exception relied upon to support the action sought therein.

§ 205.135 FEA evaluation.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may solicit and accept submissions from third persons relevant to any application for modification or rescission provided that the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application for modification or rescission, the FEA may convene a conference, on its own initiative, if, in its discretion, it considers that such conference will advance its evaluation of the application.

(2) If the FEA determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the FEA may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the FEA may dismiss the application with prejudice. If the applicant fails to provide the notice required by § 205.133, the FEA may dismiss the application without prejudice.

(3) *Failure to satisfy requirements.* (i) If the applicant fails to satisfy the requirements of paragraph (b)(1) of this section, the FEA shall issue an order denying the application. The order shall state the grounds for the denial.

(ii) The order denying the application shall become final within 10 days of its service upon the applicant, unless within such 10 day period an amendment to correct the deficiencies identified in the order is filed with the Office of Exceptions and Appeals or the appropriate Regional Office.

(iii) Within 10 days of the filing of such amendment, the FEA shall notify the applicant whether the amendment corrects the specified deficiencies. If the amendment does not correct the deficiencies, the notice shall be an order dismissing the application as amended. Such order shall be a final order of the FEA of which the applicant may seek judicial review.

(b) *Criteria.* (1) An application for modification or rescission of an order or interpretation shall be processed only if—

(i) The application demonstrates that it is based on significantly changed circumstances; and

(ii) The 30-day period within which a person may file an appeal has lapsed or, if an appeal has been filed, a final order has been issued.

(2) For purposes of this subpart, the term "significantly changed circumstances" shall mean—

(i) The discovery of material facts that were not known or could not have been known at the time of the proceeding and action upon which the application is based;

(ii) The discovery of a law, regulation, interpretation, ruling, order or decision on appeal or exception that was in effect at the time of the proceeding upon which the application is based and which, if such had been made known to the FEA, would have been relevant to the proceeding and would have substantially altered the outcome; or

(iii) There has been a substantial change in the facts or circumstances upon which an outstanding and continuing order or interpretation of the FEA affecting the applicant was issued, which change has occurred during the interval between issuance of such order or interpretation and the date of the application and was caused by forces or circumstances beyond the control of the applicant.

§ 205.136 Decision and order.

(a) Upon consideration of the application and other relevant information received or obtained during the proceeding, the FEA shall issue an order granting or denying the application.

(b) The order shall include a written statement setting forth the relevant facts and the legal basis of the order. The order shall state that it is a final order of which the applicant may seek judicial review.

(c) The FEA shall serve a copy of the order upon the applicant, any other person who participated in the proceeding and upon any other person readily identifiable by the FEA as one who is aggrieved by such order.

§ 205.137 Timeliness.

(a) If the FEA fails to take action on any application filed under this subpart within 90 days of filing, the applicant may treat the application as having been denied in all respects and may seek judicial review thereof.

Subpart K—Rulings

§ 205.150 Purpose and scope.

This subpart establishes the criteria for the issuance of interpretative rulings by the General Counsel. All rulings shall be published in the FEDERAL REGISTER. Any person is entitled to rely upon such ruling, to the extent provided in this subpart.

§ 205.151 Criteria for issuance.

(a) A ruling may be issued, in the discretion of the General Counsel, whenever there have been a substantial number of inquiries with regard to similar factual situations or a particular section of the regulations.

(b) The General Counsel may issue a ruling whenever it is determined that it will be of assistance to the public in applying the regulations to a specific situation.

§ 205.152 Modification or rescission.

(a) A ruling may be modified or rescinded by:

(1) Publication of the modification or rescission in the FEDERAL REGISTER; or

(2) A rulemaking proceeding in accordance with Subpart L of this part.

(b) Unless and until a ruling is modified or rescinded as provided in paragraph (a) of this section, no person shall be subject to the sanctions or penalties stated in Subpart P of this part for actions taken in reliance upon the ruling, notwithstanding that the ruling shall thereafter be declared by judicial or other competent authority to be invalid. Upon such declaration, no person shall be entitled to rely upon the ruling.

§ 205.153 Comments.

A written comment on or objection to a published ruling may be filed at any time with the General Counsel at the address specified in § 205.12.

§ 205.154 Appeal.

There is no administrative appeal of a ruling.

Subpart L—Rulemaking

§ 205.160 Purpose and scope.

(a) This subpart establishes the procedures that govern a rulemaking proceeding. The initiation of a rulemaking proceeding is within the sole discretion of the FEA.

(b) Rulemaking by the FEA shall be in accordance with the Administrative Procedure Act (5 U.S.C. 551, *et seq.* (1970)) and the FEAA.

§ 205.161 What to file.

(a) *Comments in connection with a rulemaking.* Any comments filed in connection with a rulemaking shall be filed in accordance with the instructions in the Notice of Proposed Rulemaking published in the FEDERAL REGISTER. Such comments shall be in writing and signed by the person filing them.

(b) *Petition for rulemaking.* (1) Any person may at any time file a petition regarding any FEA regulation or amendment thereto or, by letter, request that a rulemaking proceeding be instituted. Such petition or request shall be signed by the person filing it.

(2) Upon due consideration of a petition for rulemaking, expressly designated as such, the FEA shall either: (i) institute a rulemaking as proposed or as modified in its discretion; (ii) notify the petitioner in writing that it does not intend to institute a rulemaking as proposed or as modified and stating the reasons therefore; or (iii) notify the petitioner in writing that the matter is under continuing consideration and that no decision can be made at that time because of the inadequacy of available information, changing circumstances or other reasons as set forth therein.

§ 205.162 Where to file.

All comments filed in connection with a rulemaking shall be submitted in accordance with the instructions in the Notice of Proposed Rulemaking. Any other petition or request shall be filed with the FEA General Counsel at the address provided in § 205.12.

Subpart M—Conferences, Hearings, and Public Hearings

§ 205.170 Purpose and scope.

This subpart establishes the procedures for requesting and conducting an FEA conference, hearing, or public hearing. Such proceedings shall be convened in the discretion of the FEA, consistent with the requirements of the FEAA.

§ 205.171 Conferences.

(a) The FEA in its discretion may direct that a conference be convened, on its own initiative or upon request by a person, when it appears that such conference will materially advance the proceeding. The determination as to who may attend a conference convened under this subpart shall be in the discretion of the FEA, but a conference will usually not be open to the public.

(b) A conference may be requested in connection with any proceeding of the FEA by any person who might be aggrieved by that proceeding. The request may be made in writing or verbally, but must include a specific showing as to why such conference will materially advance the proceeding. The request shall be addressed to the FEA office that is conducting the proceeding.

(c) A conference may only be convened after actual notice of the time, place, and nature of the conference is provided to the person who requested the conference.

(d) When a conference is convened in accordance with this section, each person may present views as to the issue or issues involved. Documentary evidence may be presented at the conference, but will be treated as if submitted in the regular course of the proceedings. A transcript of the conference will not usually be prepared. However, the FEA in its discretion may have a verbatim transcript prepared.

(e) Because a conference is solely for the exchange of views incident to a proceeding, there will be no formal reports or findings unless the FEA in its discretion determines that such would be advisable.

§ 205.172 Hearings.

(a) The FEA in its discretion may direct that a hearing be convened, on its own initiative or upon request by a person, when it appears that such hearing will materially advance the proceeding. The determination as to who may attend a hearing convened under this subpart shall be in the discretion of the FEA, but a hearing will usually not be open to the public.

(b) A hearing may only be requested in connection with an application for an exception or an appeal. Such request may be by the applicant, appellant, or any other person who might be aggrieved by the FEA action sought. The request shall be in writing and shall include a specific showing as to why such hearing will materially advance the proceeding. The request shall be addressed to the FEA office that is considering the application for an exception or the appeal.

(c) The FEA will designate an agency official to conduct the hearing, and will specify the time and place for the hearing.

(d) A hearing may only be convened after actual notice of the time, place, and nature of the hearing is provided both to the applicant or appellant and to any other person readily identifiable by the FEA as one who will be aggrieved by the FEA action involved. The notice shall include, as appropriate:

(1) A statement that such person may participate in the hearing; or

(2) A statement that such person may request a separate conference or hearing regarding the application or appeal.

(e) When a hearing is convened in accordance with this section, each person may present views as to the issue or issues involved. Documentary evidence may be presented at the hearing, but will be treated as if submitted in the regular course of the proceedings. A transcript of the hearing will not usually be prepared. However, the FEA in its discretion may have a verbatim transcript prepared.

(f) The official conducting the hearing may administer oaths and affirmations, rule on the presentation of information, receive relevant information, dispose of procedural requests, determine the format of the hearing, and otherwise regulate the course of the hearing.

(g) Because a hearing is solely for the exchange of views incident to a proceeding, there will be no formal reports or findings unless the FEA in its discretion determines that such would be advisable.

§ 205.173 Public hearings.

(a) A public hearing shall be convened incident to a rulemaking:

(1) When the proposed rule or regulation is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses; or

(2) When the FEA determines that a public hearing would materially advance the consideration of the issue. A

public hearing may be requested by any interested person in connection with a rulemaking proceeding, but shall only be convened on the initiative of the FEA unless otherwise required by statute.

(b) A public hearing may be convened incident to any proceeding when the FEA in its discretion determines that such public hearing would materially advance the consideration of the issue.

(c) A public hearing may only be convened after publication of a notice in the FEDERAL REGISTER, which shall include a statement of the time, place, and nature of the public hearing.

(d) Interested persons may file a request to participate in the public hearing in accordance with the instructions in the notice published in the FEDERAL REGISTER. The request shall be in writing and signed by the person making the request. It shall include a description of the person's interest in the issue or issues involved and of the anticipated content of the presentation. It shall also contain a statement explaining why the person would be an appropriate spokesperson for the particular view expressed.

(e) The FEA shall appoint a presiding officer to conduct the public hearing. An agenda shall be prepared that shall provide, to the extent practicable, for the presentation of all relevant views by competent spokespersons.

(f) A verbatim transcript shall be made of the hearing. The transcript, together with any written comments submitted in the course of the proceeding, shall be made available for public inspection and copying in the public docket room, as provided in § 205.15.

(g) The information presented at the public hearing, together with the written comments submitted and other relevant information developed during the course of the proceeding, shall provide the basis for the FEA decision.

Subpart N—Complaints

§ 205.180 Purpose and scope.

This subpart establishes the procedures for the filing and consideration of complaints relating to alleged violations of the general regulations of Part 210, the allocation regulations of Part 211, the price regulations of Part 212 of this chapter and/or the low sulphur regulations of Part 215 of this chapter, or any ruling or order issued thereunder.

§ 205.181 What to file.

(a) A person filing under this subpart shall file a "Complaint," which should be clearly labeled as such both on the complaint and on the outside of the envelope in which the complaint is transmitted, and shall be in writing and signed by the person filing the complaint. The complainant shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart. Verbal complaints that otherwise satisfy the requirements of this subpart will be accepted, but written verification may be requested by the FEA.

(b) The requirements of this section and § 205.183 may be satisfied by filing a form FEA–1.

§ 205.182 Where to file.

A complaint shall be filed with the FEA office specified in § 205.13 at the address provided in § 205.12.

§ 205.183 Contents.

The complaint shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the subject of the complaint and to the FEA action sought. Such facts shall include the names and addresses of all persons involved (if reasonably ascertainable) and a description of the events that led to the complaint. It shall include a statement describing the regulation, ruling, order or interpretation that allegedly has been violated.

§ 205.184 FEA evaluation.

(a) *Processing.* The FEA may initiate an investigation of any statement in a complaint and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may solicit and accept submissions relevant to a complaint from third persons to the proceeding. In evaluating a complaint, the FEA may consider any other source of information. The FEA on its own initiative may order a conference if, in its discretion, it considers such conference will advance its evaluation of the complaint.

(b) *Confidentiality of information.* Information received in the investigation of a complaint, including the identity of the complainant and any other person who provides information during the proceeding, shall remain confidential under the investigatory file exception to public disclosure unless, upon proper notice to the complainant and an opportunity to respond, the FEA determines that disclosure would be in the public interest.

§ 205.185 Decision.

After consideration of a written complaint and other relevant information received or obtained during the proceeding, the FEA may:

(a) Issue a notice of probable violation or remedial order for immediate compliance in accordance with the provisions of Subpart O of this part;

(b) Determine that no violation has occurred or that a notice of probable violation or a remedial order for immediate compliance would not be appropriate; or

(c) Take such other action as it deems appropriate.

Subpart O—Notice of Probable Violation and Remedial Order

§ 205.190 Purpose and scope.

(a) This subpart establishes the procedures for determining the nature and extent of violations of the FEA regulations and the procedures for issuance of a notice of probable violation, a remedial order or a remedial order for immediate compliance.

(b) When any report required by the FEA or any audit or investigation discloses, or the FEA otherwise discovers, that there is reason to believe a violation of any provision of this chapter, or any order issued thereunder, has occurred, is continuing or is about to occur, the FEA may conduct proceedings to determine the nature and extent of the violation and may issue a remedial order thereafter. The FEA may commence such proceeding by serving a notice of probable violation or by issuing a remedial order for immediate compliance.

§ 205.191 Notice of probable violation.

(a) The FEA may begin a proceeding under this subpart by issuing a notice of probable violation if the FEA has reason to believe that a violation has occurred, is continuing, or is about to occur.

(b) Within 10 days of the service of a notice of probable violation, the person upon whom the notice is served may file a reply with the FEA office that issued the notice of probable violation at the address provided in § 205.12. The FEA may extend the 10-day period for good cause shown.

(c) The reply shall be in writing and signed by the person filing it. The reply shall contain a full and complete statement of all relevant facts pertaining to the act or transaction that is the subject of the notice of probable violation. Such facts shall include a complete statement of the business or other reasons that justify the act or transaction, if appropriate; a detailed description of the act or transaction; and a full discussion of the pertinent provisions and relevant facts reflected in any documents submitted with the reply. Copies of all relevant contracts, agreements, leases, instruments, and other documents shall be submitted with the reply. When the notice of probable violation pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information regarding the entire transaction shall be submitted.

(d) The reply shall include a discussion of all relevant authorities, including, but not limited to, FEA rulings, regulations, interpretations, and decisions on appeals and exceptions relied upon to support the particular position taken.

(e) The reply should indicate whether the person requests or intends to request a conference regarding the notice. Any request not made at the time of the reply shall be made as soon thereafter as possible to insure that the conference is held when it will be most beneficial. A request for a confernce must conform to the requirements of Subpart M of this part.

(f) If a person has not filed a reply with the FEA within the 10-day period provided, and the FEA has not extended the 10-day period, the person shall be deemed to have conceded the accuracy of the factual allegations and legal conclusions stated in the notice of probable violation.

(g) If the FEA finds, after the 10-day period provided in § 205.191(b), that no violation has occurred, is continuing, or is about to occur, or that for any reason

the issuance of a remedial order would not be appropriate, it shall notify, in writing, the person to whom a notice of probable violation has been issued that the notice is rescinded.

§ 205.192 Remedial order.

(a) If the FEA finds, after the 10-day period provided in § 205.191(b), that a violation has occurred, is continuing, or is about to occur, the FEA may issue a remedial order. The order shall include a written opinion setting forth the relevant facts and the legal basis of the remedial order.

(b) A remedial order issued under this section shall be effective upon issuance, in accordance with its terms, until stayed, suspended, modified, or rescinded. A remedial order shall remain in effect notwithstanding the filing of an application to modify or rescind it under Subpart J of this part.

(c) A remedial order may be referred at any time to the Department of Justice for appropriate action in accordance with Subpart P of this part.

§ 205.193 Remedial order for immediate compliance.

(a) Notwithstanding the provisions of §§ 205.191 and 205.192, the FEA may issue a remedial order for immediate compliance, which shall be effective upon issuance, and until rescinded or suspended, if it finds:

(1) There is a strong probability that a violation has occurred, is continuing or is about to occur;

(2) Irreparable harm will occur unless the violation is remedied immediately; and

(3) The public interest requires the avoidance of such irreparable harm through immediate compliance and waiver of the procedures afforded under §§ 205.191 and 205.192.

(b) A remedial order for immediate compliance shall be served promptly upon the person against whom such order is issued by telex or telegram, with a copy served by registered or certified mail. The copy shall contain a written statement of the relevant facts and the legal basis fo rthe remedial order for immediate compliance, including the findings required by paragraph (a) of this section.

(c) The FEA may rescind or suspend a remedial order for immediate compliance if it appears that the criteria set forth in paragraph (a) of this section are no longer satisfied. When appropriate, however, such a suspension or rescission may be accompanied by a notice of probable violation issued under § 205.191.

(d) If at any time in the course of a proceeding commenced by a notice of probable violation the criteria set forth in paragraph (a) of this section are satisfied, the FEA may issue a remedial order for immediate compliance, even if the 10-day period for reply specified in § 205.191(b) has not expired.

(e) At any time after a remedial order for immediate compliance has become effective, the FEA may refer such order to the Department of Justice for appropriate action in accordance with Subpart P of this part.

§ 205.194 Remedies.

A remedial order or a remedial order for immediate compliance may require the person to whom it is directed to roll back prices, to refund amounts paid to such person that are in excess of the amount permitted under Part 212 of this chapter, or to take such other action as the FEA determines is necessary to eliminate or to compensate for the effects of a violation.

§ 205.195 Appeal.

(a) No notice of probable violation issued pursuant to this subpart shall be deemed to be an action of which there may be an administrative appeal pursuant to Subpart H.

(b) Any person to whom a remedial order or a remedial order for immediate compliance is issued under this subpart may file an appeal with the FEA Office of Exceptions and Appeals or with the appropriate Regional Office in accordance with Subpart H of this part. The appeal must be filed within 10 days of service of the order from which the appeal is taken.

Subpart P—Investigations, Violations, Sanctions, and Judicial Actions

§ 205.200 Investigations.

(a) *General.* The FEA may, in its discretion, initiate investigations relating to compliance by any person with any rule, regulation, or order promulgated by the FEA, any decree of court relating thereto, or any other agency action. The FEA encourages voluntary cooperation with its investigations. When the circumstances warrant, however, the FEA may issue subpoenas in accordance with and subject to § 205.8. The FEA may conduct investigative conferences and hearings in the course of any investigation in accordance with Subpart M of this part.

(b) *Investigators.* Investigations will be conducted by representatives of the FEA who are duly designated and authorized for such purposes. Such representatives have the authority to administer oaths and receive affirmations in any matter under investigation by the FEA.

(c) *Notification.* Any person who is under investigation by the FEA in accordance with this section and who is requested to furnish information or documentary evidence shall be notified as to the general purpose for which such information or evidence is sought.

(d) *Termination.* When the facts disclosed by an investigation indicate that further action is unnecessary or unwarranted at that time, the investigative file will be closed without prejudice to further investigation by the FEA at any time that circumstances so warrant.

(e) *Confidentiality.* Information received in an investigation under this section, including the identity of the person investigated and any other person who provides information during the investigation, shall, unless otherwise determined by the FEA, remain confidential under the investigatory file exception to public disclosure.

§ 205.201 Violations.

Any practice that circumvents or contravenes or results in a circumvention or contravention of the requirements of any provision of this chapter or any order issued pursuant thereto is a violation of the FEA regulations stated in this chapter.

§ 205.202 Sanctions.

(a) *General.* Any person who violates any provision of this chapter or any order issued pursuant thereto shall be subject to penalties and sanctions as provided herein.

(1) The provisions herein for penalties and sanctions shall be deemed cumulative and not mutually exclusive.

(2) Each day that a violation of the provisions of this chapter or any order issued pursuant thereto continues shall be deemed to constitute a separate violation within the meaning of the provisions of this chapter relating to criminal fines and civil penalties.

(b) *Criminal penalties.* Any person who willfully violates any provision of this chapter or any order issued pursuant thereto shall be subject to a fine of not more than $5,000 for each violation. Criminal violations are prosecuted by the Department of Justice upon referral by the FEA.

(c) *Civil penalties.* (1) Any person who violates any provision of this chapter or any order issued pursuant thereto shall be subject to a civil penalty of not more than $2,500 for each violation. Actions for civil penalties are prosecuted by the Department of Justice upon referral by the FEA.

(2) When the FEA considers it to be appropriate or advisable, the FEA may compromise and settle and collect civil penalties.

(d) *Other penalties.* Willful concealment of material facts, or false or fictitious or fraudulent statements or representations, or willful use of any false writing or document containing false, fictitious or fraudulent statements pertaining to matters within the scope of the EPAA or FEAA by any person shall subject such person to the criminal penalties provided in 18 U.S.C. 1001 (1970).

§ 205.203 Injunctions.

Whenever it appears to the Administrator of the FEA, or his delegates, that any person has engaged, is engaged, or is about to engage in any act or practice constituting a violation of any regulation or order issued under this chapter, the Administrator, or his delegate, may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices and, upon a proper showing, a temporary restraining order or a preliminary restraining order or a preliminary or permanent injunction shall be granted without bond. The relief sought may include a mandatory injunc-

tion commanding any person to comply with any such order or regulation, or the return of money received in violation of any such order or regulation.

Subpart Q—State Offices

§ 205.210 Purpose and scope.

This subpart establishes the procedures that govern applications for assignment under the state set-aside system, and applications for assignment by new end-users.

§ 205.211 Who may apply.

(a) *Set-aside.* A wholesale purchaser-consumer or an end-user, as defined in § 211.51, seeking an assignment from the state set-aside system as provided by § 211.17 to meet a hardship or emergency requirement, and a wholesale purchaser-reseller, as defined in § 211.51, seeking an assignment to enable him to supply such wholesale purchaser-consumers and end-users, may apply for an assignment under the state set-aside system.

(b) *Assignment.* A new end-user may apply for an assignment of an allocated product or a supplier.

§ 205.212 What to file.

(a) *Set-aside.* Application for assignment from a state set-aside system may be by the appropriate FEA form, by other written communication or by verbal, including telephonic request.

(b) *Assignment.* Applications for assignment by new end-users shall satisfy the requirements of Subpart C of this part.

(c) If any applicant wishes to claim confidential treatment for any information contained in an application or other documents filed under this subpart, the procedures set out in § 205.9(f) shall apply.

§ 205.213 Where to file.

(a) *Set-aside.* All applications shall be filed with, or verbal requests made to, the State Office located in the State in which the product will be physically delivered and in which the applicant is located.

(b) *Assignment.* All applications for assignment shall be filed with the State Office located in the State in which the product will be physically delivered.

§ 205.214 Notice.

(a) *Set-aside.* The State Office may notify any person that it determines will be aggrieved by the assignment that comments regarding the application will be accepted.

(b) *Assignment.* The notice requirements of Subpart C of this part shall apply.

§ 205.215 Contents.

(a) *Set-aside.* (1) The State Office shall insure that an applicant provide sufficient information in an application for an assignment from the state set-aside system, whether such application is in writing or by verbal request, to enable the State Office to determine that the proposed allocation satisfies the objectives of the EPAA and part 211 of this chapter. With respect to verbal applications, the State Offices shall establish internal procedures for the recording and verification of any information provided by an applicant. At a minimum, the information received by the State Office should be that required by form FEA-20. Such information shall include, but not be limited to:

(i) The identification of any previous assignment order from the state set-aside system that was issued to the applicant or to any person that controls or is controlled by the applicant; and

(ii) A statement that the applicant's base period supplier or new supplier is unable to supply his requirements or, if the applicant does not have a supplier, a statement that he has contacted two suppliers that could supply the allocated product and the identification of those suppliers.

(2) If the applicant is a wholesale purchaser-reseller, the application shall contain a description of the wholesale purchaser-consumers and end-users that will be supplied and their hardship and emergency requirements.

(b) *Assignment.* Applications for an assignment by new end-users shall conform to the requirements of Subpart C of this part.

§ 205.216 State office evaluation.

(a) *Set-aside*—(1) *Processing.* (i) The State Office may initiate an investigation of any statement in an application, whether written or verbal, and utilize in its evaluation any relevant facts obtained by such investigation. The State Office may solicit and accept submissions from third persons relevant to any application provided that the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application, the State Office may consider any other source of information. The State Office on its own initiative may convene a conference, if, in its discretion, it considers that a conference will advance its evaluation of the application.

(ii) If the State Office determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the State Office may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the State Office may dismiss the application with prejudice.

(2) *Criteria.* (i) There shall be assignments only to wholesale purchaser-consumers and end-users located within the State who demonstrate hardship or emergency requirements (or to wholesale purchaser-resellers to enable them to supply such persons) with respect to propane, middle distillate, motor gasoline and residual fuel oil (except that used by utilities or as bunker fuel for maritime shipping).

(ii) Any assignment ordered by a State Office shall conform to the requirements of section 4(b)(1) of the EPAA and 10 CFR 211.17.

(b) *Assignment*—(1) *Processing.* (i) The State Office may initiate an investigation of any statement in an application and utilize in its evaluation any relevant facts obtained by such investigation. The State Office may solicit and accept submissions from third persons relevant to any application provided that the applicant is afforded an opportunity to respond to all third person submissions. In evaluating an application, the State Office my consider any other source of information. The State Office on its own initiative may convene a conference, if, in its discretion, it considers that a conference will advance its evaluation of the application.

(ii) If the State Office determines that there is insufficient information upon which to base a decision and if upon request the necessary additional information is not submitted, the State Office may dismiss the application without prejudice. If the failure to supply additional information is repeated or willful, the State Office may dismiss the application with prejudice.

(2) *Criteria.* (i) The State Office shall consider, among other relevant criteria, the quantity of allocated product previously sold or purchased at the end-user's site, the projected volume as calculated prior to construction of the end-user's site, the volume sold or purchsed by other similar end-users operating in circumstances similar to applicant's and the criteria in § 211.13(c)(1).

(ii) To be recommended for approval by a State Office, an application must conform to the requirements of the EPAA and 10 CFR Part 211.

(3) *Recommendations to the FEA.* (i) The State Office shall recommend in writing to the FEA those applications for assignment, other than applications for assignment from the state set-aside system, that it has determined warrant the issuance of an assignment order in accordance with Subpart C of this part, stating therein the reasons for the recommendation. The State Office may recommend that the application be approved as filed or with modification. Included with such recommendation shall be copies of all documents relevant to the proceeding, including the application.

(ii) Upon consideration of the recommendation and other relevant information received or obtained during the proceeding, the FEA will enter an appropriate order.

§ 205.217 Decision and order.

(a) *Set-aside.* (1) Upon consideration of the application, whether written or verbal, and other relevant information received or obtained during the proceeding, the State Office shall issue an order (for purposes of this section, an order may be the "authorizing document" referred to in § 211.17(e) of this chapter) denying or granting the application.

(2) The order shall include a brief written statement summarizing the factual and legal basis upon which the order was issued. The order shall provide that any person aggrieved thereby may file an appeal with the State Office in accordance with the procedures of such office.

(3) The order shall state that it is effective upon issuance and shall expire within 10 days of its issuance unless the applicant presents his copy of the order to the prime supplier or a designated local representative of such prime supplier within those 10 days.

(4) The State Office shall serve a copy of the order upon the applicant, the designated state representative of the prime supplier assigned to the applicant and any other person readily identifiable as one who will be aggrieved by said order.

(b) *Assignment.* (1) Upon consideration of an application and other relevant information received or obtained during the proceeding, the State Office may recommend to the FEA that such application be approved either as filed or with modification, or, as provided in Part 211 of this chapter, may deny the application in whole or in part.

(2) The order denying an application for assignment shall include a brief written statement summarizing the factual and legal basis upon which it was issued. The order shall provide that any person aggrieved thereby may file an appeal with the State Office in accordance with its appeals procedures.

(3) The State Office shall serve a copy of the order upon the applicant and any other person who participated in the proceeding or who is readily identifiable by the State Office as a person who is aggrieved by the order.

§ 205.218 Timeliness.

(a) *Set-aside.* (1) If the State Office fails to take action on an application, whether verbal or written, within 10 days of filing (if the application is verbal, it shall be considered to be filed on the date that it is verbally communicated to the State Office), the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart.

(2) Notwithstanding paragraph (a) of this section, the State Office may temporarily suspend the running of the 10-day period if it finds that additional information is necessary or that the application was improperly filed. The temporary suspension shall remain in effect until the State Office serves upon the person notice that the additional information has been received and accepted or that the application has been properly filed, as appropriate. Unless otherwise provided in writing by the State Office, the 10-day period shall resume running on the first day that is not a Saturday, Sunday, or Federal legal holiday and that follows the day on which the State Office serves upon the person the notice described in this paragraph.

(b) *Assignment.* If the State Office fails to take action on any application filed under this subpart within 90 days of filing, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this subpart.

§ 205.219 Appeal.

(a) *Set-aside.* Any person aggrieved by a state set-aside assignment order issued by the State Office may file an appeal with the State Office in accordance with the procedures established by such office. The appeal shall be filed within 15 days of service of the order from which the appeal is taken. There has not been an exhaustion of administrative remedies until an appeal has been filed and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

(b) *Assignment.* (1) Any person aggrieved by an order that denies an application for assignment may file an appeal with the State Office in accordance with the procedures established by such office. The appeal shall be filed within 30 days of service of the order from which the appeal taken. There has not been an exhaustion of administrative remedies until an appeal has been filed and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

(2) The appeal of the denial by the FEA of a State Office's recommendation that an application for assignment be granted shall be in accordance with the procedures stated in Subpart H of this part.

§ 205.220 Establishment of procedures.

(a) The establishment of procedures for the appeal of orders of assignment under the state set-aside system, the stay of such orders, the appeal of an order denying an application for assignment, or any other procedures shall be conducted in a manner designed to give as much notice of the procedures and as much opportunity for participation in the establishment thereof as is feasible. The notice of a proposal to establish procedures shall be published in a sufficient number of newspapers of statewide circulation calculated to receive the widest possible attention, shall be posted in a prominent location in the State Office and shall be widely circulated within the State by other appropriate methods. The State shall provide an opportunity for interested persons to present their views, including oral presentations, at least ten days before the proposed procedures become effective.

(b) Any appellate procedures established shall provide, at a minimum, for notice to persons aggrieved by the order that is the subject of the appeal, a final order that signals the exhaustion of administrative remedies and fully states the facts and legal basis for the order, and mandatory service of the order upon persons who participated in the appellate proceeding and upon any other persons readily identifiable by the State Office as one who is aggrieved by such order.

Subpart R—Office of Private Grievances and Redress

§ 205.230 Purpose and scope.

(a) This subpart establishes the procedures for the FEA Office of Private Grievances and Redress.

(b) The Office shall receive and consider petitions that seek special redress, relief or other extraordinary assistance apart from or in addition to the other proceedings described in this part. Such petitions shall include those seeking special assistance based on an assertion that the FEA or a State Office is not complying with the FEAA, EPAA, FEA regulations, orders or rulings, or otherwise.

(c) The Office also shall receive applications for exemption filed in accordance with Subpart E of this part. Such applications shall be processed by the Office in accordance with that subpart. Therefore the procedures provided in this subpart shall only be applicable to "Petitions for Special Redress or Other Relief."

§ 205.231 Who may file.

Any person aggrieved by the regulations contained in 10 CFR Ch. II may file a petition under this subpart.

§ 205.232 What to file.

The person aggrieved shall file a "Petition for Special Redress or Other Relief," which shall be clearly labeled as such both on the petition and on the outside of the envelope in which it is transmitted, and shall be in writing and signed by the person filing it. The petition shall comply with the general filing requirements stated in § 205.9 in addition to the requirements stated in this subpart.

§ 205.233 Where to file.

A petition shall be filed with the FEA Office of Private Grievances and Redress at the address provided in § 205.12.

§ 205.234 Notice.

(a) The person filing the petition, except a petition that asserts that the FEA or a State Office is not complying with the FEAA, EPAA, FEA regulations, orders or rulings or otherwise, shall send by United States mail a copy of the petition and any subsequent amendments or other documents relating to the petition, or a copy from which confidential information has been deleted in accordance with § 205.9(f), to each person who is reasonably ascertainable by the petitioner as a person who will be aggrieved by the FEA action sought. The copy of the petition shall be accompanied by a statement that the person may submit comments regarding the petition to the Office of Private Grievances and Redress within 10 days. The copy filed with the Office shall include certification to the FEA that the requirements of this paragraph have been complied with and shall include the names and addresses of each person to whom a copy of the petition was sent.

(b) Notwithstanding the provisions of paragraph (a) of this section, if the petitioner determines that compliance with paragraph (a) of this section would be impracticable, the petitioner shall:

(1) Comply with the requirements of paragraph (a) of this section with regard to those persons whom it is reasonable and practicable to notify; and

(2) Include with the petition a description of the persons or class or classes of persons to whom notice was not sent.

(3) The FEA may require the petitioner to provide additional or alternative notice, or may determine that the notice required by paragraph (a) of this section is not impracticable, or may determine that notice should be published in the FEDERAL REGISTER.

(c) The FEA shall serve notice on any other person readily identifiable by the FEA as one who will be aggrieved by the FEA action sought that written comments regarding the petition will be accepted if filed within 10 days of service of that notice.

(d) Any person submitting written comments to the FEA regarding a petition filed under this subpart shall send a copy of the comments, or a copy from from which confidential information has been deleted in accordance with § 205.9 (f), to the petitioner. The person shall certify to the FEA that it has complied with the requirements of this paragraph. The FEA may notify other persons participating in the proceeding of such comments and provide an opportunity for such persons to respond.

§ 205.235 Contents.

The petition small contain a full and complete statement of all relevant facts pertaining to the circumstances, act or transaction that is the subject of the petition and to the FEA action sought. Such facts shall include, but not be limited to, the names and addresses of all affected persons (if reasonably ascertainable); a complete statement of the business or other reasons that justify the act or transaction, if applicable; a description of the acts or transactions that would be affected by the requested action; a full discussion of the pertinent provisions and relevant facts contained in the documents submitted with the petition, and an explanation of how the petitioner is aggrieved by the regulation. Copies of all contracts, agreements, leases, instruments, and other documents relevant to the petition shall be submitted to the FEA upon its request. When the petition pertains to only one step of a larger integrated transaction, the facts, circumstances, and other relevant information pertaining to the entire transaction must be submitted.

§ 205.236 FEA evaluation of request.

(a) *Processing.* (1) The FEA may initiate an investigation of any statement in a petition and utilize in its evaluation any relevant facts obtained by such investigation. The FEA may solicit and accept submissions from third persons relevant to any petition provided that the petitioner is afforded an opportunity to respond to all third person submissions. In evaluating a petition, the FEA may consider any other source of information. The FEA on its own initiative may convene a conference, if, in its discretion, it considers that such will advance its evaluation of the petition.

(2) If the FEA determines that there is insufficient information upon which to base a decision and if, upon request, the necessary additional information is not submitted, the FEA may dismiss the petition without prejudice. If the failure to supply additional information is repeated or willful, the FEA may dismiss the petition with prejudice. If the petitioner fails to provide the notice required by § 205.234, the FEA may dismiss the petition without prejudice.

(b) *Criteria.* (1) The FEA will dismiss without prejudice a "Petition for Special Redress or Other Relief" if it determines that another more appropriate proceeding is provided by this part. Upon that determination, the Office will transmit the petition to the FEA Office responsible for such other proceeding and the petition thereafter will be processed as an application or request for such other FEA action. The petitioner shall be given a reasonable period of time to conform the petition to the procedural requirements of the other proceeding, if necessary.

(2) The FEA will dismiss with prejudice a "Petition for Special Redress or Other Relief" filed by a person who has exhausted his administrative remedies with respect to any proceeding provided by this part, as provided in Subpart H, and received a final order therefrom that deals with the same issue or transaction; and, similarly, will dismiss with prejudice such petition if filed by a person who has not exhausted his administrative remedies as provided in this part.

§ 205.237 Decision and response.

(a) Upon consideration of the petition and other relevant information received or obtained during the proceeding, the FEA will issue an order granting or denying the petition, except a petition regarding the FEA or a State Office. The latter petition will be considered to be advice only and no order shall be issued in response thereto.

(b) The order denying or granting the petition shall include a written statement setting forth the relevant facts and legal basis for the order. Such order shall state that it is a final order of the FEA of which the petitioner may seek judicial review.

PART 210—GENERAL ALLOCATION AND PRICE RULES

AUTHORITY: Emergency Petroleum Allocation Act of 1973, P.L. 93-159, E.O. 11748, 38 FR 33577; Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E.O. 11748, 38 FR 33575; Cost of Living Council Order Number 47, 39 FR 24.

Subpart A—Scope

§ 210.1 Purpose.

The purpose of this part is to set forth the provisions applicable to both Parts 211—Mandatory Petroleum Allocation Regulations and Part 212—Mandatory Petroleum Price Regulations, appearing in this chapter.

§ 210.2 Applicability.

Effective 11:59 p.m. d.s.t. January 14, 1974, the provisions of this part apply to all covered products produced, refined or imported into the United States. This part does not apply to sales of natural gas.

§ 210.3 Exceptions and exemptions.

When necessary to accomplish the purposes of the Act, the Federal Energy Administration may permit an exception or an exemption to the regulation of this part. Requests for exception and exemption shall be submitted in accordance with the provisions of Part 205 of this chapter.

§ 210.4 Ratification of prior directives, orders and actions.

Unless modified by any provisions of this chapter, any directive, order or action in effect pursuant to the Act shall remain in effect:

(a) Until its expiration by its own terms; or

(b) Until its revocation or amendment by any directive or order or superseding regulation issued under the provisions of this chapter.

Subpart B—Definitions

§ 210.21 Definitions.

"Act" means the Emergency Petroleum Allocation Act of 1973, or the Economic Stabilization Act of 1970, as amended, or both.

"Covered products" means crude oil, residual fuel oil, and refined petroleum products.

"FEA" means the Federal Energy Administration or its delegate.

"Natural gas" means natural gas as defined by the Federal Power Commission.

"United States" means the several States, the District of Columbia, Puerto Rico, and the territories and possessions

of the United States other than the Panama Canal Zone.

Subpart C—Exemptions

§ 210.31 Scope.

(a) Except as provided in paragraph (b) of the section, price adjustments and allocation provisions with respect to items and transactions set forth in this Subpart are exempt from and not included within the coverage of this chapter.

(b) Revenues received from the sales of exempt items or from exempt sales are included in a firm's annual sales or revenues, as defined in Part 212 of this chapter, for purposes of computing profit margin in Part 212 of this chapter. Covered products exempt from the allocation provisions are to the extent specified and in Part 211 of this chapter, included in inventory calculations.

§ 210.32 Stripper well leases.

(a) The first sale of domestic crude petroleum and petroleum condensates, including natural gas liquids produced from any stripper well lease is exempt from the provisions of Parts 211 and 212 of this chapter.

(b) Definitions: "Average daily production" means the qualified maximum total production of domestic crude petroleum and petroleum condensates, including natural gas liquids, produced from a property during the preceding calendar year, divided by a number equal to the number of days in that year times the number of wells which produced crude petroleum and petroleum condensates, including natural gas liquids, from that property in that year. To qualify as maximum total production, each well on the property must have been maintained at the maximum feasible rate of production, in accordance with recognized conservation practices, and not significantly curtailed by reason of mechanical failure or other disruption in production.

"Domestic crude petroleum" means crude petroleum produced in the United States or from the "outer continental shelf" as defined in 43 U.S.C. 1331.

"First sale" means the first transfer for value by the producer or royalty owner.

"Property" is the right which arises from a lease in existence in 1972 or from a fee interest to produce domestic crude petroleum in existence in 1972 and is coextensive with that property used in Section 212 for purposes of determining "base production control level."

"Stripper well lease" means a "property" whose average daily production of crude petroleum and petroleum condensates, including natural gas liquids, per well did not exceed 10 barrels per day during the preceding calendar year.

§ 210.33 Exports and imports.

Bonded fuels, as defined in Subpart B of Part 211 of this Chapter, are exempt from the provisions of Parts 211 and 212 of this chapter.

§ 210.34 Petroleum refinery products.

(a) Petroleum refinery products such as petroleum wax, petroleum coke, asphalt, road oil, and refinery gases which are not crude oil, refined petroleum products, or residual fuel oils are exempt from the provisions of Parts 211 and 212 of this chapter.

(b) *Definitions.* "Asphalt" means asphalt as defined in ASTM standard D–288.

"ASTM" means American Society for Testing Materials.

"Petroleum coke" means a solid residue, the final product of the condensation process in cracking, consisting mainly of highly polycyclic aromatic hydrocarbons very poor in hydrogen, including petroleum coke which when calcinated yields almost pure carbon or artificial graphite suitable for production of carbon or graphite electrodes, structural graphite, motor brushes, dry cells, etc. It includes both forms listed below:

(1) *Marketable.* Those grades of coke produced in delayed or fluid cokers which may be recovered as relatively pure carbon. This "green" coke may be further purified by calcining or may be sold in the "green" state.

(2) *Catalyst.* In many catalytic operations (i.e., catalytic cracking) carbon is deposited on the catalyst, deactivating the catalyst. The catalyst is reactivated by burning off the carbon, using it as a fuel in the refinery process. This carbon or coke is not recoverable in a concentrated form. For statistical purposes, the amount of catalyst coke may be estimated by using an average weight percent (1.5%–8.5%) of charging stock.

"Petroleum wax" means petroleum wax as defined in ASTM standard D–288.

"Refinery gas" means a form of gas normally produced in the refining of crude oil which is predominately used for refinery fuel.

"Road oil" means any heavy petroleum oil, including residual asphaltic oils, used as a dust palliative and surface treatment of roads and highways. It is generally produced in six grades from 0, the most liquid, to 5, the most viscous.

Subpart D—General Rules

§ 210.61 Retaliatory actions.

No firm (including an individual) may take retaliatory action against any other firm (including an individual) that files or manifests an intent to file a complaint of alleged violation of, or that otherwise exercises any rights conferred by the Act, any provision of this part, or any order issued under this Chapter. For the purposes of this paragraph, "retaliatory action" means any action contrary to the purpose or intent of the Economic Stabilization Program or the Federal Energy Administration and may include a refusal to continue or sell or lease, any reduction in quality, any reduction in quantity of services or products customarily available for sale or lease, any violation of privacy, any form of harassment, or any inducement of others to retaliate.

§ 210.62 Normal business practices.

(a) Suppliers will deal with purchasers of an allocated product according to normal business practices in effect during the base period specified in Part 211 for that allocated product, and no supplier may modify any normal business practice so as to result in the circumvention of any provision of this chapter. "Summer fill" programs and other "dating" or seasonal credit programs are among the normal business practices which must be maintained by a supplier under this paragraph, if that supplier had such programs in effect during the base period. Credit terms other than those associated with seasonal credit programs are included as a part of the May 15, 1973 price charged to a class of purchaser under Part 212 of this Chapter. Nothing in this paragraph shall be construed to require suppliers to sell to purchasers who do not arrange proper credit or payments for allocated products, as customarily associated with that class of purchaser during the base period (for seasonal credit), or on May 15, 1973 (for other credit terms). However, no supplier may require or impose more stringent credit terms or payment schedules on purchasers than those in effect for that class of purchaser during the base period (for seasonal credit), or on May 15, 1973 (for other credit terms).

(b) No supplier shall engage in any form of discrimination among purchasers of any allocated product. For purposes of this paragraph, "discrimination" means extending any preference or sales treatment which has the effect of frustrating or impairing the objectives, purposes and intent of this chapter or of the Act, and includes, but is not limited to, refusal by a retail marketer of motor gasoline or diesel fuel to furnish or sell any allocated product due to the absence of a prior selling relationship with the purchaser, or establishment of new volume purchase arrangements where customers of retailers agree in advance to purchase in excess of normal amounts of motor gasoline or diesel fuel and thereby receive preferential treatment.

(c) Any practice which constitutes a means to obtain a price higher than is permitted by the regulations in this chapter or to impose terms or conditions not customarily imposed upon the sale of an allocated product is a violation of these regulations. Such practices include, but are not limited to devices making use of inducements, commissions, kickbacks, retroactive increases, transportation arrangments, premiums, discounts, special privileges, tie-in agreements, trade understandings, falsification of records, substitution of inferior commodities or failure to provide the same services and equipment previously sold.

§ 210.63 Sales of allocated product.

Quantities of an allocated product required by an allocation order to be sold shall be sold at the price for that substance on the date the order was issued or such other date specified in the order for this purpose.

Subpart E—Antitrust Applicability

§ 210.71 Scope.

The purpose of this subpart is to set forth the relationship between the re-

quirements of the Mandatory Petroleum Products Allocation Program and the antitrust laws of the United States.

§ 210.72 General rule.

Notwithstanding any provision to the contrary elsewhere in this part, except as specifically provided in this subpart, the provisions of this subpart neither provide immunity from civil or criminal liability under the antitrust laws to any person subject to the provisions of this chapter, nor create a defense to any action under the antitrust laws.

§ 210.73 Definitions.

For the purposes of this subpart, "antitrust laws" includes:

(1) The Sherman Antitrust Act (15 U.S.C. 1 et seq., July 2, 1890, as amended);

(2) The Clayton Act (15 U.S.C. 12 et seq., October 13, 1914, as amended);

(3) The Federal Trade Commission Act (15 U.S.C. 41 et seq.);

§ 210.74 Meetings.

By order of the FEA, whenever it becomes necessary in order to comply with the provisions of these regulations, that owners, directors, officers, agents, employees, or representatives of two or more persons engaged in the business of producing, refining, marketing, or distributing of any product subject to the requirements of these regulations must meet, confer, or communicate in such fashion and to such ends that might otherwise be construed to constitute a violation of the antitrust laws, such activities may be permitted; provided, the criteria of § 210.75 are met.

§ 210.75 Criteria for meetings.

Persons permitted by order to so meet, confer, or otherwise communicate shall:

(a) Obtain from the FEA an order which specifies and limits the subject matter to be discussed, and the objectives of such meeting, conference or other communication;

(b) Meet only in the presence of a representative of the Antitrust Division of the Department of Justice;

(c) Take a verbatim transcript of such meeting, conference, or other communication; and

(d) Submit such verbatim transcript and any agreement resulting from such meeting, conference, or other communication to the Attorney General and to the Federal Trade Commission.

§ 210.76 Defense antitrust.

Compliance with the provisions of § 210.75 shall make available to the affected parties a defense to any action brought under the antitrust laws arising from any meeting, conference, or communication, or agreement arising therefrom; provided, that such meeting, conference, or other communication was held and any resulting agreement was made solely for the purpose of complying with the provisions of this chapter.

§ 210.77 Defenses; antitrust and breach of contract.

Compliance with the provisions of the regulations of this chapter shall make available a defense to any action brought under the antitrust laws or for breach of contract in any Federal or State court arising out of delay or failure to provide, sell, or offer for sale or exchange any product subject to these regulations; provided, that such defense shall be available only if such delay or failure was caused solely by compliance with the provisions of this chapter.

Subpart G—Reports and Recordkeeping

§ 210.91 Reports.

Whenever the FEA considers it necessary for the effective administration of the FEA, it may order any firm to file special or separate reports, setting forth information relating to the FEA regulations in addition to any other reports required in Part 211 or Part 212 of this chapter.

§ 210.92 Records.

(a) *General.* Each firm subject to this part shall keep such records as are sufficient to demonstrate that the prices charged or the amounts sold by the firm are in compliance with the requirements of this part.

(b) *Inspection.* Records required to be kept under paragraph (a) shall be made available for inspection at any time upon the request of a representative of the FEA.

(c) *Justification.* Upon the request of a representative of the FEA any firm which has filed a notice of a proposed price increase, increases a price pursuant to this subpart, or takes any action pursuant to the allocation provisions of this Chapter, shall:

(1) Specify the records that it is maintaining to comply with this paragraph; and

(2) Justify that proposed price increase, increased price, or action pursuant to the allocation provision of this Chapter.

(d) *Period for keeping records.* Each firm required to keep a record under this paragraph shall maintain and preserve that record for at least 4 years after the last day of the calendar year in which the transactions or other events recorded in that record occurred or the property was acquired by that firm whichever is later.

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Subpart A—General Provisions

Subpart B—Definitions

Subpart C—Crude Oil and Refinery Yield Control

Subpart D—Propane

Subpart E—Butane and Natural Gasoline

Subpart F—Motor Gasoline

Subpart G—Middle Distillate

Subpart H—Aviation Fuels

Subpart I—Residual Fuel Oil

Subpart J—Naphthas and Gas Oils

Subpart K—Other Products

AUTHORITY: Emergency Petroleum Allocation Act of 1973, P.L. 93-159; Federal Energy Administration Act of 1974, Pub. L. 93-275, E.O. 11790, 39 FR 23185.

Subpart A—General Provisions

§ 211.1 Scope.

(a) *General.* This part applies to the mandatory allocation of crude oil, residual fuel oil and refined petroleum products produced in or imported into the United States.

(b) *Exclusions.* (1) Exports of crude petroleum and petroleum products subject to Subchapter B of Chapter III of Title 15 of the Code of Federal Regulations are excluded from this part.

(2) The first sale of domestic crude petroleum and petroleum condensates, including natural gas liquids, produced from any stripper well lease as defined in § 210.32 of this chapter is excluded from this part.

(3) Petroleum refinery products such as petroleum wax, petroleum coke, asphalt, road oil, and refinery gases which are not crude oil, refined petroleum products, or residual fuel oils are excluded from this part.

(4) Natural gas and ethane are also excluded from this part.

(c) *State set-asides.* State set-asides are provided for middle distillates, residual fuel oil, motor gasoline and propane.

§ 211.2 Relationship of subparts.

Unless otherwise specified in Subparts D through K of this part, the general provisions set forth in this subpart apply to the mandatory allocation of all allocated products.

§ 211.9 Supplier/purchaser relationships.

(a) *Supplier/wholesale purchaser relationship.* (1) Each supplier of an allocated product shall supply all wholesale purchaser-resellers and all wholesale purchaser-consumers which purchased or obtained that allocated product from that supplier during the base period as specified in Subparts D through K of this part.

(2) (i) Unless otherwise provided in this part or directed by FEA, the supplier/wholesale purchaser-reseller relationships defined by specific dates or base periods or otherwise imposed pursuant to this part shall be maintained for the duration of the Mandatory Petroleum Allocation Program and may not be waived or otherwise terminated without the express written approval of FEA.

(ii) Unless otherwise provided in this part or directed by FEA, the supplier/wholesale purchaser-consumer relationships defined by specific dates or base periods or otherwise imposed pursuant to this part shall be maintained for the duration of the Mandatory Petroleum Allocation Program and may not be revised or otherwise terminated except that any such relationship may be terminated by the mutual consent of both parties.

(b) *Supplier/end-user relationship.* Each supplier of an allocated product shall, to the maximum extent practicable, supply all end-users which purchased that allocated product from that supplier as of January 15, 1974, and which are entitled to an allocation level under the provisions of Subparts D through K of this part.

(c) *Changes in ownership or brand.* The supplier/purchaser relationships required by this part shall not be altered by (1) changes in the ownership or right of possession of the real property on which a wholesale purchaser or end-user maintains its on-going business or end use; or (2) changes in the brand or franchise under which a wholesale purchaser-reseller maintains its on-going business.

(d) *New relationships.* (1) Suppliers shall not supply new wholesale purchasers except in accordance with § 211.12(e).

(2) Suppliers shall not supply new end-users except in accordance with § 211.12(f).

(3) New suppliers shall not supply wholesale purchasers or end-users except in accordance with § 211.10(e).

(e) *Dual capacities.* A supplier may act in the capacity of a wholesale purchaser and an end-user. A wholesale purchaser-consumer may also be a wholesale purchaser-reseller. A firm which is acting in one or more different capacities shall comply with the appropriate regulations governing each capacity in which it acts.

§ 211.10 Supplier's method of allocation.

(a) *General.* (1) Suppliers of allocated products shall allocate all of their allocable supply in accordance with the provisions of this section unless otherwise specified in Subparts D through K of this part. Each supplier shall determine its allocation fraction pursuant to the provisions of paragraph (b) of this section. Suppliers shall then allocate to wholesale purchasers and end-users in accordance with the provisions of paragraph (c) of this section. Suppliers of end-users without allocation levels shall allocate their allocable supply in accordance with the provisions of paragraph (d) of this section. The method of allocation for new suppliers is specified in paragraph (e) of this section. Suppliers with allocation fractions less than one (1.0) must act in accordance with the provisions of paragraph (f) of this section, while suppliers with allocation fractions in excess of one (1.0) must act in accordance with the provisions of paragraph (g) of this section. Suppliers which sell products with different uses which are subject to allocation under more than one subpart shall determine the applicable subpart by reference to paragraph (h) of this section.

(2) For purposes of defining a supplier in this part, a firm shall mean the parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls.

(b) *Allocation fraction.* Each supplier shall determine an allocation fraction prior to making any allocation. A supplier's allocation fraction for any period which corresponds to a base period for an allocated product shall be equal to its allocable supply of that product, which is defined in paragraph (b)(1) of this section, for that period, divided by its supply obligation for all levels of distribution, which is defined in paragraph (b)(2) of this section. Suppliers shall adjust their allocation fractions for each such period to reflect adjustments in their supply obligation and in their allocable supply. Each supplier shall only have a single allocation fraction for all purchasers except to the extent permitted in § 211.14 or unless permitted or required by order of the FEA. Suppliers with two or more distribution subsystems or regions independent of one another may apply to the FEA National Office, in accordance with Subpart G of Part 205 of this chapter, for permission to use multiple allocation fractions whenever use of a single allocation fraction would be impracticable or inconsistent with the objectives of the program.

(1) *Allocable supply.* Each supplier's allocable supply of an allocated product for a period which corresponds to a base period shall be equal to its total supply for that period, which is the sum of its estimated production, including amounts received under processing and exchange agreements, imports, purchases and any reduction in inventory of that allocated product made pursuant to § 211.22 except as otherwise ordered by FEA; less (i) any amounts designated as a state set-aside for a prime supplier pursuant to § 211.17, (ii) any amounts of allocation requirements supplied directly to end-users or wholesale purchaser-consumers under an allocation level not subject to an allocation fraction, (iii) any amounts supplied to wholesale purchaser-resellers which have certified these amounts to be for ultimate use under an allocation level not subject to an allocation fraction, and (iv) any amounts supplied to customers through exchange agreements. Any existing inventory, or production, importation or purchase of an allocated product used to increase that inventory consistent with the provisions of § 211.22 shall not be included in the allocable supply of that product.

(2) *Supply obligation*—(i) *General.* A supplier's supply obligation of a particular allocated product is the sum of (A) the amounts of its wholesale purchaser-resellers' base period volumes as adjusted pursuant to § 211.13 for unusual growth and other allowable factors, which were supplied by the supplier during the ap-

propriate base period provided that the wholesale purchaser is still in business; (B) the amounts of base period uses of new wholesale purchasers and end-users which are assigned to or accepted by the supplier in accordance with the provisions of § 211.12; and (C) the amounts of allocation requirements of end-users and wholesale purchaser-consumers supplied by the supplier; minus (D) any amounts of allocation requirements supplied directly to end-users or wholesale purchaser-consumers under an allocation level not subject to an allocation fraction; and (E) any amounts supplied to wholesale purchaser-resellers which have certified those amounts to be for ultimate use under an allocation level not subject to an allocation fraction. The supply obligation of a retail sales outlet for motor gasoline shall also include an amount equal to its total sales of motor gasoline during the base period to end-users not entitled to an allocation level. A wholesale purchaser's base period volume, allocation requirements and allocation levels are defined below.

(ii) *Base period use.* Base period use means base period volume or adjusted base period volume, as appropriate. A wholesale purchaser's base period volume of a particular allocated product is the volume of that allocated product purchased or obtained during the appropriate base period as determined in accordance with § 211.12(c), in the case of a new wholesale purchaser, base period volume means the volume assigned pursuant to § 211.12(c). Base period volume, however, does not include any amounts of an allocated product obtained pursuant to in kind exchange agreements involving a single product which are normal business operating procedures except the difference between the total amounts received under exchange agreements and the total amounts supplied to customers through exchange agreements. Suppliers do not have a base period volume except when acting in the capacity of wholesale purchasers. Depending on the applicable allocation level, end-users may have a base period volume or may be treated on the basis of current requirements. Adjustments to base period volumes shall be made in accordance with the provisions of § 211.13.

(iii) *Allocation requirements.* The allocation requirement of an end-user or wholesale purchaser-consumer is the product of that purchaser's current requirements or base period use multiplied by the applicable allocation level.

(iv) *Allocation levels.* An allocation level is the percentage of the current requirements or base period use of an end-user or wholesale purchaser-consumer that its supplier shall supply if sufficient volumes of the allocated product are available. Allocation levels are assigned on the basis of the use to be made of the product and the type of purchaser receiving the product.

(c) *Allocation by suppliers to wholesale purchasers and end-users.* There shall be two levels of priority in the allocation by suppliers to wholesale purchasers and end-users:

(1) *First priority.* The first priority shall be for each supplier at every distribution level (i) to allocate from its total supply to wholesale purchaser-resellers any amounts which those purchasers have certified pursuant to § 211.12(d)(2) to be for ultimate use under an allocation level not subject to an allocation fraction and (ii) to allocate from its total supply to end-users and wholesale purchaser-consumers supplied directly under an allocation level not subject to an allocation fraction sufficient volumes of the allocated product to supply one hundred percent of those purchasers' allocation requirements which suppliers of those purchasers have certified pursuant to § 211.12(d)(1). The amounts allocated under this first priority shall not be subject to the supplier's allocation fraction.

(2) *Second priority.* The second priority for each supplier shall be (i) to allocate to each wholesale purchaser-reseller a volume of allocated product equal to the product of that supplier's allocation fraction multiplied by the amount equal to that wholesale purchaser-reseller's base period use minus any amounts which that purchaser has certified to be for ultimate use under an allocation level not subject to an allocation fraction and (ii) to allocate from its allocable supply to all end-users and wholesale purchaser-consumers supplied directly under an allocation level subject to an allocation fraction a volume of allocated product equal to the product of that supplier's allocation fraction multiplied by the allocation requirements of those purchasers.

(3) *Allocation level priority.* Allocation levels listed in Subparts D through K are not arranged in sequence of priority except that the allocation levels not subject to an allocation fraction must be supplied as the first order of priority. Suppliers shall distribute their allocable supply to all classifications of purchasers listed within each particular percentage allocation level and among percentage allocation levels other than levels not subject to an allocation fraction without regard to the order of listing.

(d) *Purchasers without allocation levels.* Notwithstanding the provisions of paragraphs (c) and (g) of this section, suppliers such as retail gasoline dealers, which supply both end-users or wholesale purchaser-consumers which are not entitled to an allocation level and end-users or wholesale purchaser-consumers which are entitled to an allocation level shall allocate their allocable supply in the following manner:

(1) The first priority for each supplier shall be to allocate to all end-users and wholesale purchasers which are entitled to an allocation in accordance with the provisions of paragraph (c) of this section.

(2) The second priority for each supplier shall be to distribute equitably the remainder of the supplier's allocable supply among all end-users or wholesale purchaser-consumers which are not entitled to an allocation level. A state may require or authorize priorities to or among such end-users or wholesale purchaser-consumers purchasing the allocated product for the uses listed in the allocation levels for that product in the subpart of this part applicable to the particular allocated product. Except to the extent that FEA regulations or a State office otherwise may require or authorize, local governments and the supplier may also give priority to or among such end-users or wholesale purchaser-consumers purchasing the allocated product for the uses listed in the allocation levels for that product in the subpart of this part applicable to the particular allocated product. Priority treatment, per se, when granted in accordance with the provisions of this subparagraph, shall not be considered a form of discrimination among purchasers or any other prohibited conduct under § 210.62 of this chapter.

(e) *New supplier.* (1) A supplier which was not a base period supplier but was a supplier prior to January 15, 1974 shall supply, in accordance with the provisions of this section, (i) wholesale purchasers which it supplied as of January 15, 1974 and which have no base period supplier; (ii) any assigned purchasers; (iii) new wholesale purchasers acquired after January 15, 1974 in accordance with the provisions of § 211.12; and (iv) to the maximum extent possible, end-users.

(2) A supplier which was not a supplier prior to January 15, 1974 shall be considered to have no supply obligation and shall not allocate supplies to any purchaser without FEA approval.

(f) *Allocation fractions less than one.* (1) When a supplier's allocation fraction is less than one (1.0), a supplier shall reduce, on a pro-rata basis, the amounts supplied to end-users and wholesale purchasers for uses subject to the allocation fraction. End-users and wholesale purchaser-consumers supplied under an allocation level not subject to an allocation fraction, shall, however, be supplied at a constant one hundred percent of allocation requirements. Wholesale purchaser-resellers which certify amounts of an allocated product to be for ultimate use under an allocation level not subject to an allocation fraction shall also be supplied at one hundred percent of these certified amounts. These purchasers shall not receive a pro-rata reduction unless the supplier's total supply is not sufficient to supply all such end-users and wholesale purchasers at one hundred percent of allocation requirements or certified amounts, as appropriate.

(2) Any supplier whose allocation fraction is equal to or less than one (1.0) and whose wholesale purchasers and end-users entitled to receive an allocation from that supplier either have not purchased or have notified the supplier of their intent not to purchase their complete allocation entitlement by the end of the period corresponding to a base period may report and dispose of such volumes in accordance with the provisions of paragraph (g) of this section.

(g) *Allocation fractions greater than one.* (1) *General.* In allocating allocable supplies of any allocated product among wholesale purchasers and end-users, no supplier may use an allocation fraction

greater than one (1.0) except as provided herein.

(2) *Non-reporting suppliers.* Any wholesale purchaser-reseller which is a retail sales outlet or any other supplier not subject to subparagraph (3) below and which has an allocation fraction in excess of one (1.0) for a period corresponding to a base period shall make allocations based on an allocation fraction of one (1.0) and may distribute its surplus product at its discretion. There is no requirement that such a wholesale purchaser-reseller report its surplus product to FEA.

(3) *Surplus product reports.* A supplier of an allocated product which is either a refiner, a prime supplier in any state, or a supplier of a prime supplier (such as a broker) and which is not a retail sales outlet and which has an allocable supply of sufficient magnitude that its allocation fraction computed pursuant to paragraph (b) of this section will exceed one (1.0) for a period corresponding to a base period, shall make allocations based on an allocation fraction of one (1.0) and shall report the volume, location, price, availability of transportation and significant specifications of surplus product available. The surplus product report shall be submitted in writing to the National FEA office, with a copy to the appropriate regional FEA offices, within five (5) days of the supplier's determination that its allocation fraction will exceed one (1.0). The report must be clearly labeled "Surplus Product Report" both on the document and on the outside of the envelope in which the document is transmitted and shall be addressed to: Federal Energy Administration, Surplus Product Report, Post Office Box 19407, Washington, D.C. 20036. The FEA shall provide written notification to each supplier submitting a surplus product report of the exact time of receipt of the surplus product report.

(4) *Redirection.* The National or Regional FEA (whenever authorized by the National FEA) may within ten (10) days after actual receipt of notification made pursuant to subparagraph (3) above direct that the product so reported be distributed among other suppliers, sold to designated wholesale purchasers or end-users, be distributed to the reporting supplier's purchasers on a pro-rata basis, such as using an allocation fraction greater than one (1.0), or be accumulated in inventory.

(5) *Reporting suppliers.* Any supplier which reports pursuant to subparagraph (3) above may distribute its surplus product at its discretion if it is not notified to the contrary within ten (10) days of receipt of FEA of the supplier's notification under subparagraph (3) above except that (i) the supplier shall supply, in the aggregate, to the category of wholesale purchaser-resellers which are branded independent marketers and, separately, to the category of wholesale purchaser-resellers which are nonbranded independent marketers, to the extent that such categories of purchasers are willing to accept it, at least the same proportion of the supplier's surplus product as the total allocation entitlements of such branded or nonbranded independent marketers bear to the total allocation entitlement of all purchasers which are entitled to receive an allocation from that supplier and (ii) retail sales outlets owned and operated by the supplier may not purchase or be supplied, in the aggregate, a greater proportion of the supplier's surplus product than the total allocation entitlements of all such retail sales outlets bear to the total allocation entitlements of all purchasers which are entitled to receive an allocation from that supplier unless the supplier first meets all requests for products from independent marketers to the extent required in subparagraph (1) above.

(6) *Records of disposition of surplus product.* Any supplier which reported surplus product for a period corresponding to a base period as required by subparagraph (3) above shall maintain adequate records to allow FEA, upon request, to ascertain the disposition of the surplus product.

(7) *Purchaser's rights.* Notwithstanding the provisions of § 211.12, any wholesale purchaser or end-user may purchase allocated product from any supplier which certifies that it has surplus product to distribute and that it has complied with the provisions of this paragraph.

(8) *Limitation on purchaser's rights.* No supplier shall supply and no end-user or wholesale purchaser-consumer shall accept quantities of an allocated product which exceed one hundred (100) percent of the end-user's or wholesale purchaser-consumer's current requirements, except pursuant to subparagraph (9) or as directed by FEA.

(9) *Special restriction on propane and butane.* No supplier shall supply and no end-user or wholesale purchaser-consumer shall accept quantities of propane or butane in excess of one hundred (100) percent of base period use for synthetic natural gas feedstock use, gas utility use, or any industrial use except for the purpose of increasing inventories to the levels allowed under § 211.86 (g) or § 211.96(e).

(h) *Products with different uses.* When an allocated product may be subject to allocation under more than one subpart of this part, a wholesale purchaser shall certify the type of use of the product to the supplier which supplied that product during the base period prescribed in the subpart applicable to that type of use of that product. The supplier shall then supply that wholesale purchaser in accordance with the provisions of the subpart which applies to the certified use of that product unless the supplier and wholesale purchaser mutually agree that the product shall be supplied for a use other than the use during the base period. Suppliers shall supply end-users in accordance with the provisions of the subpart that applies to the end-user's present use of the product.

§ 211.11 Basis for purchaser's entitlement to allocation.

(a) *Basis of entitlement.* A wholesale purchaser or an end-user entitled to an allocation level shall receive an allocation based on its conduct of an on-going business or maintenance of an established end use.

(b) *End-users and wholesale purchasers as a firm.* (1) For purposes of defining an end-user or wholesale purchaser-consumer in this part, a firm shall mean all parts of the parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls which act as ultimate consumers including all sites, storage tanks and other facilities or entities of the end-user or wholesale purchaser-consumer that utilize or store an allocated product.

(2) Except as provided in Subpart F of this part, for purposes of defining a wholesale purchaser-reseller in this part, a firm shall mean all parts of the parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls.

(c) *Loss of allocation entitlement for going out of business.* Wholesale purchasers and end-users which have gone out of business shall not be eligible for allocations based on volumes received or purchases made prior to going out of business.

(d) *Transfer of entitlement.* The right to receive an allocation shall not be assignable separately but shall be considered an integral part of the on-going business or established end use. The right to an allocation shall be deemed to have been transferred only when the entire business or activity of the firm is transferred to a successor firm.

§ 211.12 Purchaser's allocation entitlement.

(a) *Scope.* This section describes a purchaser's allocation entitlements. Paragraph (b) of this section specifies the volumes of an allocated product which wholesale purchasers and end-users are entitled to receive from suppliers. The method by which purchasers determine base period volumes is provided in paragraph (c) of this section and the method by which purchasers determine the amounts not subject to an allocation fraction is provided in paragraph (d) of this section. Paragraphs (e), (f), and (g) of this section set forth procedures by which new wholesale purchasers, new end-users and new importer-consumers, respectively, determine their entitlement and suppliers. Paragraph (h) of this section provides special relief for purchasers which are denied access to a fuel source by Federal or State order.

(b) *Entitlements*—(1) *Wholesale purchaser-reseller.* A wholesale purchaser-reseller shall be entitled to receive a volume of an allocated product equal to the sum of the volumes allocable to it from each of its suppliers. The volume supplied to a wholesale purchaser-reseller by each of its suppliers shall equal the

sum of (i) any amounts which that purchaser has certified to a supplier to be for ultimate use under an allocation level not subject to an allocation fraction plus (ii) the product of that supplier's allocation fraction multiplied by an amount equal to that part of that wholesale purchaser's base period use purchased or obtained from that supplier minus any amounts which that purchaser has certified to be for ultimate use under an allocation level not subject to an allocation fraction.

(2) *Wholesale purchaser-consumers and end-users.* A wholesale purchaser-consumer or end-user shall be entitled to receive a volume of an allocated product equal to the sum of the volumes allocable to it from each of its suppliers. The volumes supplied to a wholesale purchaser-consumer or end-user by each of its suppliers shall equal the sum of (i) that part of the wholesale-purchaser's or end-user's allocation requirements supplied directly by that supplier under an allocation level not subject to an allocation fraction plus (ii) that part of the wholesale purchaser's or end-user's allocation requirements supplied by that supplier under an allocation level subject to an allocation fraction.

(c) *Base period volume determination.* (1) By July 1, 1974, each supplier which was not previously subject to this paragraph prior to May 1, 1974 and which sells an allocated product to a wholesale purchaser or end-user entitled to an allocation level which is a percentage of a base period use shall report to each of those purchasers with respect to each allocated product, the volume of product which it sold to or transferred to that purchaser in each base period.

(2) If, after receipt of a supplier's report, a purchaser questions the accuracy of a supplier's report, it shall notify that supplier and attempt to resolve the disagreement as to base period purchases of the purchaser.

(3) If the supplier and purchaser are unable to resolve their differences, the supplier shall commence allocations based on the supplier's records, in accordance with the allocation provisions in this part, and the purchaser should make application to the appropriate FEA regional office for a corrected base period volume in accordance with FEA forms and instructions. Copies of the purchaser's records for base period purchases should be included with the application.

(4) If the FEA determines that the purchaser's application for a corrected base period volume is valid, it may order the supplier to adjust the purchaser's base period volume and to supply the purchaser with additional volumes of the allocated product equal to the adjusted amount the purchaser should have received if allocation had initially been based on the corrected base period volume.

(d) *Determination of amounts not subject to an allocation fraction.* (1) Any wholesale purchaser-reseller which directly supplies end-users or wholesale purchaser-consumers entitled to an allocation level which is not subject to an allocation fraction other than a utility shall certify its requirements for such end-users or wholesale purchaser-consumers on an annual basis to its supplier (consistent with any energy conservation program such as the temperature reduction restrictions found in that end-user's allocation level). Any increase above the initial level of allocation requirements certified shall also be certified to the supplier. In the event that the wholesale purchaser-reseller and its supplier cannot agree on the volume which the wholesale purchaser-reseller is entitled to receive to meet the requirements of the end-user and the wholesale purchaser-consumer customers of the wholesale purchaser-reseller, an application for validation may be referred by the wholesale purchaser-reseller to FEA. During the period that a request for validation is pending, the supplier shall supply the wholesale purchaser-reseller at the level of requirements which is not disputed by the supplier. If the FEA determines that the wholesale purchaser-reseller is entitled to increased requirements in excess of those supplied by the supplier during the period that the request for validation is pending, FEA may order the supplier to supply such increased requirements and to supply the wholesale purchaser-reseller with additional volumes of the allocated product equal to the amount the wholesale purchaser-reseller would have received if the increased requirements had been supplied during such period.

(2) All suppliers which receive a certification of allocation requirements not subject to an allocation fraction pursuant to paragraph (d)(1) of this section or which receive a certification from any other supplier of allocation requirements not subject to an allocation fraction which have been certified to that other supplier shall in turn certify to their suppliers such allocation requirements not subject to an allocation fraction.

(3) Suppliers which certify their requirements for wholesale purchaser-consumers and end-users entitled to an allocation level of 100 percent of current requirements not subject to an allocation fraction or which receive a certification from any other supplier of such requirements shall be entitled to an adjustment of their base period use as provided by § 211.13(d)(4).

(4) Any end-user or wholesale purchaser-consumer engaged in agricultural production and entitled to an allocation level of 100 percent of current requirements not subject to an allocation fraction which disputes the certification of such requirements by its supplier, or any supplier which disputes the entitlement claimed by any wholesale purchaser-consumer or end-user engaged in agricultural production may apply to the Agricultural Stabilization and Conservation Service Office for assistance in mediating the dispute. Whenever a wholesale purchaser-consumer or end-user entitled to an allocation level not subject to an allocation fraction contends that it is not being supplied with 100 percent of its current requirements, such wholesale purchaser-consumer or end-user may apply to the regional FEA for validation of the amounts of its current requirements.

(5) Within five (5) days of the end of each period which corresponds to a base period, wholesale purchaser-resellers certifying pursuant to this paragraph shall certify to their suppliers the quantity of product delivered by the wholesale purchaser-reseller to end-users and wholesale purchaser-consumers for uses under an allocation level not subject to an allocation fraction during the period and shall certify that none of the quantity of product delivered to the wholesale purchaser-reseller by the supplier for delivery to end-users and wholesale purchaser-consumers for uses under an allocation level not subject to an allocation fraction was diverted to other uses during the period. Any quantities of product delivered for a period which corresponds to a base period to a wholesale purchaser-reseller for delivery to end-users and wholesale purchaser-consumers for uses under an allocation level not subject to an allocation fraction which is not delivered by the wholesale purchaser-reseller to such users during the period shall be used to adjust the quantity of product to be received by the wholesale purchaser-reseller for such uses in a subsequent period which corresponds to a base period. Suppliers shall in turn make adjustments to reflect adjustments made by suppliers of a wholesale purchaser-reseller under this subparagraph.

(e) *New wholesale purchasers.* Wholesale purchasers which do not have base period suppliers and wholesale purchasers whose base period suppliers are unable to supply them with sufficient amounts of an allocated product shall be supplied as provided in this paragraph.

(1) *Mutual arrangements for wholesale purchaser-consumers.* Wholesale purchaser-consumers without a base period supplier or a new supplier as provided in § 211.10(e)(1) are encouraged to make mutually acceptable arrangements with suppliers. Suppliers are encouraged to continue any existing supplier/purchaser relationships with such wholesale purchaser-consumers and to accept wholesale purchaser-consumers as new purchasers.

(i) Wholesale purchaser-consumers without a base period supplier or a new supplier as provided in § 211.10(e)(1) and existing or prospective suppliers may agree upon a proposed base period volume for the wholesale purchaser-consumer.

(ii) The supplier shall within 10 days of making the mutual arrangement notify FEA by certified mail in accordance with FEA forms and instructions of the proposed base period volume and the basis upon which the proposed base period volume was determined. In no event may the supplier commence delivery of any quantity of an allocated product pursuant to the proposed base period volume prior to the required notification

to the FEA. The proposed base period volume is subject to adjustment by FEA. FEA may also assign the wholesale purchaser-consumer to another supplier.

(iii) After FEA has been notified by the supplier and during the period that FEA has the proposed supplier/purchaser relationship (including the proposed base period volume) under consideration, the supplier may provide the wholesale purchaser-consumer with interim supplies in accordance with the proposed base period volume.

(2) *New wholesale purchaser-resellers.* (i) Suppliers which have accepted as new purchasers wholesale purchaser-resellers prior to June 1, 1974, shall notify the FEA by August 1, 1974 of the names of all such new purchasers, the proposed base period volume for each purchaser and the basis upon which the proposed base period volume was determined. The proposed base period volume is subject to adjustment by FEA. FEA may also assign the wholesale purchaser-reseller to another supplier. Suppliers may provide interim supplies to such wholesale purchaser-resellers pending FEA assignment of a supplier and a base period volume.

(ii) Wholesale purchaser-resellers without a base period supplier or a new supplier as provided in § 211.10(e)(1) must apply to FEA for assignment to a supplier and for assignment of a base period volume in accordance with Subpart C of Part 205 of this chapter.

(iii) Firms which intend to operate new retail sales outlets should advise FEA as soon as practicable (preferably before construction begins) of their intention and the anticipated base period volume requirements for such new retail sales outlets.

(iv) Suppliers shall not make interim deliveries to wholesale purchaser-resellers or retail sales outlets covered by paragraphs (e)(2)(ii) and (e)(2)(iii) of this section until FEA has assigned a supplier and a base period volume to the wholesale purchaser-reseller or the retail sales outlet.

(3) *Assignments.* Any wholesale purchaser which does not have a base period supplier or a new supplier as provided in § 211.10(e)(1) (including all wholesale purchaser-consumers which cannot locate a supplier under paragraph (e)(1) of this section) or whose base period supplier(s) or new supplier as provided in § 211.10(e)(1) is unable to supply it with sufficient amounts of allocated product may apply to FEA as provided in Subpart C of Part 205 of this chapter to be assigned a supplier and a base period volume on a temporary or permanent basis.

(4) Any assigned base period volume under the provisions of this paragraph will be deemed to have been adjusted for growth under § 211.13(b) through the date of the assignment and may be adjusted thereafter under the provisions of § 211.13 (c) or (d). Base period volumes will not be assigned on any basis which gives a wholesale purchaser which is a new purchaser an unfair advantage over wholesale purchasers which have base period suppliers or new suppliers as provided in § 211.10(e).

(5) Any purchaser which is assigned to or accepted by a supplier under the provisions of this paragraph shall be accepted by the supplier for the duration of the program or until otherwise directed by the FEA.

(f) *New end-users.* (1) Suppliers to the maximum extent possible shall accept new end-users where such purchaser, under normal business practices, could logically have been served by the supplier in accordance with its base period business practices. Suppliers shall allocate to new end-users in a manner consistent with the allocation methods set forth in this chapter.

(2) If the supplier and new end-user cannot agree on an allocation requirement for the end-user or if the end-user cannot locate a supplier, the end-user may apply to the appropriate State Office in accordance with the procedures specified in Subpart Q of Part 205 of this chapter. In this event, the new end-user shall certify to the State Office documented evidence justifying the proposed allocation requirement as normal and reasonable for the intended use.

(g) *End-user and wholesale purchaser-consumer importers.* End-users and wholesale purchaser-consumers which import an allocated product in excess of the volumes which they imported in the base period, and end-users and wholesale purchaser-consumers which have not previously imported an allocated product may import that product for their own use subject to § 211.10(g)(8). Such imports will not otherwise affect their allocation entitlement except to the extent that FEA determines that such imports, without a reduction in domestic allocation entitlements, are inconsistent with the objectives of the Act. Should the circumstances warrant, FEA may require that such imports be allocated to other end-users or suppliers. End-user and wholesale purchaser-consumer importers are required to report to both national and regional FEA as provided in § 211.225.

(h) *Curtailment of certain energy sources by Federal or State rule or order.* any end-user or wholesale purchaser-consumer which has been denied access to a source of energy other than an allocated product as a consequent of curtailment by, or pursuant to, a plan filed in compliance with a rule or order of a Federal or State agency, or where the end-user's or wholesale purchaser-consumer's supply of such fuel is unobtainable by reason of an abandonment of service permitted or ordered by a Federal or State agency may apply to the FEA, under the provisions of this section, as a new purchaser for an allocated product, provided, however, that a wholesale purchaser which is an interruptible customer for a source of energy other than an allocated product shall continue its base period supplier/purchaser relationships for an allocated product. Such application shall be in accordance with Subpart C of Part 205 of this chapter.

§ 211.13 Adjustments to base period volume.

(a) *Scope.* (1) The adjustment procedures under this section are applicable to the allocation of propane, butane, motor gasoline, middle distillate, aviation fuels (except allocations to civil air carriers), and residual fuel oil (except allocations to utilities) and other products subject to Subpart K of this part. This section describes the means by which wholesale purchasers and end-users may receive adjustments to their base period volumes. All adjustments made pursuant to this section are subject to verification by FEA audit.

(2) Paragraph (b) of this section provides for supplier-initiated and wholesale purchaser-initiated adjustments of a wholesale purchaser's base period volumes for each month of the appropriate base period year for unusual growth based upon actual sales volumes in 1972 and 1973. Paragraph (c) of this section provides for an adjustment of wholesale purchasers' and certain end-users' base period uses to account for changed circumstances. Paragraph (d) of this section provides an adjustment to base period uses when increased requirements are certified by end-users and wholesale purchaser-consumers entitled to receive an allocation level of 100 percent of current requirements subject to an allocation fraction.

(3) Paragraph (e) of this section requires non-discrimination between wholesale purchasers in granting adjustments. Paragraph (f) of this section requires purchasers to certify applications for adjustments.

(b) *Adjustments for unusual growth—* (1) *Supplier-initiated wholesale purchaser unusual growth adjustment.* Wholesale purchasers which purchased an allocated product (other than residual fuel oil which is assigned 1973 base periods) shall receive a supplier-initiated adjustment to their base period volumes by their suppliers to compensate for unusual growth between the 1972 base periods and the corresponding months in 1973.

(i) For purposes of this paragraph, that part of any growth which exceeds 10 percent for the periods compared for motor gasoline or 5 percent for the periods compared for any other allocated product is defined as "unusual growth." Wholesale purchasers will be granted an adjustment only for that part of growth which was in excess of 10 percent for motor gasoline and 5 percent for other allocated products.

(ii) A supplier shall adjust the base period volume for unusual growth in each month of the base period year for each wholesale purchaser which purchased the allocated product from the supplier in 1972. There is no requirement that a wholesale purchaser apply to the supplier for this adjustment. A supplier shall make the adjustment without a request by the wholesale purchaser to the extent that the supplier's records indicate that any wholesale purchaser is eligible for the adjustment.

(iii) The adjustment made pursuant to this paragraph shall be based upon a comparison of the volume of the allocated product purchased from the supplier in 1972 and the volume purchased in 1973. If the supplier did not supply the wholesale purchaser for all of 1972 the adjustment shall be made by a comparison of the volume for the period in 1972 that the supplier did supply the wholesale purchaser and the volume purchased by the wholesale purchaser during the corresponding period of 1973. A wholesale purchaser's 1973 volume in excess of its 1972 volume shall be expressed as a percentage of the 1972 volume to determine growth rate. Unusual growth shall then be determined by subtracting from the growth rate the appropriate percentage figure set forth in subparagraph (i) above. The resulting percentage shall be multiplied by the wholesale purchase's base period volume for each base period for which the supplier is obligated to supply the wholesale purchaser to provide the amount by which each base period volume shall be increased for unusual growth.

EXAMPLE: Firm A, a wholesale purchaser, purchased 100,000 gallons of motor gasoline from Firm B in 1972 and 150,000 gallons in 1973. Firm A's 1973 growth rate is 50 percent (1973 volume minus 1972 volume divided by 1972 volume). Firm A's unusual growth is 40 percent (that growth in excess of first 10 percent). Firm B therefore will increase by 40 percent each of Firm A's base period volumes (the volumes sold in each month of 1972) to be supplied by Firm B.

(iv) Unusual growth adjustments under this paragraph shall be certified by the supplier in accordance with FEA forms and instructions and filed with FEA by August 1, 1974.

(v) The adjustments under this paragraph shall be made by the supplier, and the certified form required by paragraph (b)(1)(iv) of this section, shall be filed with FEA on or before July 1, 1974. There is no requirement that FEA validate any adjustment made under this paragraph. Suppliers shall commence deliveries on the basis of adjustments to base period volumes which reflect unusual growth no later than July 1, 1974. A supplier may commence deliveries of an allocated product reflecting adjustments to base period volumes for unusual growth prior to July 1, 1974, provided that adjustments for all of its eligible wholesale purchasers of that allocated product have been made and such deliveries are commenced at the same time for all such wholesale purchasers.

(vi) Suppliers shall notify all wholesale purchasers for each base period of the base period year for any adjustment for unusual growth made under this subparagraph. The notice shall be given on or before August 1, 1974.

(vii) Each supplier shall notify all of its wholesale purchasers which do not receive an adjustment under this subparagraph. The notice shall be given on or before the date the required certified form is filed with FEA. The notice shall advise each such wholesale purchaser that it may apply to the supplier for an adjustment to base period volume(s) for unusual growth under paragraph (b)(3) of this section.

(viii) No wholesale purchaser which has received an adjustment for unusual growth in 1973 shall receive an additional adjustment under this paragraph except to the extent that such initial adjustment did not fully compensate the wholesale purchaser for unusual growth as allowed by this subparagraph. A supplier shall not decrease the base period volume (or adjusted base period volume) of a wholesale purchaser under this subparagraph if that purchaser's 1973 volume is less than that purchaser's 1972 volume.

(ix) No wholesale purchaser shall accept an adjusted base period volume initiated by a supplier under this paragraph which, when combined with the adjusted base period volumes supplied to the wholesale purchaser by its other base period suppliers, would exceed the wholesale purchaser's actual unusual growth for a base period. A wholesale purchaser offered such an adjusted base period volume shall immediately notify FEA in accordance with forms and instructions issued by FEA. The FEA may require suppliers of the wholesale purchaser to adjust the wholesale purchaser's base period volume as adjusted by its suppliers under this paragraph and to adjust the wholesale purchaser's future allocations to compensate for any excess product received by the wholesale purchaser.

(x) Although wholesale purchasers of propane have a base period that includes part of 1973, for the purpose of this paragraph, suppliers shall determine such wholesale purchasers' unusual growth by comparing the volume of propane purchased from the supplier in 1972 and the volume purchased in 1973. If the supplier did not supply the wholesale purchaser for all of 1972, the adjustment shall be made by a comparison of the volume for the period in 1972 that the supplier did supply the wholesale purchaser and the volume purchased by the wholesale purchaser during the corresponding period of 1973.

(2) *Additional unusual growth adjustment for wholesale purchaser-resellers.* This subparagraph provides an additional adjustment for wholesale purchaser-resellers following an adjustment of their base period volume under paragraph (b)(1) above. If the base period volume of a wholesale purchaser-reseller as adjusted for unusual growth pursuant to paragraph (b)(1) of this section minus the 1973 allocation requirements of its purchasers for use under an allocation level which is not now subject to an allocation fraction is less than the wholesale purchaser-reseller's adjusted base period volume minus such allocation requirements as calculated under this paragraph, the wholesale purchaser-reseller may apply to its supplier for an adjustment to be calculated as follows:

(i) The wholesale purchaser-reseller will determine its 1972 volume less those volumes delivered to purchasers for use under an allocation level which is not now subject to an allocation fraction. A wholesale purchaser-reseller may calculate such volume by subtracting from its 1972 volume either:

(A) those actual volumes delivered in 1972 to purchasers for use under an allocation level which is not now subject to an allocation fraction and certified as accurate by the wholesale purchaser-reseller, or

(B) that volume which as a percentage of its 1972 volume corresponds to the percentage of the total volume delivered in 1973 to purchasers for use under an allocation level which is not now subject to an allocation fraction.

(ii) The wholesale purchaser-reseller will determine its 1973 volume less those volumes delivered in 1973 to purchasers for use under an allocation level which is not now subject to an allocation fraction.

(iii) The wholesale purchaser-reseller may then calculate its unusual growth adjustment using its 1972 and 1973 volumes less the volume in both years delivered to purchasers for use under an allocation level which is not now subject to an allocation fraction as otherwise provided in subparagraph (1) of this paragraph.

(iv) If the aggregate adjusted base period volumes calculated under this subparagraph are greater than the aggregate adjusted base period volumes calculated under paragraph (b)(1) of this section minus the 1973 allocation requirements of the wholesale purchaser-reseller's purchasers which are not subject to an allocation fraction, then the wholesale purchaser-reseller's aggregate adjusted base period volumes may be further adjusted to reflect the difference between those two amounts.

EXAMPLE: Firm A, a wholesale purchaser, purchased 100,000 gallons of motor gasoline from Firm B in 1972 and 150,000 gallons in 1973. Firm B under paragraph (b)(1) notified Firm A that the base period volumes supplied by Firm B to Firm A would be increased by 40 percent. See example following b(1)(iii). Since the aggregate of Firm A's base period volumes is 100,000 gallons, the aggregate of Firm A's base period volumes (as adjusted under paragraph (b)(1)) will be 140,000 gallons (100,000+40 percent of 100,000).

The 1973 requirements of Firm A's purchasers for use under an allocation level not now subject to an allocation fraction was 90,000 gallons. Firm A does not know the actual sales to such purchasers for such uses in 1972. To determine whether Firm A is entitled to an adjustment under § 211.13(b)(2). Firm A makes the following calculations:

(1) Under § 211.13(b)(2)(i)(B) Firm A assumes that 60 percent of its 1972 sales were to purchasers for use under an allocation level not now subject to an allocation fraction because 60 percent of its 1973 sales were in this category (90,000 divided by 150,000). Firm A then determines that it sold 40,000 gallons to purchasers for use under an allocation level not now subject to the allocation fraction in 1972 by multiplying 60 percent times 100,000 and subtracting that product (60,000) from 100,000.

(2) Firm A's 1973 volume less those volumes delivered to purchasers for use under an allocation level not now subject to an allocation fraction is 60,000 (150,000 −90,000).

(3) Firm A next calculates its unusual growth adjustment using its 1972 and 1973

volumes less the volume in both years delivered to purchasers for use under an allocation level not now subject to an allocation fraction. Firm A's 1973 growth rate using this method of calculation is 50 percent (60,000—40,000 divided by 40,000). Firm A's unusual growth rate is 40 percent (that growth in excess of 10 percent). If Firm A increases its 1972 volume less the volume delivered to purchasers for use under an allocation level but not now subject to an allocation fraction, by 40 percent, the volume will be 56,000 (40,000 plus 40 percent of 40,000).

(4) Firm A then calculates its aggregate base period volumes adjusted for unusual growth pursuant to § 211.13(b)(1) which is 140,000 gallons. That volume minus the 1973 volume sold to purchasers for use under an allocation level not subject to an allocation fraction equals 50,000 gallons (140,000 —90,000).

(5) Since the aggregate adjusted base period volumes calculated under paragraph (3) of this example are greater than the aggregate adjusted base period volumes as calculated under paragraph (4) of this example, Firm A may apply to Firm B for an additional adjustment to its aggregate base period volumes of 6,000 gallons (56,000 minus 50,000). Firm A's newly aggregated adjusted base period volumes will then equal 146,000 gallons (140,000+6,000). If Firm B supplied Firm A in each month of 1972, Firm B will increase each base period volume as adjusted under b(1) by 500 gallons (6,000 divided by 12).

(3) *Wholesale purchaser initiated unusual growth application.* (i) Any wholesale purchaser which does not receive an adjustment under paragraph (b)(1) of this section or which disputes the adjustment made thereunder by one of its suppliers may apply to that supplier for an adjustment of its base period volume to compensate for unusual growth in 1973 in accordance with Subpart B of Part 205 of this chapter.

(ii) Any adjustment made under this subparagraph shall be based solely on actual volumes supplied or purchased in 1972 and 1973 as indicated by the records of the supplier and the wholesale purchaser. Unusual growth has the same meaning under this subparagraph as under paragraph (b)(1) of this section. Adjustments to base period volumes for unusual growth under this subparagraph shall be calculated in the same manner as such adjustments under paragraph (b)(1) of this section.

(iii) Base period suppliers of wholesale purchasers shall include in an adjustment for unusual growth their proportionate share of that part of a wholesale purchaser's 1973 volume which was not supplied to that wholesale purchaser by a base period supplier of the wholesale purchaser. Wholesale purchasers shall certify to their base period suppliers the 1973 volumes purchased by the wholesale purchaser from suppliers which were not base period suppliers of the wholesale purchaser. A base period supplier's share of such 1973 volumes shall be equal to that supplier's proportionate share of the 1972 volumes supplied to the wholesale purchaser by all suppliers which supplied that purchaser during the base period.

(iv) Upon receipt of an application for unusual growth under this subparagraph, the supplier shall adjust the wholesale purchaser's base period volume within ten (10) days. If the supplier disagrees with the application, it may request validation from the appropriate regional FEA; *Provided, however,* That the supplier shall immediately make an interim adjustment to the applicant's base period volume commencing with the first period which corresponds to a base period and which commences later than twenty (20) days after receipt of the application in the proposed adjusted amount during the pendency of any FEA validation proceeding. If the FEA validation proceeding results in an adjusted amount less than that supplied during the pendency of such proceeding, FEA may require the supplier to adjust the wholesale purchaser's future allocations to compensate for any excess product supplied during the interim period.

(v) No wholesale purchaser which has received an adjustment for unusual growth in 1973 shall receive an additional adjustment under this subparagraph except to the extent that such initial adjustment did not fully compensate the wholesale purchaser for unusual growth as allowed by this subparagraph.

(c) *Adjustments for changed circumstances*—(1) *Wholesale purchasers.* Wholesale purchasers may apply to the FEA pursuant to Subpart B of Part 205 of this chapter for adjustments to their base period use for changed circumstances since January 1, 1973, which have not been reflected in an adjustment under paragraph (b) of this section. In processing such applications, the FEA may consider situations that indicate a need for increased amounts over base period use including but not limited to plant expansions, changed traffic patterns, closed retail sales outlets which have caused increased demand upon remaining retail sales outlets, changes in the local economy, unusual seasonal fluctuations, new population, industrial growth, acceptance of new end-users or unusual growth problems such as could occur at truck stops on new highways. A wholesale purchaser-reseller which operated in a marketing area that experienced unusual growth or other changed circumstances during 1973 but which was unable to increase its sales to meet the increased demand because its supplier imposed an allocation fraction under the Voluntary Petroleum Allocation Program may apply for an adjustment under this paragraph.

(2) *End-users.* End-users whose allocation level is a percentage of base period use may apply to the appropriate State Office to receive an adjustment to their base period volume for changed circumstances after January 1, 1974. The State Office shall process the application for adjustment and make recommnedations to the FEA in accordance with the procedures specified in Subpart Q of Part 205 of this chapter.

(3) Wholesale purchasers and end-users shall submit their applications for adjustments to their base period use under this paragraph to their suppliers prior to submission to FEA or the appropriate State office. The supplier shall certify information with respect to the application in accordance with forms and instructions issued by FEA and submit the application together with its certification to FEA or the appropriate State office not later than ten (10) days following receipt of the application from the wholesale purchaser or end-user.

(4) *FEA action.* FEA shall only make adjustments for changed circumstances when there are compelling situations requiring relief. Such adjustments shall be based upon applications which are fully supported by detailed facts, figures and other relevant documentation.

(d) *Adjustments for increased current requirements.* (1) Any end-user or wholesale purchaser-consumer entitled to an allocation level of 100 percent of current requirements which is subject to an allocation fraction shall certify to its supplier any increased requirements (consistent with any energy conservation program such as the temperature reduction restrictions found in that end-user's allocation level) above the level of requirements on January 1, 1974. In the event that the end-user or wholesale purchaser-consumer and supplier cannot agree on a volume to be supplied, an application for validation may be referred by the end-user or wholesale purchaser-consumer to the office specified in § 205.13 of this chapter. The request for validation shall be made in accordance with forms and instructions issued by FEA and may be made not sooner than ten (10) days after the certification has been presented to the supplier. During the period that a request for validation is pending, the supplier shall supply the wholesale purchaser-consumer or end-user at the level of requirements which is not disputed by the supplier. If the FEA determines that the purchaser is entitled to increased requirements in excess of those supplied by the supplier during the period that the request for validation is pending, FEA may order the supplier to supply such increased requirements and to supply the purchaser with additional volumes of the allocated product equal to the amount the purchaser would have received if the increased requirements had been supplied during such period. The FEA may subsequently require the supplier to adjust such end-user's or wholesale purchaser-consumer's allocation requirements to compensate for any excess product supplied during the validation period.

(2) All suppliers which, in their capacity as wholesale purchaser-resellers, receive a certification of increased requirements pursuant to paragraph (d)(1) of this section or which receive a certification from any other supplier of increased requirements which have been certified to that other supplier, shall in turn certify to their suppliers these increased requirements and be assigned a proportionate adjustment to that part of their base period volume received from each supplier to cover the certified increases in volume granted under this paragraph.

(3) End-users and wholesale purchaser-consumers which claim increases under this paragraph must be prepared to establish their historic requirements and justify their increased requirements.

(4) All suppliers which, in their capacity as wholesale purchaser-resellers, certify their requirements for wholesale purchaser-consumers and end-users entitled to an allocation level of 100 percent of current requirements not subject to an allocation fraction pursuant to § 211.12(d) or which receive a certification from any other supplier of such requirements, shall in turn certify to their suppliers such increased requirements and be assigned a proportionate adjustment to that part of their base period use received from each supplier.

(e) *Non-discrimination among wholesale purchasers.* In granting adjustments to base period use under this section, the supplier shall not discriminate among branded independent marketers, nonbranded independent marketers and wholesale purchaser-resellers operated by the supplier.

(f) *Certifications and downward adjustments of base period uses.* The chief executive officer (or his authorized agent) of a purchaser applying to a supplier for an adjustment under this section shall certify such application for accuracy. Such applications shall contain a statement that increased allocations shall be used only for the purpose stated in the application, shall not be diverted for other uses; and that if its needs decline, the purchaser shall file an amended application for a downward adjustment to its base period use.

§ 211.14 Redirection of products.

(a) To meet imbalances that may occur in the supplies of any allocated product, the regional or National FEA may order the transfer of specified amounts of any such product from one area to another or may order that different allocation fractions be used in different areas. An area, as used in this section, means a State, a group of States within a region, or any geographical part of a State or States within a region. The National FEA may also order the transfer of specified amounts of any allocated product from one region to another region or may order that different allocation fractions be used in different regions to meet such imbalances. Further, the FEA may transfer supplies of allocated products among suppliers in order to remedy supply imbalances. The regional or National FEA will not order the transfer of an allocated product under this section from one area within a State to another within the State without the receipt of a recommendation by the State Office.

(b) Refiners and importers are authorized to reduce the monthly allocable supply to purchasers of those allocated products covered under Subparts D, E, F, G, H (except Civil Air Carriers) and I (except utilities) for any region or area by up to five (5) percent and to increase the total quantity of any of these allocated products available in another region or area experiencing shortages significantly greater than are being experienced elsewhere in the nation to meet regional imbalances due to weather variation, seasonal demand, or other circumstances beyond their control. Such action may be accomplished without prior approval from the Administrator, FEA, but must be reported immediately after the adjustment occurs to the National FEA, the appropriate regional FEA, and the State Office of any State within a region or area directly affected by the reduction or increase. Redistribution involving reduction of product volumes greater than five (5) percent from any State shall require approval from the Administrator, FEA, prior to any action by any refiner or importer. The adjustment provided for in this section shall not be cumulative. Allocation fractions for a region or area which are reduced by such a reduction of an allocated product shall be returned to prereduction levels as soon as practicable.

(c) Shifts made pursuant to paragraph (b) of this section shall be employed solely to effect a better regional distribution of allocated products and shall not discriminate against branded or nonbranded independent marketers, independent refiners, or small refiners.

(d) Any refiner, importer, or other supplier which has significantly reduced or which intends to reduce marketing or distribution activities in any region or area and which is required by FEA regulations to supply its base period and assigned wholesale purchasers in that region or area may apply to the National FEA to seek a change in the method of supplying such wholesale purchasers. The FEA may order the reassignment of wholesale purchasers or end-users from one supplier to another. Pending action by the National FEA on such application, such refiners, importers and suppliers are under a continuing obligation to provide allocations to all their base period and assigned wholesale purchasers in any region or area either directly or through a substitute supplier in accordance with § 211.25.

§ 211.15 State offices of petroleum allocation.

(a) Any state may apply to the National Office of the FEA, to create a State Office of Petroleum Allocation within the State.

(b) Upon certification by the FEA such State Office of Petroleum Allocation will be delegated authority to administer the state set-aside program, to provide assistance in obtaining adjustments specified in § 211.13 and such other authorities specified in this part, or in orders issued by the FEA.

§ 211.17 State set-aside.

(a) *Scope and purpose.* A state set-aside system shall be established for propane, middle distillate, motor gasoline and residual fuel oil (except as used by utilities or as bunker fuel for maritime shipping). Authority may be delegated to a State office to administer the state set-aside for that State. The state set-aside shall be utilized by a State office to meet hardship and emergency requirements of all wholesale purchaser-consumers and end-users within that state from the state set-aside volumes, including wholesale purchaser-consumers and end-users which are part of any governmental organization. To facilitate relief of the hardship and emergency requirements of wholesale purchaser-consumers and end-users, the State office may direct that a wholesale purchaser-reseller be supplied from the state set-aside in order that the wholesale purchaser-reseller can supply the wholesale purchaser-consumers and end-users experiencing the hardship or emergency.

(b) *State set-aside volume.* (1) A prime supplier shall inform each appropriate State office and each appropriate regional FEA office monthly in accordance with § 211.222(b) by each product subject to State set-aside, of the estimated volume of each product to be sold into that State for consumption within that State.

(2) The FEA shall determine the state set-aside percentage level for each product. The initial percentage levels for the state set-aside system are specified in appropriate subparts of this part. The FEA will publish any changes in these percentages.

(3) The set-aside volume available to a State office for a particular month shall be the sum of the amounts calculated by multiplying the state set-aside percentage level by each prime supplier's estimated portion of its total supply for that month which will be sold into that State's distribution system for consumption within the State.

(4) The state set-aside for a particular month cannot be accumulated or deferred; it shall be made available from stocks of prime suppliers whether directly or through their wholesale purchaser-resellers.

(c) *State representative.* Each supplier shall designate a representative within each State in which the supplier is a prime supplier to act for and in behalf of the prime supplier with respect to state set-aside petitions and assignments from the state set-aside to be supplied by that prime supplier. Each prime supplier for a State shall designate its representative for that State and shall notify in writing the appropriate State office of such designation by June 15, 1974. The designated representative for a State shall be a firm which maintains a place of business within the State. The State office shall to the maximum extent possible consult with a prime supplier's representative prior to issuing any authorizing document affecting state set-aside volumes to be provided by the prime supplier.

(d) *State action.* (1) All hardship and emergency applications for assignment from the State set-aside system and appeals thereof shall be filed with and resolved by the appropriate State Office in accordance with Subpart Q of Part 205 of this chapter. Applicants shall identify their existing supplier, or if they do not have a supplier, at least two suppliers which the applicant has contacted and which could provide the allocated product. The final decision of a State Office as embodied in the order issued at the completion of any appellate proceeding regarding an application for assignment due to hardship or emergency requirements shall be subject to judicial

review as prescribed by Section 211 of the Economic Stabilization Act of 1970.

(2) If a State Office approves a hardship or emergency application, it shall assign a prime supplier and amount from the state set-aside to the applicant. To determine an appropriate prime supplier, the State Office may coordinate with the State representatives of the prime suppliers.

(e) *Authorizing document.* The State Office shall issue to an applicant granted an assignment a document authorizing such assignment. A copy of the authorizing document (or a summary) shall also be provided by the State Office to the designated State representative of the prime supplier assigned to the applicant. An authorizing document issued by the State Office pursuant to this section is effective upon issuance and represents a call on the prime supplier's set-aside volumes for the month of issuance, irrespective of the fact that delivery of the product subject to the authorizing document cannot be made until the following month. An authorizing document not presented to either the prime supplier or a designated local distributor of the prime supplier within ten (10) days of issuance shall expire after that time.

(f) *Supplier's responsibilities.* Suppliers shall provide the assigned amount of an allocated product to an applicant when presented with an authorizing document. The authorizing document shall entitle the applicant to receive product from any convenient local distributor of the prime supplier from which the state set-aside assignment has been made. Wholesale purchaser-resellers of prime suppliers shall, as non-prime suppliers, honor such authorizing documents upon presentation, and shall not delay deliveries required by the authorizing document while confirming such deliveries with the prime supplier. Any non-prime supplier which provides an allocated product pursuant to an authorizing document shall in turn receive from its supplier an equivalent volume of the allocated product which shall not be considered part of its allocation entitlement otherwise authorized by this part.

(g) *Prime suppliers.* All prime suppliers shall supply products from their state set-aside volume each month, as directed by the State office, not to exceed the total state set-aside volume for each product for that month. That portion of a prime supplier's state set-aside volume for a particular month which is not allocated by the State office during that month or which is not subject to an authorizing document issued no later than the last day of that month shall become a part of the prime supplier's total supply for the subsequent month and shall be distributed according to the allocation procedures set forth in this part.

(h) *Release of State set-aside.* (1) At any time during the month, the State office may order the release of part or all of a prime supplier's set-aside volume through the prime supplier's normal distribution system in the State.

(2) From time to time, the State office may designate certain geographical areas within the State as suffering from an intra-State supply imbalance. At any time during the month, the State office may order some or all of the prime suppliers with purchasers within such geographical areas to release part or all of their set-aside volume through their normal distribution systems to increase the allocations of all of the supplier's purchasers located within such areas.

(3) Orders issued pursuant to this paragraph shall be in writing and effective immediately upon presentation to the prime supplier's designated State representative. Such orders shall represent a call on the prime supplier's set-aside volumes for the month of issuance irrespective of the fact that delivery cannot be made until the following month.

§ 211.21 Energy conservation.

To promote the goal of increased energy conservation, every wholesale purchaser or end-user receiving an allocation pursuant to the operation of this part shall certify that it has an energy conservation program in effect. Every end-user or wholesale purchaser-consumer whose allocation level is one hundred (100) percent of current requirements for any allocated product shall make a similar certification to its supplier.

§ 211.22 Administrative actions.

(a) *Inventories of crude oil and allocated products.* No refiner, importer, wholesale purchaser or end-user shall accumulate inventories of any crude oil or allocated product which exceed customary inventories maintained by that refiner, importer, wholesale purchaser or end-user in the conduct of its normal business practices unless otherwise directed by the FEA. Normal inventory practices shall be observed in determining allocable supplies of crude oil or allocated products in each period which corresponds to a base period. The FEA may review inventory practices and direct an increase or decrease in inventories if:

(1) The inventory practices employed are inconsistent with the provisions of this part;

(2) The inventory practices circumvent or otherwise violate other provisions of this part; or

(3) The FEA determines that an adjustment is necessary in order to allocate crude oil or allocated product supplies consistent with the objectives of the Mandatory Petroleum Allocation Program.

(b) *Adjustment to calculations.* Upon a finding that incorrect or otherwise inaccurate data have been used in calculating the allocation of any crude oil or allocated product subject to this part, the FEA may take appropriate action to adjust any such figures or data and any allocations based thereon to account for the error.

(c) *Quality characteristics.* The FEA may specify quality characteristics, such as sulphur content, of crude oil or any other allocated product.

§ 211.23 Normal business practices.

Nothing in this part is intended to exclude or supersede exchange or borrow/payback operations which are normal operating procedures provided these procedures are not used to circumvent the intent of this part.

§ 211.25 Supplier substitution.

(a) Any supplier may arrange to supply any purchaser which is entitled to receive an allocation from it through another supplier or suppliers in accordance with normal business practices. The purchaser shall, however, be entitled to receive the same amount of an allocated product from the substituted supplier that it would receive if it were directly supplied by the original supplier using that supplier's allocation fraction.

(b) In order to alleviate imbalances, suppliers may make normal business exchanges among themselves.

(c) To accommodate seasonal and other fluctuations in both supply and demand, such as requirements for agricultural production, suppliers and wholesale purchasers may agree between and among themselves either to borrow on future allocations or to defer current allocations or both on a volume for volume basis within the total allocations for one calendar year as long as such arrangements do not result in an involuntary reduction in allocations to other wholesale purchasers.

§ 211.26 Department of Defense allocations.

(a) Allocations of crude oil or any allocated product to the Department of Defense (except for housekeeping requirements) shall be supplied at an allocation level of one hundred (100) percent of current requirements without being subject to an allocation fraction.

(b) The Department of Defense shall report to the President on a semi-annual basis a bulk product purchase program, and, on an annual basis, the purchase program needed in support of the "Posts, Camps, and Stations", "Into-Plane Refueling" (at commercial/civil airports), "Marine Bunkers", and "Lubes, Greases and Specialty Products" programs. These programs shall take effect only following the approval of the President. Whenever necessary to assure that the Department of Defense is fully supplied with its current requirements, the Administrator, FEA, shall assign to suppliers the volumes of crude oil and allocated products to be allocated to the Department of Defense.

(c) The Defense Fuel Supply Center, which serves as the sole authorized procurement agency for the Department of Defense, shall be deemed a wholesale purchaser for purposes of this part.

(d) All Department of Defense requirements shall be consistent with ambient indoor temperature adjustments and other fuel saving measures taken in promoting the goal of increased energy conservation.

§ 211.27 Construction industry.

Any firm (which may be a wholesale purchaser-consumer or end-user) plan-

ning to award a construction contract to contractors may apply as a new purchaser to a supplier or FEA as provided in § 211.12(e) and (f) to be assigned a base period use or supplier as appropriate. The base period use shall be estimated as the minimum amount sufficient to complete the proposed contract. Notwithstanding the provisions of § 211.12 (f), if an end-user planning to award a construction contract cannot locate a supplier or if the supplier and the end-user are unable to agree upon the base period use needed to complete the construction project, the end-user may apply to the appropriate FEA Regional Office, at the address provided in § 205.12, for assignment of a supplier and/or for a base period use in accordance with Subpart C of Part 205 of this chapter. Upon awarding the contract to a contractor, the assigned base period use shall be transferred to the contractor by the FEA, unless the contractor or its subcontractors have a base period use with suppliers in the area of the construction sufficient to perform the contract. If the contractor or its subcontractors have a base period use with suppliers in the area of the construction sufficient to perform the contract, or if construction plans are terminated, FEA shall be notified by the firm and the contractor and any base period use assigned for the construction shall terminate. To the extent that the base period use established for the construction is found to exceed construction requirements or the contractor or its subcontractor has a base period use with suppliers in the area of the construction partially sufficient to perform the contract, the firm and the contractor shall not accept any duplicating quantities and shall notify FEA immediately. Upon such notification, the FEA will adjust the base period use accordingly. Contractors and suppliers are encouraged to arrange for exchange agreements between suppliers.

§ 211.28 Price.

The pricing provisions applicable to this part are provided in Part 212 of this chapter including provisions which allow any importer which imports an allocated product solely for his own end-use, and not for resale, to charge a margin for any volumes of that imported product it is required to sell under the provisions of this part.

§ 211.29 Synthetic natural gas production.

Notwithstanding any inconsistent provision of §§ 211.12 and 211.13, a firm which purchases crude oil and allocated products for use as feedstock in a synthetic natural gas plant which has requirements that exceed its base period volume or which has no base period volume may seek an adjustment of its base period volume or establishment of a base period volume only upon application to the FEA National Office in accordance with Subparts B or C, respectively, of Part 205 of this chapter. Firms which plan to construct new synthetic natural gas plants after May 1, 1974 or enter into a plant expansion program should apply to the FEA for assignment of a supplier and a base period volume prior to commencing construction of such facilities. The FEA shall, in granting or denying such adjustment or assignment, consider along with the criteria listed in §§ 205.25(b) and 205.35(b), the following factors:

(a) The degree to which the wholesale purchaser has curtailed supplies of natural gas and synthetic natural gas;

(b) Projected synthetic natural gas consumption and projected market growth over the period of allocation;

(c) The source and volume of anticipated feedstocks; and

(d) Attempts by the firm to obtain alternative supplies of gas and/or feedstock sources.

Appendix—Special Rule No. 1

1. *Scope.* This special rule applies to all synthetic natural gas plants petitioning the FEA for assignment of a supplier and a base period volume pursuant to § 211.29.

2. *Purpose.* This special rule amplifies the consideration which shall be given the criteria listed in § 211.29 in granting or denying a petition for assignment or adjustment under that provision.

3. *Definitions.* "Interruptible service" means a service from schedules or contracts under which the seller is not expressly obligated to deliver specific volumes within a given time period, and which anticipates and permits interuption on short notice, or service under schedules or contracts which expressly or impliedly require installation of alternate fuel capability.

"Groundbreaking" means the on site expenditure of at least five million dollars on the actual physical construction of an SNG facility prior to May 1, 1974.

4. *Allocation of naphtha to synthetic natural gas plants where groundbreaking has occurred.* In considering the petition for assignment of suppliers and base period volume or adjustment of base period volume under § 211.29 made on behalf of a synthetic natural gas plant which utilizes naphtha as an exclusive feedstock and with respect to which groundbreaking has occurred, the FEA shall grant such petition to the extent that contracts for supply calling for delivery of specific volumes are currently in effect. To the extent that such petition calls for an assignment or adjustment of volumes greater than those represented by existing contracts, the FEA shall consider such petition in the manner set forth in paragraph 5 of this rule.

5. *Allocation of feedstocks other than naphtha to synthetic natural gas plants where groundbreaking has occurred.* The FEA shall, in granting or denying a petition for assignment or adjustment under § 211.29, consider, in addition to the criteria listed in § 211.29, the following factors:

(a) The availability, including source, volume, and interchangeability, of SNG feedstocks;

(b) The degree to which an SNG manufacturer and/or its customers have curtailed supplies of natural gas to their interruptible customers which have alternate fuel capability on a continuing basis;

(c) The existence, character, and effect of any natural gas curtailment plan affecting the market area served by an SNG manufacturer and/or its customers;

(d) The availability of alternative sources of gas including imports of liquefied natural gas (LNG), imported methanol, and coal gasification, and the extent to which a manufacturer has attempted to use such sources;

(e) The thermal efficiency, taking both distribution and the reforming process into account, of SNG manufacture as compared to other likely energy production alternatives in the same market area;

(f) The economic impact upon the prospective SNG manufacturer of the FEA's decision in granting or denying the petition, including the amount of capital expenditures to date and the effect of a given decision on the manufacturer's capital rate base;

(g) The impact on the cost of energy to consumers in a particular market area, including the feasibility or existence of a rate schedule providing for incremental pricing of synthetic natural gas;

(h) The projected feedstock capacity of the facility and the projected growth of the energy market served by the facility over the period of allocation;

(i) The effect of allocation on demand for scarce petroleum products in a particular market area with due regard for the relative priority, as set forth in the relevant allocation subpart, of competing uses;

(j) The impact of an allocation decision on market area employment opportunities; and

(k) The environmental impact of allocation options within a market area.

6. *Allocation of feedstocks to synthetic natural gas plants where groundbreaking did not occur prior to May 1, 1974.* The FEA shall, in granting or denying a petition for assignment or adjustment under § 211.29, consider, in addition to the criteria listed in § 211.29, the following factors:

(a) The availability, including source, volume, and interchangeability, of SNG feedstocks;

(b) The degree to which an SNG manufacturer and/or its customers have curtailed supplies of natural gas to their interruptible customers which have alternate fuel capability on a continuing basis;

(c) The existence, character, and effect of any natural gas curtailment plan affecting the market area served by an SNG manufacturer and/or its customers;

(d) The availability of alternative sources of gas including imports of liquified natural gas (LNG), imported methanol, and coal gasification, and the extent to which a manufacturer has attempted to use such sources;

(e) The thermal efficiency, taking both distribution and the reforming process into account, of SNG manufacture as compared to other likely energy production alternatives in the same market area;

(f) The impact on the cost of energy to consumers in a particular market area, including the feasibility or existence of a rate schedule providing for incremental pricing of synthetic natural gas;

(g) The projected feedstock capacity of the facility and the projected growth of the energy market served by the facility over the period of allocation;

(h) The effect of allocation on demand for scarce petroleum products in a particular market area with due regard for the relative priority, as set forth in the relevant allocation subpart, of competing uses;

(i) The impact of an allocation decision on market area employment opportunities; and

(j) The environmental impact of allocation options within a market area.

Subpart B—Definitions

§ 211.51 General definitions.

"Adjusted base period volume" means base period volume as adjusted pursuant to § 211.13 or as provided otherwise in Subparts D through K.

"Agricultural production" means all the activities classified under the industry code numbers specified in paragraph (a) below as set forth in the Standard

Industrial Classification Manual, 1972 edition, except those industry code numbers listed in paragraph (b) which are excluded:

(a) *Activities included.* (1) All industry code numbers included in Division A, Agriculture, Forestry and Fishing, except as specified in paragraph (b) of this section.

(2) All industry code numbers included in Major Group 20, Food and Kindred Products, of Division D, Manufacturing, including grain and seed drying, except as specified in paragraph (b) below; and

(3) All the following other industry code numbers:

1474 Potash, Soda and Borate Minerals (Potash mining only);
1475 Phosphate Rock;
2141 Tobacco Stemming and Redrying;
2411 Logging Camps and Logging Contractors;
2421 Sawmills and Planing Mills;
2819 Industrial Inorganic Chemicals, Not Elsewhere Classified (dicalcium phosphate only);
2873 Nitrogenous Fertilizers;
2874 Phosphatic Fertilizers;
2875 Fertilizers, Mixing Only;
2879 Pesticides and Agricultural Chemicals Not Elsewhere Classified;
4212 Local Trucking Without Storage (Farm to market hauling and log trucking only);
4971 Irrigation Systems (for farm use); and
5462 Retail Bakeries, Baking and Selling.

(b) *Activities excluded.* (1) All the following industry code numbers, otherwise listed under Division A, Agriculture, Forestry and Fishing, are excluded from the definition:

0271 Fur-Bearing Animals and Rabbits (except rabbit farms which are included in the definition);
0279 Animal Specialties, Not Elsewhere Classified, (except apiaries, honey production and bee, catfish, fish, frog and trout farms which are included in the definition);
0742 Veterinary Services for Animal Specialties;
0752 Animal Specialty Services;
0781 Landscape Counseling and Planning;
0782 Lawn and Garden Services; and
0849 Gathering of Forest Products, Not Elsewhere Classified.

(2) All the following industry code numbers, otherwise listed under Major Group 20, Food and Kindred Products, of Divisiion D, Manufacturing, are excluded from the definition:

2047 Dog, Cat and Other Pet Food;
2067 Chewing Gum; and
2085 Distilled, Rectified and Blended Liquors.

"Allocable supply" means allocable supply as defined in § 211.10(b)(1).

"Allocated products" means residual fuel oil and refined petroleum products.

"Allocation fraction" means allocation fraction as defined in § 211.10(b).

"Allocation level" means allocation level as defined in § 211.10(b)(2)(iv).

"Allocation requirement" means allocation requirement as defined in § 211.10(b)(2)(iii).

"API" means American Petroleum Institute.

"Asphalt" means asphalt as defined in ASTM standard D-288.

"ASTM" means American Society for Testing Materials.

"Assignment" means an action taken by the FEA, or an authorized State official, designating that an authorized purchaser be supplied at an allocation entitlement level determined by the FEA or authorized State official, by a specified supplier.

"Base period" means the historical period designated in Subparts C through K of this part.

"Base period volume" means base period volume as defined in § 211.10(b)(2)(ii).

"Bonded fuels" means those fuels produced outside the customs limits of the United States, held in bond under continuous United States customs custody in accordance with Treasury Department Regulations, and destined for use outside of the United States, its territories or possessions.

"Branded independent marketer" means a firm which is engaged in the marketing or distributing of refined petroleum products pursuant to—

(a) An agreement or contract with a refiner (or a firm which controls, is controlled by, or is under common control with such refiner) to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner (or any such firm), or

(b) An agreement or contract under which any such firm engaged in the marketing or distributing of refined petroleum products is granted authority to occupy premises owned, leased, or in any way controlled by a refiner (or firm which controls, is controlled by, or is under common control with such refiner), but which is not affiliated with, controlled by, or under common control with any refiner (other than by means of a supply contract, or an agreement or contract described in paragraph (a) or (b) of this definition), and which does not control such refiner.

"Coker feedstock" means any crude oil or unfinished oil, as defined by Oil Import Regulation 1, Revision 5 (32A CFR OI Reg. 1.22(f)-(h)) which is used as a feedstock to any of the various types of process units in a refinery known as "cokers."

"Commercial use" means usage by those purchasers engaged primarily in the sale of goods or services and for uses other than those involving industrial activities and electrical generation.

"Complaint" means an allegation, supported by relevant facts, of a violation of the regulations or an order issued thereunder.

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

"Current requirements" means the supply of an allocated product needed by an end-user or wholesale purchaser-consumer to meet its present supply requirements for a particular use of that product, but does not include any amounts which the end-user or wholesale purchaser-consumer (a) purchases or obtains for resale, (b) accumulates as an inventory in excess of that purchaser's customary inventory maintained in the conduct of its normal business practices, or (c) uses in excess of the supply necessary to meet present supply requirements as constrained by the implementation of the energy conservation program required in § 211.21.

"Degree-day formula" means any one of the various systems in use by retailers to provide wholesale purchaser-consumers or end-users with automatic delivery service of an allocated product for space-heating.

"Degrees API" or "°API" is the hydrometer scale established by the American Petroleum Institute and used to measure the specific gravity of liquids.

"Emergency Services" means law enforcement, fire fighting, and emergency medical services.

"End-user" means any firm which is an ultimate consumer of an allocated product other than a wholesale purchaser-consumer.

"Energy production" means the exploration, drilling, mining, refining, processing, production and distribution of coal, natural gas, geothermal energy, petroleum or petroleum products, shale oil, nuclear fuels, and electrical energy. It also includes the construction of facilities and equipment used in energy production, such as pipelines, mining equipment and similar capital goods. Excluded from this definition are synthetic natural gas manufacturing, electrical generation whose power source is petroleum based and gasoline blending and manufacturing.

"Ethane" means a hydrocarbon whose chemical composition is C_2H_6.

"FEA" means the Federal Energy Administration (the successor to the Federal Energy Office), the National or Regional Office thereof, or the delegate of either.

"Firm" means any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity however organized including charitable, educational, or other eleemosynary institutions, and the Federal Government including corporations, departments, Federal agencies, and other instrumentalities, and State and local governments. The FEA may, in regulations and forms issued in this part, treat as a firm:

(a) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls, (b) a parent and its consolidated entities, (c) an unconsolidated entity, or (d) any part of a firm.

"Gas processing plant" means a facility which recovers ethane, propane, butane, and/or other natural gas products by a process of absorption, adsorption, compression, refrigeration cycling, or a combination of such processes, from mixtures of hydrocarbons that existed in a reservoir.

"Gasoline blending and manufacturing" means the use of an allocated prod-

uct in a process in which the product is either physically mixed or chemically converted to produce aviation or motor gasoline, or components thereof.

"Importer" means any firm (excluding the Department of Defense) that owns at the first place of storage any allocated product or crude oil brought into the United States.

"Independent marketer" means either a branded independent marketer or a non-branded independent marketer.

"Independent refiner" means a refiner which (a) obtained, directly or indirectly, in the calendar quarter which ended immediately prior to November 27, 1973, more than 70 percent of its refinery input of domestic crude oil or 70 percent of its refinery input of domestic and imported crude oil from producers which do not control, are not controlled by, and are not under common control with such refiner, and (b) marketed or distributed in such quarter and continues to market or distribute a substantial volume of gasoline refined by it through branded independent marketers or non-branded independent marketers.

"Industrial use" means usage by those firms primarily engaged in a process which creates or changes raw or unfinished materials into another form or product.

"Interruptible customers" means those purchasers receiving an allocated product pursuant to a contract which can be abrogated unilaterally by the supplier.

"LPG" means liquefied petroleum gas, and includes propane and butane, and propane/butane mixes, but not ethane.

"Local governmental unit" means any county, city, or other governmental subdivision of a State, and any special purpose district.

"Lubricants" means all grades of lubricating oils which have been blended with the necessary lubricant additives so as to produce a lubricating oil composition in a form that is designed to be used for lubricating purposes in industrial, commercial and automotive use without further modification, and lubricating greases which are solid semi-fluid products comprising a dispersion of a thickening agent in a liquid lubricant, wherein said lubricating oils and lubricating greases are comprised of greater than 10 percent of refined petroleum products by weight.

"Medical and nursing buildings" means buildings that house medical, dental or nursing activities including, but not limited to those listed in Appendix I of 6 CFR 300.18–300.19, the use of clinics, hospitals, nursing homes and other facilities.

"Middle distillate" means any derivatives of petroleum including kerosene, home heating oil, range oil, stove oil, and diesel fuel, which have a fifty percent boiling point in the ASTM D86 standard distillation test falling between 371° and 700° F. Products specifically excluded from this definition are kerosene-base and naphtha-base jet fuel, heavy fuel oils as defined in VV–F–815C or ASTM D–396, grades #4, 5, and 6, intermediate fuel oils (which are blends containing #6 oil), and all specialty items such as solvents, lubricants, waxes and process oil.

"Modified allocation level" means an allocation level used in accordance with the provisions of § 211.10(g) when a supplier's allocation fraction exceeds one (1.0).

"Motor gasoline" means a mixture of volatile hydrocarbons, suitable for operation of an internal combustion engine, whose major components are hydrocarbons with boiling points ranging from 140° to 390° F and whose source is distillation of petroleum and cracking, polymerization, and other chemical reactions by which the naturally occurring petroleum hydrocarbons are converted to those that have superior fuel properties.

"Natural gas" means natural gas as defined by the Federal Power Commission.

"Nonbranded independent marketer" means a firm which is engaged in the marketing or distribution of refined petroleum products, but which (a) is not a refiner, (b) is not a firm which controls, is controlled by, is under common control with, or is affiliated with a refiner (other than by means of a supply contract), and (c) is not a branded independent marketer.

"PAD District" or "District" means any of the Petroleum Administration for Defense (PAD) Districts.

"Passenger transportation services" means (a) surface, including water and rail facilities and services for carrying passengers whether publicly or privately owned, including tour and charter buses and taxicabs which serve the general public; and (b) bus transportation of pupils to and from school and school sponsored activities.

"Peak shaving" means the use of propane or butane mixtures to supplement supplies of pipeline gas for distribution by gas utilities during periods of high demand.

"Petrochemical feedstock use" means usage of crude oil, residual fuel oil, and refined petroleum products for processing in a petrochemical plant.

"Petrochemical plants" means those industrial plants, regardless of capacity, that process petrochemical feedstocks and obtain at least thirty (30) percent conversion, by weight, to petrochemicals or other products that are converted to petrochemicals, so long as the weight of hydrocarbon contained in the final petrochemical is equal to at least thirty (30) percent of the initial petrochemical feedstock fed to the plant under consideration.

"Petrochemicals" are the organic chemicals defined as petrochemicals in section 25A of Oil Import Regulation 1 (Revision 5), 32A CFR 0I Reg. 1.25A), plus any other analogous organic chemicals similarly derived.

"Petroleum coke" means a solid residue, the final product of the condensation process in cracking, consisting mainly of highly polycyclic aromatic hydrocarbons very poor in hydrogen, including petroleum coke which when calcinated yields almost pure carbon or artificial graphite suitable for production of carbon or graphite electrodes, structural graphite, motor brushes, dry cells, etc. It includes both forms listed below:

(a) *Marketable.* Those grades of coke produced in delayed or fluid cokers which may be recovered as relatively pure carbon. This "green" coke may be further purified by calcinating or may be sold in the "green" state.

(b) *Catalyst.* In many catalytic operations (i.e., catalytic cracking) carbon is deposited on the catalyst, deactivating the catalyst. The catalyst is reactivated by burning off the carbon, using it as a fuel in the refinery process. This carbon or coke is not recoverable in a concentrated form. For statistical purposes, the amount of catalyst coke may be estimated by using an average weight percent (1.5 percent—8.5 percent) of charging stock.

"Petroleum wax" means petroleum wax as defined in ASTM standard D–288.

"Prime supplier" means the supplier, or producer as defined in Subpart D, which makes the first sale of any allocated product subject to the state set-aside into the state distribution system for consumption within the state.

"Purchaser" means a wholesale purchaser, an end-user, or both.

"Refined petroleum product" means gasoline, kerosene, middle distillate (including Number 2 fuel oil), LPG, refined lubricating oils, or diesel fuel.

"Refineries" means those industrial plants, regardless of capacity, processing crude oil feedstock and manufacturing refined petroleum products, except when such plant is a petrochemical plant.

"Refiners" means those firms that own, operate or control the operations of one or more refineries.

"Refinery gas" means a form of gas normally produced in the refining of crude oil which is predominantly used for refinery fuel.

"Region" means one of the ten regions served by FEA's regional offices.

"Regional office" means a regional office of the FEA. The regional offices are located in Boston, Massachusetts; New York, New York; Philadelphia, Pennsylvania; Atlanta, Georgia; Chicago, Illinois; Dallas, Texas; Kansas City, Missouri; Denver, Colorado; San Francisco, California; and Seattle, Washington.

"Residential use" means direct usage in a residential dwelling or church or other place of worship for space heating, refrigeration, cooking, water heating, and other residential uses.

"Residual fuel oil" means the fuel oil commonly known as: (a) No. 4, No. 5 and No. 6 fuel oils; (b) Bunker C; (c) Navy Special Fuel Oil; (d) crude oil when burned directly as a fuel; and all other fuel oils which have a fifty percent boiling point over 700°F in the ASTM D–86 standard distillation test.

"Retail sales outlet" means a site on which a supplier maintains an on-going business of selling any allocated product to end-users or wholesale purchaser-consumers.

"Road oil" means any heavy petroleum oil, including residual asphaltic oils, used as a dust palliative and surface treat-

ment of roads and highways. It is generally produced in six grades from 0, the most liquid, to 5, the most viscous.

"Sanction" means the penalties as described in Subpart F of Part 210 of this chapter.

"Sanitation services" means the collection and disposal for the general public of solid wastes, whether by public or private entities, and the maintenance, operation and repair of liquid purification and waste facilities during emergency conditions. Sanitation services also includes the provision of water supply services by public utilities, whether privately or publicly owned or operated.

"School" means an educational institution up through the secondary level that maintains a regular facility and curriculum and has a regularly organized body of students, in attendance at the place where its educational activities are regularly carried on. It does not include post-secondary education facilities.

"Shortfall" means the difference between supply and demand for crude oil or an allocated product during any period.

"Small refiner" means a refiner whose total refinery capacity (including the refinery capacity of any firm which controls, is controlled by, or is under common control with such refiner) does not exceed 175,000 barrels per day.

"Social service agency use" means usage by private, non-profit social service agencies which operate programs for provision of essential health and welfare services.

"State" means each of the 50 States, the District of Columbia, Puerto Rico, possessions and territories of the United States, other than the Panama Canal Zone.

"State set-aside" means, with respect to a particular prime supplier, the amount of an allocated product which is made available from the total supply of a prime supplier pursuant to § 211.17 for utilization by a State to resolve emergencies and hardships due to fuel shortages. The state set-aside amount for a particular month and state is calculated by multiplying the state set-aside percentage level by the prime supplier's estimated portion of its total supply for that month which will be sold into that state's distribution system for consumption within the state. The initial state set-aside percentage level for an allocated product is specified in the appropriate subpart for that product but is subject to change by notice of the FEA.

"State office" means the State Petroleum Allocation Office certified by FEA pursuant to § 211.15.

"Supplier" means any firm or any part or subsidiary of any firm other than the Department of Defense which presently, during the base period, or during any period between the base period and the present supplies, sells, transfers or otherwise furnishes (as by consignment) any allocated product or crude oil to wholesale purchasers or end-users, including, but not limited to, refiners, natural gas processing plants or fractionating plants, importers, resellers, jobbers, and retailers.

"Supply obligation" means supply obligation as defined in § 211.10(b)(2).

"Synthetic natural gas plant" means a facility producing synthetic natural gas which results from the manufacture, conversion or reforming of petroleum hydrocarbons, and which may be easily substituted for or interchanged with pipeline quality natural gas.

"Telecommunications services" means the repair, operation, and maintenance of voice, data, telegraph, video, and similar communications services to the public by a communications common carrier, during periods of substantial disruption of normal service.

"Total supply" means the sum of a supplier's estimated production, including amounts received under processing agreements, imports, purchases and any reduction in inventory of an allocated product made pursuant to § 211.22 except as otherwise ordered by FEA. Any existing inventory, or production, importation or purchase of an allocated product used to increase that inventory consistent with the provisions of § 211.22 shall not be included in the total supply of that product.

"Utility" means a facility that generates electricity, by any means, and sells it to the public.

"Wholesale purchaser" means a wholesale purchaser-reseller or wholesale purchaser-consumer, or both.

"Wholesale purchaser-consumer" means any firm that is an ultimate consumer which, as part of its normal business practices, purchases or obtains an allocated product from a supplier and receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location and which either (a) purchased or obtained more than 20,000 gallons of that allocated product for its own use in agricultural production in any completed calendar year subsequent to 1971; (b) purchased or obtained more than 50,000 gallons of that allocated product in any completed calendar year subsequent to 1971 for use in one or more multi-family residences; or (c) purchased or obtained more than 84,000 gallons of that allocated product in any completed calendar year subsequent to 1971.

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

Subpart C—Crude Oil and Refinery Yield Control

§ 211.61 Scope.

(a) This subpart is applicable to all producers, refiners and others who purchase or obtain crude oil for resale, transfer or use.

(b) This subpart provides for the mandatory allocation of crude oil produced in or imported into the United States other than the first sale of crude oil exempted pursuant to the provisions of § 210.32 of this chapter.

(c) This subpart also provides a program for refinery yield control.

§ 211.62 Definitions.

For purposes of this subpart—

"Allocation quarter" means a consecutive three month calendar period which commences one month prior to the start of each calendar quarter. The first allocation quarter shall be the three-month period from June 1, 1974 through August 31, 1974.

"Crude oil runs to stills" means, in the case of a refiner other than a petrochemical producer, the total number of barrels of crude oil input to distillation units processed by a refiner and measured in accordance with Bureau of Mines Form 6–1300–M and, in the case of a petrochemical producer, the total number of barrels of crude oil input to processing units for conversion into petrochemicals.

"Future refining capacity" means, for each refiner, the sum of the capacity of its refineries not included within the definitions of refining capacity and new refining capacity and operated continuously in the normal course of such refiner's business. Future refining capacity shall be certified by the FEA.

"Independent refiner" means a refiner which (a) obtained, directly or indirectly, in the calendar quarter which ended immediately prior to November 27, 1973, more than 70 percent of its refinery input of domestic crude oil (or 70 percent of its refinery input of domestic and imported crude oil) from producers which do not control, are not controlled by, and are not under common control with, such refiner, and (b) marketed or distributed in such quarter and continues to market and distribute a substantial volume of gasoline refined by it through independent marketers.

"New refining capacity" means, for each refiner, the sum of the capacity of its refineries not included within the definition of refining capacity and operated continuously in the normal course of such refiner's business, a significant portion of the construction of which has been completed prior to May 1, 1974. New refining capacity shall either be certified by the FEA or be the subject of a starter allocation under Section 25 of the Oil Import Regulations (32A CFR OI Reg. 1–25).

"Petrochemical producer" means a person who manufactures petrochemicals in a petrochemical plant by processing petrochemical feedstock.

"Processing agreement" means any agreement pursuant to which an owner of crude oil agrees to have that crude oil processed or refined by another person and retains ownership in some or all of the petroleum products so processed or refined from the crude oil.

"Refinery" means an industrial plant, regardless of capacity, processing crude oil feedstock and manufacturing refined petroleum products, residual fuel oil or petrochemicals, and shall include a petrochemical plant.

"Refiner" means a firm which owns, operates or controls the operations of one or more refineries.

"Refiner-buyer" means any small refiner or independent refiner.

"Refiner-seller" means a refiner which is not a small refiner or an independent refiner as defined in this section, except that a refiner which is not a small refiner or an independent refiner, and the refinery capacity of which consists solely of new refining capacity or future refining capacity, shall not be classified as a refiner-seller.

"Refinery capacity" means, for each refiner, the sum of the refining capacity, new refining capacity and future refining capacity of its refineries.

"Refining capacity" means, for each refinery, the capacity reported to the Bureau of Mines as of January 1, 1973, as certified by the FEA. Any capacity of a refinery which has ceased to be operated continuously in the normal course of business since the January 1973 report to the Bureau of Mines shall be deducted from refining capacity.

"Small refiner" means a refiner, the sum of the capacity of the refineries of which (including the capacity of any person who controls, is controlled by, or is under common control with such refiner) does not exceed 175,000 barrels per day. A refiner which is a small refiner as of January 1, 1974 shall not cease to be classified as such by virtue of new refining capacity operational after January 1, 1974 or future refining capacity which results in a refinery capacity for such refiner in excess of 175,000 barrels per day.

§ 211.63 Supplier/purchaser relationships.

(a) All supplier/purchaser relationships in effect under contracts for sales, purchases, and exchanges of domestic crude oil on December 1, 1973, shall remain in effect for the duration of this program, except purchases and sales made to comply with this program: *Provided, however,* That (1) any such supplier/purchaser relationship may be terminated by the mutual consent of both parties; (2) the provisions of this paragraph do not apply to the first sale of crude oil pursuant to § 210.32 of this chapter; and (3) the provisions of this paragraph shall not apply to the seller of any new crude petroleum or released crude petroleum, as defined in Part 212, if the present purchaser of such crude petroleum refuses, after notice by the seller, to meet any bona fide offer made by another purchaser to buy such crude petroleum at a lawful price above the price paid by the present purchaser.

(b) New crude petroleum and released crude petroleum produced and sold from a property from which new crude petroleum and released crude petroleum were not produced and sold in December, 1973, may be sold in a first sale to any person. Once a first sale of new crude petroleum from a property is made, the seller of such new crude petroleum and released crude petroleum and released crude petroleum shall continue to sell to that purchaser as though a December 1, 1973 supplier/purchaser relationship were established under the provisions of paragraph (a) of this section, subject to the provisions of paragraph (a) (1) and (3) of this section.

§ 211.64 Transactions under prior program.

(a) Any agreement for the sale or purchase of crude oil entered into as a result of the provisions of this subpart as in effect immediately prior to May 10, 1974, shall be fully performed notwithstanding any provision of this subpart as in effect on May 10, 1974.

(b) Special Rule No. 1 issued under the provisions of this subpart as in effect immediately prior to May 10, 1974, shall remain in full force and effect.

§ 211.65 Method of allocation.

(a) *Purchase opportunities of refiner-buyers.* (1) In each allocation quarter, each refiner-buyer shall be entitled to purchase an amount of crude oil equal to one quarter of the volume of crude oil runs to stills of such refiner-buyer for the year 1972 less the volume of crude oil runs to stills of such refiner-buyer for the period February through April, 1974, as adjusted under the provisions of this section. If the estimated aggregate amount of crude oil to be produced in and imported into the United States in any allocation quarter is less than the aggregate amount of crude oil produced in and imported into the United States in the corresponding period of 1972, refiner-buyers for that allocation quarter shall have the amount of crude oil that they would otherwise be entitled to purchase reduced on a pro rata basis.

(2) A refiner-buyer's refinery capacity for the purposes of paragraphs (a) (6) and (c) (2) of this section and volume of crude oil runs to stills for the year 1972 and for the period February through April, 1974 shall (i) include (A) the volume of crude oil processed by another refiner for that refiner-buyer pursuant to a processing agreement and (B) the volume of crude oil processed by that refiner-buyer for a person other than a refiner pursuant to a processing agreement, and (ii) exclude the volume of crude oil processed by that refiner-buyer for another refiner pursuant to a processing agreement.

(3) A refiner-buyer's volume of crude oil runs to stills for the period February through April, 1974 shall exclude (i) the volume of crude oil runs to stills in such period attributable to crude oil purchased by that refiner-buyer in such period pursuant to the provisions of this subpart and (ii) the volume of crude oil runs to stills in such period attributable to imports of crude oil in such period in excess of the reported estimate of crude oil imports of that refiner-buyer for such period.

(4) Upon application by a refiner-buyer prior to May 20, 1974, for purposes of the calculations in paragraph (a) (1) of this section, the FEA may adjust such refiner-buyer's reported volume of crude oil runs to stills for the year 1972 to compensate for reductions in volume due to unusual or nonrecurring operating conditions. The FEA may at any time, for purposes of such calculations and without application by the refiner-buyer concerned, adjust the volume of crude oil runs to stills of a refiner-buyer for the year 1972 or for the period February through April, 1974, if it determines that such refiner-buyer's reported volume of crude oil runs to stills for such year or period is inaccurate or not representative of normal operating conditions.

(5) For purposes of the calculations in paragraph (a) (1) of this section, the volume of crude oil runs to stills of a refiner-buyer in 1972 shall be (i) increased by the volume of crude oil necessary to operate any new refining capacity of that refiner-buyer at the supply to capacity ratio at which all refineries of that refiner-buyer operated in the year 1972, taking into consideration crude oil supplies (in excess of supplies included in its February through April, 1974 crude oil runs to stills) available to that refiner-buyer for such new capacity, and (ii) decreased by the volume of crude oil runs to stills of such refiner-buyer attributable to any refining capacity which has ceased to be operated continuously in the normal course of business since December 31, 1972.

(6) No allocation shall be made under this subpart which will result in crude oil supplies in excess of 100 percent of refinery capacity to any refiner-buyer.

(7) Each refiner-buyer shall process in its refineries, or have processed for its account by another refiner, any crude oil purchased under this subpart in, or within a reasonable time following, the allocation quarter in which such crude oil was so purchased.

(b) *Future refining capacity.* (1) Notwithstanding any provisions of paragraph (a) of this section to the contrary, future refining capacity of a refiner-buyer shall be eligible to receive allocations of crude oil, as hereinafter provided. Each refiner-buyer that wishes to receive an allocation under this paragraph (b) shall apply to FEA in accordance with the procedures established in Subpart G of Part 205 of this chapter. No such application shall be made until such future capacity will become operational in the allocation quarter for which the allocation is sought. In no event shall any such application be made less than 60 or more than 90 days prior to the commencement of such allocation quarter. The FEA may specify a fixed or varying allocation amount or amounts of crude oil for such future refining capacity, and in so doing shall consider the following factors:

(i) The source and volume of anticipated crude oil supplies for such future refining capacity;

(ii) the efforts made by that refiner-buyer to obtain or locate crude oil supplies for such future refining capacity;

(iii) the projected ability of all refiner-sellers to obtain supplies of crude oil for their refinery capacity;

(iv) the economic feasibility of operating such future refining capacity absent any allocations;

(v) the extent to which such future refining capacity is designed to implement the national policies relating to protection of the environment; and

(vi) the extent to which such future refining capacity incorporates high conversion facilities and the patterns of product yield conform to the anticipated national requirements for refinery products.

(2) The FEA will endeavor to assure supplies to future refining capacity to enable such capacity to operate at the national supply to capacity ratio.

(c) *Computation of total allocation obligation.* (1) Prior to May 20, 1974, each refiner-buyer shall report to the FEA, as provided in § 211.66, its volume of crude oil runs to stills for the year 1972 and for the period February through April, 1974, which reported volume shall reflect the adjustments specified in paragraph (a) (2), (3), (4) and (5) of this section. The FEA will then compute the quantity of crude oil which each refiner-buyer will be eligible to purchase during an allocation quarter. The sum of the quantities of crude oil that all refiner-buyers are eligible to purchase for delivery during an allocation quarter shall be the total allocation obligation for refiner-sellers for such allocation quarter.

(2) The quantity of crude oil that a refiner-buyer shall be eligible to purchase under this subpart in an allocation quarter shall be reduced by the amount of crude oil available to that refiner-buyer in a prior allocation quarter that resulted in crude oil supplies in excess of 100 percent of that refiner-buyer's refinery capacity, except that such reduction based on crude oil supplies in any prior allocation quarter shall not be for an amount in excess of the volume of crude oil actually purchased by that refiner-buyer under this subpart in such prior allocation quarter.

(3) The purchase opportunity of each refiner-buyer which was classified as a refiner-seller in the period February through April, 1974 and did not sell its total required quantity of crude oil in such period pursuant to the buy/sell list published by the FEA shall be reduced by such unsold amount in the allocation quarter commencing June 1, 1974.

(4) The quantity of crude oil that a refiner-buyer shall be eligible to purchase under this subpart in the allocation quarter commencing June 1, 1974, shall be (i) reduced by the excess of the volume of domestic crude oil runs to stills of that refiner-buyer for the period February through April, 1974 over the reported estimated domestic crude oil runs to stills of that refiner-buyer for such period and (ii) increased by (A) the excess of such estimated domestic crude oil runs to stills for such period over the volume of its domestic crude oil runs to stills for such period, and (B) the excess of the reported estimates of imported crude oil runs to stills of that refiner-buyer for such period over the volume of its imported crude oil runs to stills for such period.

(d) *Refiner-sellers' sales obligations.* (1) Each refiner-seller shall offer for sale crude oil, directly or through exchange, to refiner-buyers. The quantity of crude oil that each refiner-seller shall be required to offer for sale to refiner-buyers during an allocation quarter shall be equal to that refiner-seller's fixed percentage share multiplied by the total allocation obligation for the particular allocation quarter, as adjusted in this paragraph (d). A refiner-seller's fixed percentage share is its proportionate share of the total refining capacity of all refiner-sellers as reported to the Bureau of Mines on January 1, 1973, as certified by the FEA. New refining capacity or future refining capacity shall not subject a refiner-seller to any increase in its fixed percentage share.

(2) The quantity of crude oil that a refiner-seller shall be required to offer for sale in the allocation quarter commencing June 1, 1974, shall be (i) increased by the excess of the volume of domestic crude oil runs to stills of that refiner-seller for the period February through April, 1974 over the reported estimated domestic crude oil runs to stills of that refiner-seller for such period and (ii) reduced by (A) the excess of such estimated domestic crude oil runs to stills for such period over the volume of its domestic crude oil runs to stills for such period, and (B) the excess of the reported estimates of imported crude oil runs to stills of that refiner-seller over the volume of its imported crude oil runs to stills for such period. For purposes of this paragraph (d) (2) a refiner-seller's crude oil runs to stills shall reflect the adjustments in paragraph (a) (2) of this section and include amounts sold and exclude amounts purchased under this subpart in the period February through April, 1974.

(3) In each allocation quarter, each refiner-seller that did not sell its total quantity of crude oil required to be offered for sale under this subpart in the prior allocation quarter or, in the case of the allocation quarter commencing June 1, 1974, the period February through April, 1974, shall first be required to offer for sale such unsold amount to refiner-buyers; *provided, however,* that such unsold amount in such prior allocation quarter or period shall constitute a sales obligation of a refiner-seller only for the allocation quarter immediately following such prior allocation quarter or period.

(4) In calculating the quantity of crude oil that each refiner-seller is required to offer for sale in an allocation quarter, the aggregate of the quantities of crude oil required to be sold under paragraph (d) (3) of this section shall be deducted from the total allocation obligation for such allocation quarter, and the balance shall be offered for sale by all refiner-sellers in accordance with their respective fixed percentage shares. Sales by a refiner-seller in an allocation quarter shall be deemed to be first in satisfaction of that refiner-seller's obligation under paragraph (d) (3) of this section, to the extent of such obligation, and next in satisfaction of that refiner-seller's fixed percentage share of such balance.

(5) For the allocation quarter commencing June 1, 1974, after calculation of the amount of each refiner-seller's fixed percentage share of the total allocation obligation less the quantities of crude oil required to be sold under paragraph (d) (3) of this section, the adjustments specified in paragraph (d) (2) of this section shall be made to such amount. To the extent that the aggregate of such adjusted obligations of all refiner-sellers either exceeds or is less than the total allocation obligation less such quantities under paragraph (d) (3) of this section, the adjusted obligation of each refiner-seller (exclusive of amounts required to be sold under paragraph (d) (3) of this section) shall be either reduced or increased, as the case may be, by its fixed percentage share of such excess or shortfall.

(e) *Buy-sell list.* On the first day of the allocation quarter commencing June 1, 1974, and 15 days prior to each subsequent allocation quarter, the FEA shall publish a notice for that allocation quarter listing the quantity of crude oil each refiner-buyer is eligible to purchase, the total allocation obligation for all refiner-sellers, the fixed percentage share for each refiner-seller and the quantity that each refiner-seller will be obligated to offer for sale to refiner-buyers. The commencement date for starting deliveries under sales agreements in an allocation quarter shall be 15 days after publication of the related notice. Any agreements for the sale or purchase of crude oil after such commencement date shall be retroactive to the starting delivery date. All deliveries must be completed or arranged for before the end of the allocation quarter.

(f) *Sale/purchase transaction report.* Within fifteen days of the publication of the notice under paragraph (e) of this section, each transaction made to comply with this program shall be reported by the buyer and seller to the FEA. This report shall identify the selling refiner and purchasing refiner-buyer and indicate the volumes of the crude oil sold or purchased.

(g) *Conditions of sale.* (1) The terms and conditions of each sale of crude oil, other than the prices, shall be consistent with normal business practices. The crude oil offered must be suitable for processing in and practical for delivery to the refiner-buyer.

(2) All crude oil transferred pursuant to this section shall be priced in accordance with the provisions of Part 212 of this chapter.

(3) Exchanges of crude oil may be utilized to comply with the purchase and sale provisions of this section.

(h) *Failure to negotiate transactions.* (1) Each refiner-buyer shall use its best effort to consummate the purchases of crude oil under this subpart from refiner-sellers prior to requesting assistance from the FEA. A refiner-buyer that is unable to negotiate a contract to purchase crude oil within 15 days of the publication of the notice specified in paragraph (e) of this section may request after the expiration of such 15 day period that the FEA direct one or more refiner-sellers to sell an acceptable type of crude oil to such refiner-buyer. A refiner-buyer that is unable to negotiate a contract to purchase

crude oil within 15 days of the publication of the notice specified in paragraph (e) of this section may request after the expiration of such 15 day period in accordance with the procedures established under Subpart G of Part 205 of this chapter, that the FEA direct one or more refiner-sellers to sell an acceptable type of crude oil to such refiner-buyer. Upon such request, the FEA may direct one or more refiner-sellers which have not sold their required allocation quarter quantity to sell crude oil to the refiner-buyer. If the refiner-buyer declines to purchase the crude oil specified by the FEA, the rights of that refiner-buyer to purchase that volume of crude oil are forfeited during that allocation quarter, provided that the refiner-seller or refiner-sellers have fully complied with all of the provisions of this section.

(2) Refiner-sellers which have not negotiated sales with refiner-buyers of the required volume of crude oil within fifteen days of the publication of the notice specified in paragraph (e) of this section shall notify the FEA. The FEA may then direct that refiner-seller to sell that volume to a refiner-buyer which has not obtained its total amount permitted under paragraph (a) of this section.

§ 211.66 Reporting requirements.

(a) All matters pertaining to the allocation of crude oil and the refinery yield control program shall be addressed to the FEA in accordance with § 205.12, unless otherwise provided.

(b) A monthly report shall be required from refiners on forms and instructions issued by the FEA as to crude oil runs and products produced.

(c) Initial report. By May 20, 1974 each refiner shall provide the FEA with a report showing the following:

(1) Its refining capacity (as defined in § 211.62).

(2) Any new refining capacity (as defined in § 211.62) of such refiner.

(3) The volume of the crude oil runs to stills of such refiner for the period February through April 1974, taking into account, and separately specifying the amount of, the adjustments provided for in § 211.65.

(4) The volume of the crude oil runs to stills of such refiner for the year 1972, taking into account, and separately specifying the amount of, the adjustments provided for in § 211.65.

(5) Estimated runs of all domestic and imported crude oil for the forthcoming allocation quarter including (i) the volume of crude oil processed by another refiner for that refiner pursuant to a processing agreement and crude oil processed by that refiner for a person other than a refiner pursuant to a processing agreement, and excluding (ii) the volume of crude oil which that refiner processes for another refiner pursuant to a processing agreement.

(6) Such other information as the FEA may request.

(d) *Quarterly report.* Thirty days (or such other period as may be specified by the FEA) prior to each allocation quarter commencing after August 31, 1974, each refiner shall file with the FEA a report showing the following:

(1) The volume of crude oil runs to stills of such refiner for the allocation quarter or period preceding the current allocation quarter, taking into account, and specifying the amount of, the adjustments provided for in § 211.65(a)(2).

(2) The estimated volume of crude oil runs to stills for the forthcoming allocation quarter, taking into account, and specifying the amount of, the adjustments provided for in § 211.65(a)(2).

(3) Any change in refinery capacity since the previous report.

(4) Such other information as the FEA may request.

(e) All information required by paragraphs (c) and (d) of this section shall separately identify domestic and imported crude oil.

(f) Each refiner who claims to be a small refiner or an independent refiner shall submit to the FEA ten days prior to the allocation quarter commencing June 1, 1974, an affidavit setting forth the factual basis for its claim.

(g) Any refiner whose refinery capacity exceeds 175,000 barrels per day and who does not report as provided in paragraph (f) of this section will be deemed a refiner-seller.

§ 211.71 Mandatory refinery yield control program.

(a) *Purpose.* The refinery yield control program is designed to require each refiner to utilize available supplies of crude oil in a manner best suited to ensure adequate production levels of refined petroleum products and residual fuel oil which are or may be in short supply, consistent with the objectives of this chapter.

(b) *Scope.* This section applies as specified to the production of refined petroleum products and residual fuel oil from crude oil by each refiner in the United States.

(c) *Product yield controls*—(1) *Definitions.* As used in this section—

"Adjustment factor" means the percentage established by the FEA by which the base percentage yield of a particular refined petroleum product or residual fuel oil is multiplied to obtain the adjusted percentage yield of that particular product or residual fuel oil.

"Adjusted percentage yield" means the product of the base percentage yield of a particular refined petroleum product or residual fuel oil multiplied by the adjustment factor for that product or residual fuel oil.

"Base percentage yield" means the ratio expressed as a percentage, which the total number of barrels of a particular refined petroleum product or residual fuel oil produced by a refiner during a specified base period bears to the refiner's total crude runs to stills in that base period.

(2) *Adjustment of base percentage yield.* Whenever a refined petroleum product or residual fuel oil is or will be in short supply, the FEA may require refiners to adjust their base percentage yield of that product or residual fuel oil in order to increase the relative output of that product or residual fuel oil in short supply. If the FEA determines that an adjustment to the base percentage yield of a particular refined petroleum product or residual fuel oil is necessary, the FEA shall publish an adjustment factor by which each refiner must multiply its base percentage yield of that product or residual fuel oil to obtain the adjusted percentage yield of that product or residual fuel oil.

(3) *Joint compliance.* Upon approval by the FEA, two or more refiners may adjust their base percentage yield of a particular refined petroleum product or residual fuel oil on a pooled basis, such that the combined production of that product or residual fuel oil by the two or more refiners would equal the combined production of those refiners if each refiner had separately equalled or exceeded its adjusted percentage yield of that product or residual fuel oil.

(d) *Allocation of crude oil.* The FEA may adjust the quantities of crude oil allocated among refiners under § 211.65 in a manner designed to ensure desired production levels of refined petroleum products or residual fuel oil in short supply for which an adjustment factor has been established. Such adjustments shall be designed to meet the objectives of this chapter and of the Act, such that refiners which increase production in excess of their adjusted percentage yield of that product or residual fuel oil, or less than the adjusted percentage yield of that product or residual fuel oil may be allocated greater or lesser quantities of crude oil during the next allocation quarter, respectively.

APPENDIX—SPECIAL RULE NO. 1

1. *Scope.* This special rule applies to all refiner-buyers and refiner-sellers during the crude oil sales period commencing February 1, 1974. It does not alter the supplier/purchaser relationship established pursuant to § 211.64 or the refinery yield control program under § 211.71.

2. *Purpose.* Notwithstanding the provisions of § 211.65–66 this special rule suspends until further notice the crude oil sales period which would otherwise commence May 1, 1974, and establishes a new rule for allocation of crude oil at the refinery level during the month of May, 1974.

3. *Special allocation of rule for May 1974.* For the month of May, 1974 allocation of crude oil among refiners shall be made as follows:

(a) Each refiner-seller and refiner-buyer as determined for the crude oil sales period commencing February 1, 1974 shall continue in such capacity.

(b) Each refiner-seller shall sell to each refiner-buyer to which sales of crude oil were made by the refiner-seller (under contracts entered into prior to April 1, 1974) pursuant to the crude oil sales period commencing February 1, 1974), a volume of crude oil equal to 31/89 of the total volume of crude oil sold to that refiner-buyer by that refiner-seller.

(c) Each refiner-seller shall, if and to the extent directed by the FEO pursuant to paragraph (h), sell to refiner-buyers specified by the FEO a volume of crude oil equal to 31/89 of the difference between (1) the total volume of crude oil which such refiner-seller was obligated to sell in the crude oil sales period commencing February 1, 1974, and (2) the total volume of crude oil so sold in such period by such refiner-seller pursu-

ant to contracts entered into prior to April 1, 1974.

(d) Each refiner-seller which did not purchase the total volume of crude oil which it was entitled to purchase in the crude oil sales period commencinig February 1, 1974, shall be eligible to purchase from refiner-sellers (to the extent specified in paragraph (c) above) a volume of crude oil equal to 31/89 of the difference between (1) the total volume of crude oil which it was so entitled to purchase and (2) the total volume of crude oil purchased by such refiner-buyer in such crude oil sales period. Each refiner-buyer which desires to purchase crude oil pursuanat to this paragraph shall request FEO prior to April 10, 1974, to direct the sale to such refiner-buyer of a specified volume of crude oil. Such request shall be accompanied by a certified statement setting forth such refiner-buyer's basis for being entitled to purchase such volume of crude oil. Upon such a request, the FEO may direct a refiner-seller or refiner-sellers to sell crude oil to such a refiner-seller.

(e) Prior to April 10, 1974, each refiner-seller hsall notify each refiner-seller of the volume of crude oil to be sold to such refiner-buyer by the refiner-seller pursuant to paragraph (b) of this rule.

(f) Prior to April 15, 1974, refiner-sellers and refiner-buyers shall enter into sales contracts for the delivery and purchase of crude oil pursuant to paragraph (b) of this rule.

(g) Any refiner-seller which is unable to negotiate a contract prior to April 15, 1974 to purchase crude oil pursuant to paragraph (b) of this rule may request the FEO, prior to April 20, 1974, to direct a refiner-seller or refiner-sellers to sell an appropriate amount of an acceptable type of crude oil to such refiner-buyer. Upon such a request, the FEO may so direct the refiner-seller or refiner-sellers.

(h) The provisions of § 211.65(a), (b), (c) and (k) are applicable to all sales made pursuant to this rule. The provisions of § 211.65(1) apply in the same manner during the month of May, 1974, with respect to the second crude oil sales period as was provided for imports during the first crude oil sales period.

(i) The provisions of Subpart C of Part 211 (including but not limited to the procedures and reporting requirements of § 211.66) shall remain in full force and effect except as expressly modified by the provisions of this rule.

SPECIAL RULE NO. 2

1. *Scope.* This special rule applies to all refiner-buyers and refiner-sellers for the allocation quarter commencing September 1, 1974.

2. *Purpose.* This special rule provides for adjustments to the sale obligations of refiner-sellers and to the purchase opportunities of refiners-buyers in the allocation quarter commencing September 1, 1974, based on volumes required to be offered for sale, but not sold, in May, 1974 and on variances between the estimated crude oil runs to stills for February through April, 1974 (prorated for May) and reported crude oil runs to stills for May, 1974. The adjustments provided for in this special rule are in addition to adjustments set forth in § 211.65. This special rule also provides for a revised date for publication of the buy/sell list.

3. *Adjustments to Purchase Opportunities of Refiners-Buyers.* For the allocation quarter commencing September 1, 1974, in addition to the adjustments specified in § 211.65, the following adjustments shall be made to the purchase opportunities of refiner-buyers.

(a) The purchase opportunity of each refiner-buyer which was classified as a refiner-seller in May 1974, and did not sell the total quantity of crude oil that it was required to offer for sale in such period pursuant to paragraphs 3 (b) and (c) of Special Rule No. 1 for May 1974, shall be reduced by such unsold amount in the allocation quarter commencing September 1, 1974.

(b) The purchase opportunity of each refiner-buyer shall be (i) reduced by the excess of the volume of domestic crude oil runs to stills of that refiner-buyer for May 1974 over 31/89 of the reported estimated domestic crude oil runs to stills of that refiner-buyer for the period February through April 1974, and (ii) increased by (A) the excess of 31/89 of such estimated domestic crude oil runs to stills for such period over the volume of its domestic crude oil runs to stills for May 1974, and (B) the excess of 31/89 of the reported estimates of imported crude oil runs to stills of that refiner-buyer for the period February through April 1974, over the volume of its imported crude oil runs to stills for May 1974.

4. *Adjustments to Sale Obligations of Refiner-Sellers.* For the allocation quarter commencing September 1, 1974, in addition to the adjustments specified in § 211.65, the following adjustments shall be made to the sale obligations of refiner-sellers.

(a) Each refiner-seller that was classified as a refiner-seller in May 1974, and did not sell the total quantity of crude oil that it was required to offer for sale in such period pursuant to paragraphs 3 (b) and (c) of Special Rule No. 1, shall first be required to offer for sale such unsold amount (together with any unsold amounts specified in § 211.65 (d)(3)) to refiner-buyers; *provided, however,* That such unsold amounts shall constitute a sales obligation of a refiner-seller only for the allocation quarter commencing September 1, 1974.

(b) The quantity of crude oil that a refiner-seller shall be required to offer for sale shall be (i) increased by the excess of the volume of domestic crude oil runs to stills of that refiner-seller for May 1974 over 31/89 of the reported estimated domestic crude oil run to stills of that refiner-seller for the period February through April 1974, and (ii) reduced by (A) the excess of 31/89 of such estimated domestic crude oil runs to stills for such period over the volume of its domestic crude oil runs to stills for May 1974, and (B) the excess of 31/89 of the reported estimates of imported crude oil runs to stills of that refiner-seller for the period February through April 1974 over the volume of its imported crude oil runs to stills for May 1974.

(c) Sales by a refiner-seller in the allocation quarter commencing September 1, 1974, shall be deemed to be first in satisfaction of that refiner-seller's obligations under § 211.65 (d)(3) and paragraph 4(a) of this special rule, to the extent of such obligations, and next in satisfaction of the balance of that refiner-seller's sale obligation under § 211.65.

5. *Adjustments for Purposes of Paragraphs (3) and (4).* For purposes of paragraphs (3) and (4) of this special rule, the volume of a refiner's crude oil runs to stills shall reflect the adjustments specified in § 211.65(a)(2), shall include amounts sold under Special Rule No. 1 for May 1974 and shall exclude amounts purchased under Subpart C for the period February through April 1974 and under Special Rule No. 1 for May 1974.

6. *Calculation of Sale Obligations of Refiner-Sellers.* For the allocation quarter commencing September 1, 1974, after calculation of the amount of each refiner-seller's fixed percentage share of the total allocation obligation less the quantities of crude oil required to be sold under § 211.65(d)(3) and under paragraph 4(a) of this special rule, the adjustments specified in paragraph 4(b) of this special rule shall be made to such amount. To the extent that the aggregate of such adjusted obligations of all refiner-sellers either exceeds or is less than the aggregate of such obligations prior to any adjustment, the adjusted obligation of each refiner-seller shall be either reduced or increased, as the case may be, by its fixed percentage share of such excess or shortfall.

7. *Date of Publication of Buy/Sell List.* Notwithstanding the provisions of § 211.65 (e), the notice specified in that section for the allocation quarter commencing September 1, 1974, shall be published by FEA on or prior to September 6, 1974.

8. *Provisions of Subpart C to Remain in Effect.* The provisions of Subpart C of Part 211 shall remain in full force and effect except as expressly modified by the provisions of this special rule.

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) Sales of bottled propane; and

(2) 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—

"Base period" means each calendar quarter during the period April 1, 1972, through March 31, 1973, which corresponds to the present calendar quarter except that for the period June 1, 1974, through June 30, 1974, purchasers of propane may, at their option, use the period June 1, 1972 through June 30, 1972, as the base period.

"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.

"Dispensing station" means those retail sales outlets which sell less than 15,000 gallons per year and sell or fill only bottled propane.

"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 firm which produces propane in a refinery, natural gas processing plant or fractionating plant, or imports more than 2,000,000 gallons per year, including firms which own natural gas and have their gas processed for their account by others but retain title.

"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 the chemical C_3H_8 in its commercial forms including propane-butane mixes and the propane in other mixtures in which propane constitutes greater than ten (10) percent of the mixture by weight.

"Propane-butane mix" means any mixture consisting exclusively of propane and butane which contains greater than ten (10) percent propane by weight.

"Standby volumes" means those volumes of propane used by an industry as a temporary substitute for another product (such as natural gas) in times of shortage or curtailment of the other product. Volumes of propane which are used as a temporary substitute for a process fuel or plant protection fuel are not considered standby volumes for purposes of this subpart.

"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 purchase-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; and

(viii) Start-up, testing and flame stability of electrical utility plants.

(2) One hundred (100) percent of base period volumes for:

(i) Petrochemical feedstock use;

(ii) Synthetic natural gas plant feedstock use;

(iii) Industrial use as a process or plant protection fuel or where no substitute for propane is available;

(iv) Government use; and

(v) *Peak shaving for gas utilities.* The use of propane for peak shaving by gas utilities during any consecutive twelve month period beginning after January 1, 1974, is limited to the volume of propane equal to one hundred (100) percent of that volume which a gas utility contracted for or purchased for delivery during the period April 1, 1972 through March 31, 1973, regardless of whether that volume was 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 non-residential customer who can use a fuel other than natural gas, propane or butane.

(3) Ninety-five (95) percent of base period use for all residential use.

(4) 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) Standby volumes or any other industrial use;

(iii) Transportation services other than passenger transportation services or aviation ground support vehicles, for vehicles equipped to use propane as of December 27, 1973; and

(iv) Schools.

§ 211.85 Supplier/purchaser relationships.

Supplier/purchaser relationships shall be as set forth in § 211.9–13, unless otherwise specified in this subpart.

§ 211.86 Method of allocation.

(a) *General.* Except as specifically otherwise provided in this subpart, the allocation of propane shall be as specified in § 211.10. Adjustments to a wholesale purchaser's base period volume specified in § 211.13 shall apply to this subpart, except that wholesale purchaser-consumers using propane for industrial use or petrochemical feedstock use may not receive increased supplies of propane on the basis of an adjustment for unsual growth under § 211.13(b) until such adjustment has been approved by FEA. Wholesale purchaser-consumers of propane for such uses which have received adjustments for unusual growth shall submit to FEA the proposed adjustment and the basis therefor. FEA may require the wholesale purchaser-consumers to submit additional information to justify the adjustment. FEA may approve, deny or modify the adjustment. New wholesale purchasers and end-users are subject to the requirements of § 211.12. Notwithstanding the provisions of § 211.12 (c), each supplier or producer which sells propane to a wholesale purchaser-consumer, end-user or dispensing station shall determine the base period volume of those purchasers but is not required to report that determination to such purchasers except on written request by a purchaser.

(b) *State set-aside.* The initial 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) *Dispensing stations.* Notwithstanding the provisions of § 211.10, dispensing stations 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, without being subject to an allocation fraction. The maximum volume which may be obtained pursuant to this paragraph may not exceed 15,000 gallons per year.

(d) *Producers.* 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) Producer-suppliers shall allocate their total supply in the following manner:

(i) Each producer-supplier shall first allocate to each producer-purchaser which purchased from it during the base period a volume of propane equal to the same proportion of its total propane available for sale, transfer or internal use as a raw material feedstock as was provided to the producer-purchaser during the base period.

(ii) After meeting the requirements of paragraph (d) (2) (i), above, a producer-supplier shall allocate the remainder of its total supply to its purchasers in accordance with § 211.10.

(3) Producer-purchasers shall allocate their total supply in accordance with § 211.10 except that if a producer-purchaser also supplies wholesale purchaser-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.

(4) A firm which qualifies as both a producer-purchaser and producer-supplier shall allocate as if it were a producer-supplier except that if such firm also supplies wholesale purchaser-resellers which have certified amounts of propane to be for ultimate use under an allocation level not subject to an

allocation fraction that firm may not recertify such amounts to the producer-supplier which supplies it.

(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).

(6) Except as provided in this subpart, all provisions pertaining to suppliers in Subpart A shall also pertain to producers.

(e) 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 the allocation quarter, exceeds the quantity of propane which may be supplied under the allocation level for gas utilities in § 211.83(c)(2)(v).

(f) 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 FEA by certified mail of the use of multiple allocation fractions and fully justifies such practices at least fifteen days prior to distributing any supplies pursuant to multiple allocation fractions. The FEA may disallow the use of multiple allocation fractions to the extent that it determines that such a practice contravenes the intent of this part.

(g) Producers, suppliers and wholesale purchasers (except gas utilities and industrial users) shall be permitted to accumulate an inventory of propane during the summer in quantities which are normal and reasonable for seasonal usage in accordance with their normal business practices. Inventories controlled by gas utilities and industrial users (including petrochemical producers) shall be limited to:

(1) One hundred twenty (120) percent of the allocation entitlement specified in § 211.83(c)(2)(v).

(2) One hundred twenty (120) percent of the volumes used for all industrial uses (including standby volumes) during the period April 1, 1972 through March 31, 1973, provided, however, that an industrial firm may not use such inventories to exceed its allocation entitlement as specified in § 211.83.

If a firm currently controls greater than the above-mentioned inventories, it shall not accept an allocation from a supplier or producer until its inventories are reduced to conform to the limits imposed in this paragraph.

§ 211.87 Procedures and reporting requirements.

(a) All owners of storage facilities (or operators thereof) with a capacity in excess of 500,000 gallons which store propane shall report to the FEA National Office, at the address provided in § 205.12, the total volume, locations, and ownership of propane in storage including that owned by the storage owner or operator of 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 FEA 103B and filed within fifteen (15) days after the close of that month. All owners of propane in a merchant storage facility shall file Form FEA 101A with the operator of the merchant storage facility, and shall revise such form prior to withdrawal of propane from storage. These reports shall be kept on file by the merchant storage facility operator, and are subject to FEA audit.

(b) All applications for adjustment or assignment shall be filed with the appropriate State Office or FEA Regional Office in accordance with the procedures specified in Subparts B and C, respectively, of Part 205 of this chapter. All other matters pertaining to the allocation of propane shall be addressed to the appropriate FEA Regional Office at the address provided in § 205.12.

(c) The general reporting and recordkeeping requirements contained in Subpart L of this part apply to this subpart except that the requirements of § 211.224 shall not apply and the information required to be kept on FEA forms in § 211.223 may be kept by suppliers or producers in accordance with that firm's customary recordkeeping practices.

(d) An application for an assignment from the state set-aside system, as provided in § 211.17, based on hardship or emergency requirements is to be filed with the appropriate State Office in accordance with the procedures stated in Subpart Q of Part 205 of this chapter.

(e) Producers and specified wholesale purchaser-resellers of propane shall report on Form FEA 100-A.

Subpart E—Butane and Natural Gasoline

§ 211.91 Scope.

(a) This subpart applies to the mandatory allocation of isobutane, normal butane, natural gasoline and certain mixtures containing butane produced in or imported into the United States, except bottled butane.

(b) This subpart does not provide for a State set-aside.

§ 211.92 Definitions.

For purposes of this subpart—

"Base period" means each calendar quarter during the period April 1, 1972, through March 31, 1973 which corresponds to the present calendar quarter.

"Butane" means the chemical C_4H_{10} in its commercial forms, including both normal butane and isobutane, their mixtures and mixtures of butane and propane containing ten (10) percent by weight or less of propane. Included within the definition of butane is the butane content of other mixtures in which either or both butane isomers constitute greater than ten (10) percent of the mixture by weight.

"Bottled butane" means butane bottled in cylinders with a capacity of one hundred (100) pounds or less; *Provided*, That the cylinders are not manifolded at the time of sale.

"Merchant storage facility" means any facility which is utilized to store butane for firms other than the owner or operator of such a facility.

"Natural gasoline" means those liquid hydrocarbon mixtures containing substantial quantities of pentanes and heavier hydrocarbons, which have been extracted from natural gas.

"Plant protection fuel" means the use of butane in the minimum volume required to prevent physical harm to 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 butane required to maintain plant production. Butane may not be considered plant protection fuel if an alternate fuel is available and technically feasible for substitution.

"Process fuel" means butane used to convert a substance from one form to another such as in applications requiring precise temperature controls or precise flame characteristics. Butane may not be considered process fuel if an alternate fuel is available and technically feasible for substitution.

"Standby volumes" means those volumes of butane used by an industry as a temporary substitute for another product (such as natural gas) in times of shortage or curtailment of the other product. Volumes of butane which are used as a temporary substitute for a process fuel or plant protection fuel are not considered standby volumes for purposes of this subpart.

"Where no substitute for butane is available" means those circumstances in which no alternate fuel is available or in which a firm has historically relied upon butane as its sole fuel source.

§ 211.93 Allocation levels.

(a) *General.* The allocation levels in this paragraph only apply to allocations made by suppliers 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 butane or natural gasoline under an allocation level not subject to an allocation fraction shall receive first priority and be supplied sufficient amounts to meet one hundred (100) percent of their allocation requirements. End-users and wholesale purchaser-consumers which are entitled to purchase butane or natural gasoline 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.* (1) One hundred (100) percent of current requirements for the following uses:

(i) Agricultural production; and

(ii) 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; and
(ix) Petrochemical feedstock use.

(2) One hundred (100) percent of base period use for:

(i) Synthetic natural gas plant feedstock use;
(ii) Industrial use as a process or plant protection fuel or where no substitute for butane is available;
(iii) Governmental use; and
(iv) *Peak shaving for gas utilities.* The use of butane for peak shaving by gas utilities during any consecutive twelve month period beginning after January 1, 1974, is limited to the volume of butane equal to one hundred (100) percent of that volume which a gas utility contracted for or purchased for delivery during the period April 1, 1972 through March 31, 1973, regardless of whether that volume was used during the period. Butane 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 non-residential customer who can use a fuel other than natural gas, propane or butane.

(3) Ninety-five (95) percent of base period use for all residential use.

(4) 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) Standby volumes or any other industrial use;
(iii) Transportation services other than passenger transportation services or aviation ground support vehicles, for vehicles equipped to use butane as of December 27, 1973;
(iv) Gasoline blending and manufacturing use; and
(v) Schools.

§ 211.95 Supplier/purchaser relationships.

Supplier/purchaser relationships shall be as set forth in § 211.9–13, unless otherwise specified in this subpart.

§ 211.96 Method of allocation.

(a) *General.* Except as otherwise specifically provided by this subpart, the allocation of butane and natural gasoline shall be as specified in § 211.10. Adjustments to a wholesale purchaser's base period volume specified in § 211.13 shall apply to this subpart, except that wholesale purchaser-consumers using butane or natural gasoline for industrial use or petrochemical feedstock use may not receive increased supplies of butane or natural gasoline on the basis of an adjustment for unusual growth under § 211.13(b) until such adjustment has been approved by FEA. Wholesale purchaser-consumers of butane or natural gasoline for such uses as have received adjustments for unusual growth shall submit by September 1, 1974 to FEA the proposed adjustment and the basis therefor. FEA may require the wholesale purchaser-consumers to submit additional information to justify the adjustment. FEA may approve, deny or modify the adjustment. New wholesale purchasers and end-users are subject to the requirements of § 211.12.

(b) The provisions of § 211.12(e)(1) concerning mutual arrangements between new wholesale purchaser-consumers and suppliers shall not apply to this subpart. New wholesale purchaser-consumers must apply to the FEA National Office for an assignment pursuant to § 211.12(e)(3) in order to establish a supplier/purchaser relationship and a base period volume. Such applications shall be filed in accordance with Subpart C of Part 205 of this chapter.

(c) Operators of storage facilities, including merchant storage facilities, shall not release for shipment to gas utilities any quantity of butane which, when taken together with other amounts of butane supplied to that utility for a period corresponding to a base period, exceeds the quantity of butane which may be supplied under the allocation level for gas utilities in § 211.93(c)(2)(iv).

(d) Suppliers 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 notifies the FEA by certified mail of the use of multiple allocation fractions and fully justifies such practices at least fifteen days prior to distributing any supplies pursuant to multiple allocation fractions. The FEA may disallow the use of multiple allocation fractions to the extent that it determines that such a practice contravenes the intent of this part.

(e) Suppliers and wholesale purchasers (except gas utilities and industrial users) shall be permitted to accumulate an inventory of butane during the summer in quantities which are normal and reasonable for seasonal usage in accordance with their normal business practices. Inventories controlled by gas utilities and industrial users (including petrochemical producers) shall be limited to:

(1) One hundred (100) percent of the allocation entitlement specified in § 211.93 for gas utilities.

(2) One hundred twenty (120) percent of the volumes used for all industrial uses (including standby volumes) during the period April 1, 1972 through March 31, 1973; *Provided, however,* That an industrial firm may not use such inventories to exceed its allocation entitlement specified in §211.93.

As long as a firm controls greater than the above mentioned inventories, it shall not accept an allocation from a supplier until its inventories are reduced to conform to the limits imposed in this paragraph.

§ 211.97 Procedures and reporting requirements.

(a) All owners of storage facilities, including merchant storage facilities (or operators thereof), with a capacity in excess of 500,000 gallons which store butane, shall report to the Administrator, FEA, Washington, D.C. 20461, the total volume, locations, and ownership of butane storage including that owned by the storage owner or operator of 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. The same information shall be reported as of the end of each month on form FEA #103B and filed within fifteen (15) days after the close of that month. All owners of butane in merchant storage facilities shall file form FEA #101A with the operator of the storage facility. These reports shall be kept on file by the storage operator, and are subject to FEA audit.

(b) All applications for adjustment and assignment of butane and natural gasoline shall be filed with the FEA National Office in accordance with Subparts B and C, respectively, of Part 205 of this chapter. All other matters pertaining to the allocation of butane and natural gasoline shall be addressed to the FEA National Office at the address provided in § 205.12, unless otherwise specified.

(c) The general reporting requirements contained in §§ 211.222 and 211.224 shall not apply to this subpart. The reporting requirements of § 211.225 shall, however, apply to this subpart. The information required to be maintained on FEA forms by § 211.223 may be maintained by suppliers in accordance with that firm's customary recordkeeping practices.

(d) Suppliers and importers shall report in accordance with forms and instructions to be issued by the FEA for reporting under § 211.87(e).

Subpart F—Motor Gasoline

§ 211.101 Scope.

(a) This subpart applies to the mandatory allocation of all motor gasoline produced in or imported into the United States.

(b) This subpart provides for a State set-aside of motor gasoline.

§ 211.102 Definitions.

For purposes of this subpart—

"Base period" means the month of 1972 corresponding to the current month.

"Bulk purchaser" means any firm which is an ultimate consumer which, as part of its normal business practices, purchases or obtains motor gasoline from a supplier and either (a) receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location, (b) with respect to use in agricultural production, receives delivery into a storage tank with a capacity not less than 50 gallons substantially under the control of that firm, or (c) receives delivery of that product

for use in cargo, freight and mail hauling by truck.

"Truck" means a motor vehicle with motive power designed primarily for the transportation of property or special purpose equipment and with a gross vehicle weight rating for a single vehicle (the value specified by the manufacturer as the loaded weight of the vehicle) or the equivalent thereof in excess of 20,000 pounds, or in the case of trucks designed primarily for drawing other vehicles and not so constructed as to carry a load other than part of the weight of the vehicle and the load so drawn, with a gross combination weight rating (the value specified by the manufacturer as the loaded weight of the combination vehicle) or the equivalent thereof in excess of 20,000 pounds.

§ 211.103 Allocation levels.

(a) *General.* The allocation levels listed in this section only apply to allocations made by suppliers to end-users which are bulk purchasers and to wholesale purchaser-consumers. Suppliers shall allocate to all purchasers to which the allocation levels apply in accordance with the provisions of § 211.10. End-users which are bulk purchasers and wholesale purchaser-consumers which are entitled to purchase motor gasoline 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 which are bulk purchasers and wholesale purchaser-consumers which are entitled to purchase motor gasoline for all uses 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 application of the allocation fraction) for the following uses:

(i) Emergency services;

(ii) Energy production;

(iii) Sanitation services;

(iv) Telecommunications services;

(v) Passenger transportation services;

(vi) Cargo, freight and mail hauling by truck;

(vii) Aviation ground support vehicles and equipment.

(2) One hundred (100) percent of base period use (as reduced by application of the allocation fraction) for the following uses:

(i) Industrial use;

(ii) Commercial use;

(iii) Governmental use; and

(iv) Social service agency use.

(d) *Purchasers without an allocation level.* There shall be no allocation levels for end-users which are not bulk purchasers or for purchasers which are not otherwise described in paragraphs (b) and (c) of this section. Such end-users shall be supplied in accordance with the provisions of § 211.10(d)(2).

(e) *Wholesale purchaser-resellers.* Wholesale purchaser-resellers shall receive allocations on the basis of their base period volumes as determined by § 211.12(c) and adjusted in accordance with § 211.13.

§ 211.105 Supplier/purchaser relationships.

Supplier/purchaser relationships are set forth in § 211.9–211.13 except as provided in § 211.106.

§ 211.106 Retail sales outlets.

(a) *General.* Notwithstanding the provisions of § 211.11, the provisions of this section shall apply to retail sales outlets which sell motor gasoline.

(b) *Retail sales outlets as a firm.* (1) Each firm or part of a firm which operates an ongoing business at a retail sales outlet shall be considered a separate firm with respect to each such outlet for purposes of this subpart and, therefore, shall be a separate wholesale purchaser-reseller. The entity which merely holds a real property interest in a retail sales outlet on which another entity operates the ongoing business shall not be considered the wholesale purchaser-reseller with respect to that outlet.

(2) An independent marketer, or a small or independent refiner, which operates two or more retail sales outlets may apply to the FEA for treatment of some or all of such outlets as a single firm in accordance with the procedures established in Subpart G of Part 205 of this chapter. The FEA may allow such treatment to the extent that the petitioner can demonstrate that treatment of each outlet as a separate firm would tend to lessen its competitive market position and that allowance of the petition would not result in an inequitable distribution of gasoline in the market areas served by that marketer.

(3) (i) A supplier's obligation to provide motor gasoline shall be determined separately for each retail sales outlet for which it has a supply obligation without distinguishing between retail sales outlets operated by the supplier and retail sales outlets not operated by the supplier. A supplier may not reassign all or part of an allocation entitlement from one retail sales outlet to another, including reassignments among its own retail sales outlets, without the express written permission of FEA except as provided by paragraph (b)(3)(ii) of this section unless an application for treatment as a single firm of some or all of such supplier's retail sales outlets has been granted pursuant to paragraph (b)(2) of this section.

(ii) An independent marketer, or small or independent refiner, may reassign up to twenty (20) percent of the allocation entitlement (excluding any amounts which those retail sales outlets have certified pursuant to § 211.12(d) to be for ultimate use under an allocation level not subject to an allocation fraction) of a retail sales outlet which it operates to another retail sales outlet which it operates provided that no retail sales outlet may have its allocation entitlement (excluding any amounts which those retail sales outlets have certified pursuant to § 211.12(d) to be for ultimate use under an allocation level not subject to an allocation fraction) increased by more than twenty (20) percent pursuant to any reassignment permitted by this paragraph (b)(3)(ii). If an independent marketer or small or independent refiner is not the supplier of all of the retail sales outlets which it operates from a single terminal facility, it may make the reassignments permitted by this paragraph only among the retail sales outlets which it operates and which are supplied by the same supplier and terminal facility.

(4) To the extent that retail sales outlets have not been considered separate firms and therefore separate wholesale purchaser-resellers in the base period volume determination required under § 211.12(c), an operator of more than one retail sales outlet shall by July 1, 1974, determine the base period volume of each of its retail sales outlets and calculate the adjustment to base period volume for unusual growth as specified in § 211.13(b)(1). To the extent that the sum of all the adjustments for each of its retail sales outlets as calculated by the operator differs from the unusual growth adjustment as calculated by the supplier in accordance with the provisions of § 211.13(b)(1) treating all outlets together as a single firm, the operator of the retail sales outlets shall notify the supplier. If the supplier disputes the automatic growth adjustment as calculated by the operator, the operator shall make application to the appropriate FEA regional office for validation of the adjustment.

(c) *Loss of allocation entitlement for going out of business.* (1) A wholesale purchaser-reseller which operates a retail sales outlet shall be deemed to have gone out of business with respect to that outlet for purposes of § 211.11 if it vacates the site on which it conducts such business. Notwithstanding the foregoing, an independent marketer shall not be deemed to have gone out of business if (i) the independent marketer vacates the site on which it formerly operated a retail sales outlet, (ii) the former site is closed as a retail sales outlet or is operated as such by a firm that is not an independent marketer, and (iii) the independent marketer that occupied the former site, within a reasonable period of time, as determined by FEA, reestablishes another retail sales outlet at another location serving substantially the same customers or market that was served by the former site.

(2) (i) *Closings of retail outlets after June 1, 1974.* An entity which operates more than one retail sales outlet and which intends to go or goes out of business at one or more such retail sales outlets may apply to FEA for an adjustment to the base period volumes of its retail sales outlets which will remain in business. FEA may allow such adjustments to the extent that the vacating of business at a particular retail sales outlet does not result in an inequitable distri-

bution of motor gasoline in the market areas served by the entity and that such an adjustment would not otherwise be inconsistent with the objectives of the allocation program. Pending FEA action on an application, FEA may provide adjustments to the base period volumes of the pertinent retail sales outlets, which will remain in business.

(ii) *Closings of retail outlets prior to June 1, 1974.* An independent marketer, or a small or independent refiner which went out of business with respect to one or more retail sales outlets which it operated during the period January 1, 1973 through June 1, 1974, shall receive an adjustment on June 1, 1974 to the base period volumes of its retail sales outlets which remain in business. An independent marketer or a small or independent refiner shall determine the net amount by which the base period volumes of the retail sales outlets which it operated and which went out of business during the period January 1, 1973 through June 1, 1974, exceed the base period volumes of the retail sales outlets which it opened for business and operated during the period January 1, 1973 through June 1, 1974. The base period volumes of each retail sales outlet which the independent marketer or small or independent refiner operates as of June 1, 1974 shall be increased by an amount which bears the same proportion to such net amount as the base period volume of the retail outlet bears to the sum of the base period volumes of all the retail sales outlets which the independent marketer, or small or independent refiner operates as of June 1, 1974. The independent marketer or small or independent refiner shall certify the adjustments to the base period volumes of its retail sales outlets under this subparagraph to the supplier or suppliers of such retail sales outlets. If a supplier disputes the validity of such adjustments certified to it, it may apply to the appropriate regional FEA for validation of the amounts of such adjustments. During the period that a request for validation is pending, the supplier shall supply motor gasoline based upon adjustments under this subparagraph.

(d) *Suppliers of retail sales outlets.* (1) The supplier of a retail sales outlet shall be that part of a firm which actually furnishes or physically delivers the gasoline to the retail sales outlet. The operator of one or more retail sales outlets shall not be considered the supplier of its own retail sales outlets unless it operates a terminal facility from which it furnishes a product to each outlet or unless it otherwise physically delivers the gasoline to each outlet.

(2) Whenever an operator of a retail sales outlet goes out of business with respect to that retail sales outlet under paragraph (c) of this section, the supplier of that outlet shall, in calculating its allocation fraction, remove the amount of the allocation entitlement of that retail sales outlet from its supply obligation, unless the right to such allocation has transferred to a successor wholesale purchaser-reseller under paragraph (e) of this section.

(3) Any supplier which supplies its own operated retail sales outlets shall report to the National and appropriate regional FEA and to the appropriate State office whenever it ceases to supply any retail sales outlet, without regard to whether such retail sales outlet is operated by the supplier.

(e) *Transfer of entitlement.* Whenever a wholesale purchaser-reseller is deemed to have gone out of busines in accordance with paragraph (c) of this section, the right to an allocation with respect to the retail sales outlet shall be deemed to have been transferred to its successor on the site, provided such successor established the same ongoing business on the site within a reasonable period of time, as determined by FEA, after its predecessor vacates the premises.

§ 211.107 Method of allocation.

(a) The initial State set-aside level for motor gasoline for a particular month and state 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. Subsequent adjustments to the percentage unit will be published by the FEA.

(b) Allocations of motor gasoline to retail sales outlets and other purchasers shall be made as specified in § 211.10. Suppliers which have an allocation fraction greater than one (1.0) shall distribute their surplus product in accordance with the provisions of § 211.10(g) notwithstanding the provisions of § 211.106 with respect to reassignments among retail sales outlets.

(c) 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.

§ 211.108 Allocation of unleaded gasoline.

(a) *General.* All the provisions of this subpart shall apply to all substances meeting the definition of motor gasoline, including unleaded gasoline, premium and regular gasoline without regard to the different characteristics of those substances except as provided in this section with respect to unleaded gasoline. In addition to the provisions of § 211.105, a supplier of unleaded gasoline shall further allocate unleaded gasoline in accordance with the provisions of this section to retail sales outlets and other purchasers which are entitled to receive motor gasoline (whether leaded or unleaded) from that supplier without regard to whether the supplier has previously supplied unleaded gasoline to that purchaser.

(b) *Definitions.* "Allocation entitlement" means for a wholesale purchaser-reseller, its allocation entitlement as described in § 211.12(b)(1) and for a wholesale purchaser-consumer or an end-user, its allocation entitlement as described in § 211.12(b)(2).

"Allocation ratio" means that ratio of a supplier's total supply of unleaded gasoline to the supplier's total supply of motor gasoline (leaded and unleaded).

"Unleaded gasoline" means unleaded gasoline as defined by the Environmental Protection Agency.

(c) *Method of allocation for unleaded gasoline.* (1)(i) For a period which corresponds to a base period, each supplier shall make available to each of its purchasers which are entitled to receive motor gasoline from that supplier a volume of unleaded gasoline which bears the same ratio to that purchaser's allocation entitlement as the supplier's allocation ratio for that period. Suppliers may refuse to supply unleaded gasoline to any wholesale purchaser-reseller which does not have facilities suitable for the storage and delivery of unleaded gasoline, as required by the provisions of 40 CFR Ch. I, Part 80, Subpart B.

(ii) This subparagraph (1) applies as of September 1, 1974, to all of the supplier's wholesale purchasers and end-user's which are entitled to receive motor gasoline from that supplier except those retail sales outlets which were not selling unleaded gasoline during the thirty (30) days prior to July 1, 1974, and which are not required to sell unleaded gasoline pursuant to 40 CFR Ch. I, Part 80, Subpart B. This subparagraph becomes applicable to retail sales outlets which were not selling unleaded gasoline during the thirty (30) days prior to July 1, 1974 and which are not required to sell unleaded gasoline pursuant to 40 CFR Ch. I, Part 80, Subpart B, on October 1, 1974.

(2) No purchaser may be required to accept any quantity of unleaded gasoline in lieu of part or all of its allocation entitlement to motor gasoline for a period which corresponds to a base period.

(3)(i) After its initial offer of unleaded gasoline pursuant to subparagraph (1) of this paragraph a supplier shall offer any of its supply of unleaded gasoline which remains only to its purchasers which are entitled to receive motor gasoline from that supplier and which desire to purchase unleaded gasoline. Automobile manufacturers, new car dealers, fleet owners or operators, or any other wholesale purchaser-consumers which require unleaded gasoline as a greater proportion of their allocation entitlement than the supplier's allocation ratio shall have first priority to any such additional quantities of unleaded gasoline.

(ii) Any supplier with a motor gasoline allocation fraction less than or equal to one (1.0) which has a supply of unleaded gasoline that none of its purchasers entitled to receive motor gasoline from that supplier desire to purchase shall notify FEA and may dispose of such supply in accordance with the provisions of § 211.10(f)(2).

(4) The total volume of leaded and unleaded gasoline which a supplier allocates to a purchaser for a period which corresponds to a base period shall equal the total amount of motor gasoline which the supplier could otherwise allocate to that purchaser pursuant to this subpart without regard to the provisions of this section.

(5) Any purchaser which has been notified that its supplier will not supply

it with unleaded gasoline and which with reasonable diligence cannot otherwise obtain a supply of unleaded gasoline under the provisions of this part, may apply to the appropriate FEA Regional Office in accordance with Subpart C of Part 205 of this chapter for assignment of a supplier of unleaded gasoline.

(6) FEA may require recipients of assigned quantities of unleaded gasoline to provide leaded gasoline in exchange for the assigned product.

(d) *Apportionment among retail sales outlets.* Notwithstanding the provisions of § 211.106(b), entities operating two or more retail sales outlets may apportion their entitlements of unleaded gasoline for those outlets between and among those retail sales outlets without restriction: *Provided,* That no retail sales outlets shall be supplied a total volume of motor gasoline (leaded and unleaded) which exceeds the total amounts of motor gasoline which the supplier could otherwise allocate to that retail sales outlet pursuant to this subpart without regard to the provisions of this section.

(e) *Prime suppliers.* Prime suppliers shall make available in their State set-aside a ratio of unleaded gasoline to all motor gasoline equal to their allocation ratio.

(f) *Relationship to EPA regulations.* Nothing in this section shall be interpreted to supersede any regulation concerning unleaded gasoline issued by the Environmental Protection Agency.

§ 211.109 Procedures and reporting requirements.

(a) All applications for adjustment or assignment of motor gasoline shall be filed with the appropriate State Office or FEA Regional Office in accordance with Subparts B and C of Part 205, respectively, of this chapter. All other matters pertaining to the allocation of motor gasoline shall be addressed to the appropriate FEA Regional Office at the address provided in § 212.12, unless otherwise specified.

(b) The general reporting and recordkeeping requirements contained in Subpart L of this part shall apply to this subpart.

(c) An application for an assignment under the state set-aside system, as provided in § 211.17, for hardship or emergency requirements shall be submitted to the appropriate State Office in accordance with the procedures established in Subpart Q of Part 205 of this chapter.

Subpart G—Middle Distillate

§ 211.121 Scope.

(a) This subpart applies to all middle distillate fuels produced in or imported into the United States.

(b) This subpart provides for a state set-aside.

§ 211.122 Definitions.

For the purposes of this subpart—

"Base period" means the month of 1972 corresponding to the current month.

§ 211.123 Allocation levels.

(a) *General.* The allocation levels in this section only apply to allocations made by suppliers to wholesale purchaser-consumers and end-users. 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 middle distillate fuels 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 middle distillate fuels 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.* (1) One hundred (100) percent of current requirements for the following uses:

(i) Agricultural production;

(ii) Department of Defense use as specified in § 211.26.

(2) One hundred (100) percent of base period use for space heating requirements subject to the following specifications:

(i) No reduction for medical and nursing buildings for all uses;

(ii) Six (6) degree F reduction for residences and schools;

(iii) Ten (10) degree F reduction for all others; or

(iv) Reduction of the ambient indoor temperature by the appropriate amount, or other action which results in a fuel saving equivalent to that which would otherwise result under paragraph (b)(2)(ii)–(iii) of this section.

(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) Manufacture of ethical drugs and related research;

(iv) Sanitation services;

(v) Telecommunications services;

(vi) Passenger transportation services;

(vii) Cargo, freight, and mail hauling except as set forth elsewhere in this section;

(viii) Aviation ground support vehicles and equipment; and

(ix) Nonmilitary marine shipping, both foreign and domestic (except cruise ships carrying passengers for recreational purposes). Sales to vessels engaged in the foreign trade of the United States shall be made on a nondiscriminatory basis in regard to flag of registration, subject to modification by the FEA following consultation with appropriate Federal agencies on a case-by-case basis if required to encourage reciprocal nondiscriminatory allocation of middle distillate fuels in foreign ports to vessels engaged primarily in the foreign trade of the United States.

(2) One hundred ten (110) percent of base period use (as reduced by application of an allocation fraction) for industrial use except for space heating.

(3) *Electric utilities.* (i) One hundred (100) percent of base period use (as reduced by application of an allocation fraction) or as otherwise determined by the FEA upon recommendation by the Federal Power Commission (FPC), but not less than one hundred (100) percent of current requirements for nuclear plants, start-up, testing and flame stability of coal-fired plants (except for peaking uses).

(ii) In determining the middle distillate allocation for each utility, the FEA may take into account but is not limited to the following considerations:

(A) The fact that electric generating plants which now burn middle distillate fuel oil have been identified by the FEA as candidates for conversion to coal and the maximum possible extent to which such plants could be utilized after conversion;

(B) The extent to which any electric generating plants which burn coal may be utilized more fully than at present;

(C) The extent to which it is possible for electric utilities to obtain necessary supplies of coal;

(D) The extent to which certain minimal levels of middle distillate consumption are essential, as determined by the FEA upon recommendation of the FPC, to supply portions of a power system that cannot be supplied by non-middle distillate-fired generation, or for other special considerations (Any volumes so identified shall be counted as part of the utility's total allocation);

(E) The extent to which utilities currently utilizing natural gas supplied under interruptible contracts experience gas service interruptions;

(F) Available stocks of middle distillate held by each utility.

(4) One hundred (100) percent of base period use (as reduced by application of an allocation fraction) for the following uses:

(i) Petrochemical feedstock use;

(ii) Synthetic natural gas plant feedstock use;

(iii) All other non-space heating uses.

§ 211.125 Supplier/purchaser relationships.

Supplier/purchaser relationships are set forth in §§ 211.9–211.13.

§ 211.126 Method of allocation.

(a) The initial State set-aside level for middle distillate fuels for a particular month and state is four (4) 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. Subsequent adjustments to the percentage unit will be published by the FEA.

(b) Allocation of middle distillate fuels shall be made 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.

(c) Suppliers shall, to the extent practicable, make deliveries to all space-heating end-users and wholesale purchaser-consumers on the basis of certified need. Certified need for space-heating is the calculated quantity of fuel needed to maintain the ambient indoor temperature of a building at the reduced temperature required in § 211.123(b)(2).

(1) This calculation of certified need shall be done using historical usage factors for each building heated. Where suppliers do not have an historical usage factor for a building, this factor shall be calculated based on gallons of fuel consumed and actual degree-days exposure during the latest thirty (30) day period of normal heating usage before January 15, 1974. If no such period exists, a usage factor for that unit shall be established by an initial period of normal space-heating operations, subject to review by the State Office.

(i) Historical usage factors shall be associated with units and not with end-users or wholesale purchaser-consumers.

(ii) If this calculation of certified need results in undue hardship, the owners or occupants may apply to their State Office to obtain relief.

(2) To the extent practicable, the following procedure shall be followed by heating oil suppliers:

(i) Each space-heating end-user or wholesale purchaser-consumer shall be entitled to an initial fill-up at its first delivery after these regulations become effective, if sufficient supplies are available.

(ii) At the next delivery, the supplier shall again provide a full tank and determine, to the extent possible, compliance with this part. If the space-heating end-user or wholesale purchaser-consumer has clearly not complied, the supplier shall present a warning notice to the end-user or wholesale purchaser-consumer. The warning notice shall indicate that the end-user or wholesale purchaser-consumer faces the danger of running out of fuel if it does not reduce its ambient indoor temperature by the required amount or take equivalent actions to conserve fuel.

(iii) For each subsequent delivery, the supplier shall continue to deliver only the calculated certified need regardless of the quantity required to fill the tank, unless otherwise directed by the State Office.

§ 211.127 Procedures and reporting requirements.

(a) All applications for adjustment and assignment of middle distillate fuels, except to utility users, shall be filed with the appropriate State Office or FEA Regional Office in accordance with Subparts B and C, respectively, of Part 205 of this chapter. All other matters pertaining to the allocation of middle distillate fuels, except to utility users, shall be submitted to the appropriate FEA Regional Office at the address provided in § 205.12. All matters pertaining to the allocation of middle distillate fuels to utility users shall be addressed FEA National Office at the address provided in § 205 12, unless otherwise specified.

(b) Bonded aviation fuel is excluded from allocation; provision for bonded fuel shortfalls is addressed in § 211.146.

(c) Applications for assignment from the state set-aside system for hardship or emergency requirements shall be submitted to the appropriate State Office in accordance with the procedures established in Subpart Q of Part 205 of this chapter.

Subpart H—Aviation Fuels

§ 211.141 Scope.

(a) This subpart applies to the mandatory allocation of aviation fuels produced in or imported into the United States.

(b) Bonded aviation fuel is excluded from allocation; provision for bonded fuel shortfalls is addressed in § 211.146.

(c) No state set-aside is provided for in this subpart.

§ 211.142 Definitions.

For the purposes of this subpart—

"Adjusted allocable supply" means a supplier's allocable supply for a month plus the sum of the bonded fuel factors for all the international air carriers to be supplied for the month by the supplier.

"Agricultural production flying" means the use of general aviation aircraft under 14 CFR Parts 91, 133, and 137 in agricultural production, including seeding, spraying, fertilizing, and dusting of food and forestry crops by air, the use of aircraft by those engaged in agricultural production to transport priority supplies and personnel to sustain or increase crop and animal yields, to transport crop, forestry, and animal products to distribution points, and in commercial fishing.

"Air taxi"—See "Other air carrier."

"Air travel club flying" means any use of aircraft operated under 14 CFR Part 123.

"Aircraft manufacturing uses" means the consumption of aviation fuels for aircraft production, major overhaul of aircraft, static and flight testing of aircraft and components, the ferrying of aircraft from the manufacturer, and initial type aircraft certification training provided by the manufacturer for the purchaser.

"Aviation fuels" means aviation gasoline and aviation turbine fuel.

"Aviation gasoline" means petroleum based fuels designed for use in aircraft internal combustion engines, and complying with MIL–G–5572 specification (ASTM—specification D–910–70).

"Aviation turbine fuel" means all refined petroleum fuel designed to operate aircraft turbine engines. The basic specification is ASTM D–1655 which covers both Type A (kerosene base) and Type B (naphtha base).

"Base period" means (a) the calendar month of 1972 corresponding to the current month; and (b) after March 31, 1974, the calendar quarter of 1972 corresponding to the current quarter.

"Base period supplier" means for an international air carrier its base period supplier of bonded or non-bonded aviation fuel or its supplier as assigned by FEA.

"Base period volume" means for an international air carrier the volume of bonded and non-bonded aviation fuels purchased by an international air carrier during a base period.

"Bonded fuel factor" means, for each international air carrier to be supplied by a supplier, that amount of bonded aviation fuel which bears the same proportion to the total volume of bonded aviation fuel to be received by the international air carrier from all sources for a month as that amount of the international air carrier's base period volume which was supplied by the supplier for the base period bears to the international air carrier's base period volume.

"Business flying" means any use of aircraft under 14 CFR Parts 91 and 133 by a firm for the purpose of transportation required by a business in which it is engaged and for the purpose of transporting its employees and/or property. Business flying includes such aerial uses as photography, advertising, survey and helicopter operations.

"Civil air carrier" means (a) a domestic, supplemental, and scheduled cargo air carrier; (b) an international air carrier; (c) an intrastate air carrier; (d) a local service air carrier; or (e) other air carrier.

"Commercial operator" see "Other air carrier."

"Commuter air carrier" see "Other air carrier."

"Domestic, supplemental, and scheduled cargo air carrier" means those air carriers holding a certificate of public convenience and necessity providing for interstate and overseas air transportation, issued pursuant to section 401 of the Federal Aviation Act of 1958, as amended and operating under 14 CFR Part 121.

"Emergency aviation services, safety, and mercy missions" means public or private aircraft dedicated to emergency operations, safety and mercy missions operating under 14 CFR Parts 91 or 137, except however, it does not include mercy missions of the Civil Air Patrol.

"Energy production flying" means the use of general aviation aircraft operating under 14 CFR Parts 91 and 133 in the production of energy sources, including pipeline and powerline patrol, oil and gas exploration activities, necessary movement of supplies and personnel for the production of energy resources, and other essential flying for energy production.

"FAR" means the Federal Aviation Regulations, Title 14, Chapter I, of the Code of Federal Regulations.

"General aviation" means (a) agricultural production flying; (b) air travel club flying; (c) business flying; (d) instructional flying; (e) personal non-business flying; (f) energy production flying; (g) aircraft manufacturing uses; and (h) telecommunications flying.

"Instructional flying" means any use of aircraft operating under 14 CFR Parts 91, 127, and 141 for the purpose of formal instruction.

"International air carrier" means those United States air carriers operating under 14 CFR Part 121 holding a certificate of public convenienec and necessity, providing for foreign air transportation, issued pursuant to section 401 of the Federal Aviation Act of 1958, and foreign air carriers operating under 14 CFR Part 129 holding permits issued pursuant to section 402 of the Federal Aviation Act of 1958, but excluding those with permits which restrict operation to the use of aircraft not exceeding 12,500 pounds gross take-off weight.

"Intrastate air carriers" means those carriers operating under 14 CFR Part 121 licensed by a state regulatory agency, and operating equipment having more than thirty (30) seats or a pay load of at least 7,500 pounds.

"Local service air carriers" means those carriers operating under Part 121 or 127 holding a certificate pursuant to section 401 of the Federal Aviation Act of 1958, and (a) receiving Federal subsidy, or (b) operating solely within the States of Hawaii or Alaska, or (c) operating scheduled helicopter service.

"Non-flying use of aviation fuels" means the consumption of aviation fuels associated with gas turbine engines in industry, utilities and passenger transportation services.

"Other air carriers" means (a) those carriers holding a Federal Aviation Administration Air Taxi/Commercial Operator Certificate issued under 14 CFR Part 135 and operating under the exemption authority of 14 CFR Part 298 of the Civil Aeronautical Board Regulations, including operations by scheduled commuter airlines, and non-scheduled air taxi operations; (b) those foreign carriers operating under Part 129 of the FAR holding permits under section 402 of the Federal Aviation Act of 1958 authorizing casual and infrequent service with aircraft and exceeding 12,500 pounds gross take-off weight; and (c) those commercial operators of large aircraft under Federal Aviation Regulations 14 CFR Part 121, except Intrastate carriers.

"Personal non-business flying" means any use of aircraft under 14 CFR Part 91 for personal purposes not associated with a business or profession and not for hire.

"Public aviation" means any aircraft operating under 14 CFR Parts 91, 133 or 137 used exclusively in the service of the Federal government or the government of the District of Columbia or of any state, territory or possession of the United States, and any political subdivisions thereof, excluding military aircraft.

"Scheduled cargo air carrier" see "Domestic, supplemental and scheduled cargo air carrier."

"Supplemental air carrier" see "Domestic, supplemental, and scheduled cargo air carrier."

"Telecommunications flying" means the use of aircraft operating under 14 CFR Parts 91 and 133 in "telecommunications services" as defined in Subpart B of this part.

"Wholesale purchaser-consumer" means wholesale purchaser-consumer as defined in § 211.51, and any civil air carrier as defined in this section.

§ 211.143 Allocation levels.

(a) *General.* The allocation levels listed in this section apply only to allocations made by suppliers to wholesale purchaser-consumers and end-users. Suppliers shall allocate to all purchasers to which allocation levels apply in accordance with the provisions of § 211.10. End-users and wholesale purchaser-consumers which are entitled to purchase aviation fuels under an allocation level not subject to an allocation fraction shall receive first priority and shall be supplied sufficient amounts to meet 100 percent of their allocation requirements. End-users and wholesale purchaser-consumers which are entitled to purchase aviation fuels for all uses 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.* (1) One hundred percent of current requirements for the following uses:

(i) Agricultural production flying;

(ii) 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 application of an allocation fraction) for the following uses:

(i) Emergency aviation services, safety and mercy missions;

(ii) Energy production flying;

(iii) Aircraft manufacturing but not to exceed one hundred thirty (130) percent of base period use;

(iv) Telecommunications flying.

(2) One hundred (100) percent of base period use (as reduced by application of an allocation fraction) for the following uses:

(i) Local service air carriers, including requirements for crew training and proficiency flying;

(ii) Other air carriers, including requirements for crew training and proficiency flying;

(iii) Non-flying use of aviation fuels.

(3) Ninety-five (95) percent of base period use (as reduced by application of an allocation fraction) for the following uses:

(i) Domestic, supplemental, and scheduled cargo air carriers, including requirements for crew training and proficiency flying;

(ii) International air carriers, including requirements for crew training and proficiency flying—the total of both bonded and non-bonded fuels;

(iii) Intra-state carriers, including requirements for crew training and proficiency flying.

(d) Ninety (90) percent of base period use (as reduced by application of an allocation fraction) for business flying, including requirements for crew training and proficiency flying.

(e) Eight-five (85) percent of base period use (as reduced by application of an allocation fraction) for public aviation.

(f) Seventy-five (75) percent of base period use (as reduced by application of an allocation fraction) for the following uses:

(1) Personal non-business flying;

(2) Instructional flying;

(3) Air travel club flying including requirements for crew training and proficiency flying.

§ 211.145 Supplier/purchaser relationships and adjustments of base period use.

(a) Unless otherwise specified, the provisions of § 211.9–§ 211.13 apply to this subpart.

(b) Civil air carriers may apply to the National FEA for an adjustment to base period use based upon changed circumstances. In processing such applications, the FEA may consider situations that indicate a need for increased amounts over base period use. FEA, following consultation with appropriate Federal agencies, shall only make adjustments for changed circumstances when there are compelling situations requiring relief.

§ 211.146 Method of allocation.

(a) Suppliers of wholesale purchasers and end-users shall allocate aviation fuels in accordance with the provisions of § 211.10.

(b) Aviation fuel for international flights shall be allocated on a non-discriminatory basis among international carriers, subject to modification by the FEA, following consultation with appropriate Federal agencies on a case-by-case basis if required to encourage reciprocal non-discriminatory allocation of aviation fuel for U.S. carriers engaged in international flights.

(c) (1) International air carriers which have traditionally used bonded aviation fuel for international flights shall be allocated non-bonded aviation fuels, including naphtha-base jet fuel, by their base period suppliers to reduce their shortages of bonded aviation fuel. Upon certification by an international air carrier to its base period suppliers that the carrier is unable to purchase or obtain sufficient bonded aviation fuel from its base period suppliers of bonded fuel for a month at prices which do not exceed the lawful price of its base period suppliers of bonded fuel for similar volumes of non-bonded aviation fuel at the desired location, the base period suppliers shall provide non-bonded aviation fuel, including naphtha-base jet fuel to that carrier. Unless the international air carrier certifies that it cannot utilize naphtha-base jet fuel, the base period suppliers may to the extent of the carrier's capability to use such fuel allocate non-bonded naphtha base jet fuel prior to allocating other non-bonded aviation fuels to the international air carrier. International air carriers which do not have base period suppliers or whose base period suppliers are unable to supply them currently with non-bonded aviation fuel shall apply to FEA for assignment of suppliers of non-bonded aviation fuels.

(2) Each base period supplier of bonded fuel shall notify international air carriers, upon request, whether the sup-

plier will provide bonded fuel at the supplier's lawful price for its non-bonded fuel at a station. For the month of April 1974, suppliers shall notify their international air carrier purchasers whether bonded fuel can be so supplied by April 16, 1974.

(3) (i) An international air carrier which files a certification with a supplier under this paragraph shall provide such certification to its supplier at least fifteen days prior to the beginning of the month to which the certification applies. The certification shall specify the volumes of bonded aviation fuel which can be obtained for a month, the international air carrier's base period volume, the amount of the international air carrier's base period volume which was supplied by the supplier, and whether and to what extent the international air carrier can use naptha-base jet fuel.

(ii) For the period April 16, 1974 through April 30, 1974, international air carriers shall provide their suppliers with certifications pursuant to this paragraph by April 17, 1974. Suppliers shall then calculate their allocation fractions for the period April 16 through April 30, 1974, taking into account said certifications and shall make deliveries in accordance with the provisions of this paragraph. For the period of May 1 through May 31, 1974, international air carriers shall provide their suppliers with certifications pursuant to this paragraph by April 20, 1974.

(4) Suppliers of non-bonded aviation fuel shall allocate supplies of non-bonded aviation fuel as follows:

(i) The allocation fraction for providing aviation fuel pursuant to this paragraph shall be equal to the supplier's adjusted allocable supply divided by its base period volume.

(ii) For each civil air carrier to be supplied, the supplier shall multiply the civil air carrier's allocation requirement times the supplier's allocation fraction as determined pursuant to this paragraph. The resulting volume minus the bonded fuel factor for that civil air carrier shall be the amount of non-bonded aviation fuel allocated by the supplier to the civil air carrier for that month. The amount of non-bonded aviation fuel allocated each month to any civil air carrier when added to the bonded aviation fuel available to that civil air carrier shall not exceed the volume of aviation fuel which the civil air carrier would receive if the carrier were to use only non-bonded aviation fuels to meet its base period use.

(iii) If a carrier purchases or otherwise obtains a quantity of bonded aviation fuel for a month regardless of price in addition to the amount of bonded fuel which it certifies is available to it for that month under this paragraph, the carrier shall immediately report such quantity to its supplier by filing an amended certification and its supplier shall reduce by such quantity the amount of non-bonded aviation fuel which would otherwise be allocated to that carrier in the current or a subsequent month.

(5) None of the provisions of this paragraph shall affect existing contracts for the purchase of bonded aviation fuels.

(d) Civil Air Patrol assigned to mercy missions shall be provided aviation fuel from the Department of Defense allocation.

(e) Notwithstanding the provisions of § 211.143(c)(2)(iii), the use of aviation fuel for non-flying purposes by a utility may not exceed those volumes of aviation fuel contracted for or purchased during the base period. Aviation fuel shall not be used for peaking as long as the utility continues service during such peaking to interruptible non-priority industrial users (except where no suitable substitute fuel is available to the user) or to any purchaser which can use a fuel other than aviation fuel.

§ 211.147 Procedures and reporting requirements.

(a) All applications for adjustment or assignment of aviation fuels to civil air carriers (except air taxi/commercial operators) shall be filed with the FEA National Office in accordance with Subparts B and C, respectively, of Part 205 of this chapter. All other matters pertaining to the allocation of aviation fuels to civil air carriers (except air taxi/commercial operators) shall be addressed to the FEA National Office at the address provided in § 205.12, unless otherwise specified.

(b) All matters pertaining to the allocation of aviation fuels for general aviation, air taxi/commercial operators, public aviation and non-flying uses of aviation fuels shall be addressed to the appropriate supplier. Any matters unresolved at the supplier level may be referred directly to the appropriate Regional FEA office at the address provided in § 205.12.

(c) The general reporting and recordkeeping requirements contained in § 211.222 shall apply to this subpart. In addition, civil air carriers (excluding air taxi/commercial operators) shall make a one time only report to the Administrator, FEA, of their base period volume, or adjusted base period volume, of aviation gasoline and of both naphtha-base and kerosene-base jet fuel broken down by month. At the option of the user, this may be modified to reflect one-twelfth (1/12) of the annual allocation volumes for each month or the estimated requirements by month, not to exceed total annual allocation volume. Use of this reporting option shall be applied for purposes of choosing the most realistic figures. The report required by this paragraph shall indicate the purchases of non-bonded fuel for domestic flights, non-bonded fuel for international flights, and bonded fuel for international flights, as applicable.

(d) For general aviation wholesale purchasers, the recordkeeping requirements specified in § 211.223 shall apply provided, however, that such reports need reflect only jet fuel and aviation gasoline usage for local purchasers and their uses and activities and total pumpage per month of jet fuel and aviation gasoline.

Subpart I—Residual Fuel Oil

§ 211.161 Scope.

(a) This subpart applies to the mandatory allocation of residual fuel oil produced in or imported into the United States.

(b) This subpart provides for a state set-aside.

§ 211.162 Definitions.

For the purposes of this subpart—

"Base period" means (a) with respect to all non-utility users, the month of 1973 corresponding to the current month and (b) with respect to all utility users the period October 1, 1973, through December 31, 1973.

§ 211.163 Allocation levels.

(a) *General.* The allocation levels listed in this section only apply to allocations made by suppliers to wholesale purchaser-consumers and end-users. Suppliers shall allocate to all purchasers to which allocation levels apply in accordance with the provisions of § 211.10. End-users and wholesale purchaser-consumers which are entitled to purchase residual fuel oil 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. Wholesale purchaser-consumers and end-users which are entitled to purchase residual fuel oil for all uses 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.* (1) One hundred (100) percent of current requirements for the following uses:

(i) Agricultural production; and

(ii) Department of Defense for use as specified in § 211.26.

(2) One hundred (100) percent of base period use for space heating requirements subject to the following specifications:

(i) No reduction for medical and nursing building uses;

(ii) Six (6) degrees F reduction for residences and schools;

(iii) Ten (10) degrees F reduction for all others;

(iv) Reduction of the ambient indoor temperature by the appropriate amount, or other actions which result in a fuel saving equivalent to that which would otherwise result under paragraph (b)(2)(ii)–(iii) of this section.

(3) The allocation level as specified each month by the FEA for utility use. In specifying the allocation levels for each utility the FEA may include but is not limited to the following considerations:

(i) Each utility within appropriate groupings shall absorb an equal percentage cutback in electricity generation, to the maximum extent possible.

(ii) The fact that electric generating plants which now burn residual fuel oil that have been identified by the FEA as candidates for conversion to coal, and the maximum possible extent to which such plants could be utilized after conversion.

(iii) The extent to which any electric generating plants which burn coal may be utilized more fully than at present.

(iv) The extent to which certain minimal levels of residual fuel oil consumption are essential, as determined by the FEA upon recommendation of the Federal Power Commission (FPC) to supply portions of a power system requirement that cannot be supplied by non-oil-fired generation, or for other special considerations. Any volumes so identified shall be counted as part of a utility's total allocation.

(v) The extent to which utilities currently utilize natural gas supplies under interruptible contracts and which have been interrupted.

(vi) Available stocks of residual fuel oil held by each utility.

(c) *Allocation levels subject to an allocation fraction.* (1) One hundred (100) percent of current requirements (as reduced by application of an allocation fraction) for the following uses:

(i) Emergency services;

(ii) Energy production;

(iii) Manufacture of ethical drugs and related research;

(iv) Non-military marine shipping, foreign and domestic (except cruise ships carrying passengers for recreational purposes). Sales to vessels engaged in the foreign trade of the United States shall be made on a non-discriminatory basis in regard to flag of registration, subject to modification by the FEA following consultation with appropriate Federal agencies on a case-by-case basis if required to encourage reciprocal non-discriminatory allocation of bunker fuels in foreign ports to vessels engaged primarily in the foreign trade of the United States;

(v) Sanitation services;

(vi) Telecommunications services;

(vii) Passenger transportation services.

(2) One hundred (100) percent of base period use for industrial use and all other users and uses of residual fuel oil not included in paragraph (b) or (c)(1) of this section.

§ 211.165 Supplier/purchaser relationships.

Unless otherwise specified, supplier/purchaser relationships are set forth in § 211.9–13.

§ 211.166 Method of allocation.

(a) *State set-aside.* The State set-aside level for residual fuel oil for a particular month and State is three (3) percent of a prime supplier's estimated portion of its total supply of residual fuel oil for non-utility use for that month which will be sold into that State's distribution system for consumption within the State. Subsequent adjustments to the percentage unit will be published by the FEA.

(b) *General.* Based on the estimated total supply of residual fuel oil, on allocation levels set forth in § 211.163, on the State set-aside percentage and on other relevant considerations, the FEA shall determine the portion of total supply for non-utility use and the portion of total supply for utility use for delivery during a month or months in accordance with paragraphs (c) and (d) of this section. The FEA may make its determination for a single month or for several months at a time.

(c) *Non-utility.* The portion of each supplier's allocable supply not directed by the FEA to be distributed for utility use shall be allocated pursuant to § 211.10. With respect to space heating uses, suppliers must comply, to the fullest extent practicable, with the provisions of paragraph (e) of this section. Notwithstanding the provisions of § 211.165 or § 211.10, suppliers may not supply a utility in excess of the amounts established pursuant to paragraph (d) of this section until the non-utility allocation levels listed in § 211.163 have been filled, unless otherwise directed by the FEA.

(d) *Utilities.* (1) For purposes of calculating the allocation of residual fuel oil to utilities for delivery during the month of February 1974—

(i) The FEA will determine the amount of residual fuel oil allocated to each utility for delivery during the month of February and publish that determination. The volume of residual fuel oil allocated to each utility shall be based upon the supply available for utilities, the considerations specified in § 211.163 (b)(3) and other relevant considerations.

(ii) Based upon total deliveries from suppliers during the base period, each utility shall calculate the percentage of the utility's total deliveries during the base period which were supplied by each supplier. Within 7 days following the date of notification of allocation amounts pursuant to paragraph (d)(1)(i) of this section, each utility shall notify each of its suppliers and the FEA of the amount required to be supplied by each supplier for delivery in February 1974 and of the percentage of the amount allocated to each utility which each supplier must supply. The amount required to be supplied by a supplier shall be calculated by multiplying the utility's specified monthly allocation amount by the percentage of the utility's total deliveries during the base period which were supplied by the supplier.

(iii) Following notification by the utilities of the amounts and percentages required to be supplied by each supplier for delivery in February 1974, FEA will publish these percentages.

(2) For purposes of calculating the allocation of residual fuel oil to utilities for delivery in every month after February 1974—

(i) The FEA will determine the amount of residual fuel oil allocated for delivery to each utility for a single month or several months at a time. The volume of residual fuel allocated to each utility for each month shall be based upon the supply available for utilities, the considerations specified in § 211.163(b)(3) and other relevant considerations.

(ii) Following the determination in paragraph (d)(2)(i) of this section, the FEA will publish the amounts of residual fuel oil allocated to each utility for delivery for a single month or several months at a time, and the amounts required to be supplied for each month by each supplier. The amounts required to be supplied by each supplier will be calculated by multiplying each utility's specified monthly allocation amount by the percentage of the utility's total deliveries during the base period which were supplied by the supplier as computed from the information reported to FEA by the utility pursuant to the provisions of paragraph (d)(1)(ii) of this section.

(3) Within 48 hours of the notification by the utility to the supplier required in paragraph (d)(1)(ii) of this section, and within 7 days of the date of publication by the FEA of the information set forth in paragraph (d)(2)(ii) of this section, or fifteen days prior to the beginning of the month in which the specified amount is to be delivered, whichever is later, each supplier of a utility shall notify that utility of its anticipated ability to supply, during the month for which the allocation amount is specified, the entire amount of residual fuel required to be supplied by that supplier. If a supplier of a utility is unable to supply its specified amount, the supplier may request an extension to the delivery period in that month of up to 12 days. Following receipt of a request for extension, the utility must notify the supplier within 48 hours of its determination of the acceptability of the requested extension and of the amount to be delivered during the extension period. If the utility refuses to accept the extension, the supplier and utility shall notify the FEA of the reason for the request for extension by the supplier and the refusal to accept the extension by the utility. The FEA shall then determine the amounts to be delivered and the date or dates for delivery.

(4) Suppliers and utilities may apply to the FEA for adjustment to the requirement of § 211.165 and paragraph (d)(1)(i) of this section, or assignment of a new supplier, in accordance with Subparts B and C, respectively, of Part 205 of this chapter. Such applications must be filed by the tenth day of the current month in order to be considered for decision or relief with respect to adjustment to the allocation amounts to be published in the following month or assignment of a new supplier for the following month.

(5) Utilities may, and are encouraged to, by mutual agreement and after notice to FEA, apportion their respective allocated residual fuel oil volumes, other fuel volumes, or generated power among themselves.

(e) *Space heating uses.* To the extent practicable, suppliers shall use the following procedures for residual fuel oil distributed for space heating use. Suppliers to end-users shall calculate the quarterly allotment of their customers for space heating using the most recently available usage factors on or before November 1, 1973, for each building winter, and notify the end-user of its winter, and notify the end-user of his allotment. Where suppliers do not have an historical usage factor for a building, a usage factor shall be calculated based on gallons of fuel consumed and actual degree-days exposure in the base period.

For new buildings, the usage factor shall be determined based on gallons of fuel consumed and actual degree-days exposure during the latest thirty (30) day period of normal heating usage before January 15, 1974. If no such period exists, a usage factor of that unit shall be established by an initial period of normal space heating operation, subject to review by the State Office. Suppliers to end-users shall recalculate monthly the quarterly allotment for each space heating user by applying its usage factor to actual degree-days, less an adjustment for the required reduction in ambient indoor temperature. The supplier shall notify the end-user monthly of the end-user's adjusted allotment, and shall inform the end-user whether and by how much its usage rate exceeds that required to achieve the required reduction in ambient indoor temperature, and that it faces the danger of running out of fuel if it does not reduce its ambient indoor temperature as required by § 211.163(b)(2)(iv). The supplier shall notify the appropriate Regional FEO of any customer whose usage is excessive for two successive months. Suppliers' usage factors shall be associated with units (e.g., an apartment house) and not with end-users. The usage factor of record for a unit shall be used for that unit throughout the duration of his program regardless of changes in occupants or ownership.

§ 211.167 Procedures and reporting requirements.

(a) All applications for adjustment and assignment of residual fuel oil for the electric utility industry shall be filed in accordance with Subparts B and C, respectively, of Part 205 of this chapter. All other matters pertaining to the allocation of residual fuel oil for the electric industry shall be addressed, separately, to the Chairman, Federal Power Commission and to the FEA National Office, at the address provided in § 205.12.

(b) All applications for adjustment and assignment of residual fuel oil to non-utility users of residual fuel oil shall be filed in accordance with Subparts B and C, respectively, of Part 205 of this chapter. All other matters pertaining to the allocation of residual fuel oil to non-utility users of residual fuel oil shall be addressed to the appropriate FEA Regional Office at the address provided in § 205.12.

(c) The general reporting and record-keeping requirements contained in § 211.222 shall apply to non-utility customers of residual fuel oil.

(d) Suppliers of residual fuel oil to utilities shall comply with the reporting requirements of § 211.222. Utilities using residual fuel oil shall comply with the reporting requirements of the Federal Power Commission and the FEA.

(e) Applications for assignment from the state set-aside system for hardship or emergency requirements shall be submitted to the appropriate State Office in accordance with Subpart Q of Part 205 of this chapter.

Subpart J—Naphthas and Gas Oils

§ 211.181 Scope.

(a) This subpart applies to the mandatory allocation of certain naphthas and gas oils produced in or imported into the United States.

(b) This subpart does not provide for a State set-aside.

§ 211.182 Definitions.

For purposes of this subpart—

"Base Period" means each calendar quarter of 1973 which corresponds to the current calendar quarter.

"Gas oils" means petroleum fractions made up predominantly of material which boils at or above 430° F., including heavy aromatic gas oil used as carbon black feedstock, but excluding process oils and refined lubricating oils.

"Naphthas" mean petroleum fractions made up predominantly of hydrocarbons whose boiling points fall within the temperature range of 85° to 430° F. This definition does not include specific hydrocarbon constitutents such as hexane or special naphthas (solvents).

"Special naphthas (solvents)" means all finished products within the gasoline range, specially refined to specified flash point and boiling range, for use as paint thinners, cleaner's naphthas, and solvents, but not to be marketed as motor gasoline, aviation gasoline, or used as petrochemical or synthetic natural gas plant feedstocks.

§ 211.183 Allocation levels.

(a) *General.* The allocation levels in this paragraph apply only to allocations made by suppliers to wholesale purchaser-consumers and end-users. Suppliers shall first allocate one hundred (100) percent of the allocation requirements of all their purchasers entitled to an allocation under this part without application of an allocation fraction. Suppliers may then dispose of the remainder of their total supply at their discretion. The allocation levels listed below are not arranged in sequence of priority. Suppliers shall distribute available supplies of naphthas and gas oils to all classifications of purchasers listed in the following allocation levels without regard to order of listing.

(b) *Allocation levels (not subject to an allocation fraction).* (1) One hundred (100) percent of current requirements for the following uses:

(i) Agricultural production;

(ii) Department of Defense use as specified in § 211.26; and

(iii) Petrochemical feedstock use.

(2) One hundred (100) percent of base period use for synthetic natural gas plant feedstock use.

(3) Ninety (90) percent of base period use for the following uses:

(i) Gasoline blending and manufacturing; and

(ii) All other uses.

§ 211.184 Supplier/purchaser relationships.

Supplier/purchaser relationships shall be as set forth in § 211.9–13, unless otherwise specified in this subpart.

§ 211.185 Method of allocation.

(a) The provisions of § 211.10 shall not apply to this subpart.

(b) Suppliers shall supply one hundred (100) percent of their purchasers' allocation requirements without application of an allocation fraction.

(c) New wholesale purchasers and end-users are subject to the requirements of § 211.12.

(d) Any supplier which experiences a hardship as a result of its supply obligation under this subpart may apply to the National Office of FEA for an assignment of additional suppliers, the designation of an allocation fraction which may be applied to its purchaser's allocation requirements, or the reassignment of its purchasers.

(e) In order to remedy supply imbalances which may exist, the National FEA may order the transfer of supplies of naphthas or gas oils from any firm which controls naphthas or gas oils and may assign to any such firm new purchasers of naphthas or gas oils.

§ 211.186 Procedures and reporting requirements.

(a) All refiners and importers shall report in accordance with forms and procedures to be issued by FEA.

(b) The provisions contained in Subpart L of this part shall not apply to this subpart except §§ 211.223 and 211.225.

(c) All applications for adjustment or assignment of naphthas and gas oils shall be filed with the FEA National Office in accordance with Subparts B and C, respectively, of Part 205 of this chapter. All other matters pertaining to allocation of naphthas and gas oils shall be addressed to the FEA National Office at the address provided in § 205.12.

Subpart K—Other Products

§ 211.201 Scope.

(a) This subpart applies to the mandatory allocation of those allocated products which are not subject to allocation under Subparts D through J of this part, including benzene, toluene, mixed xylenes, hexane, lubricants, greases, special naphthas (solvents), lubricating base stock oils and process oils produced in or imported into the United States.

(b) This subpart does not provide for a State set-aside.

§ 211.202 Definitions.

For purposes of this subpart—

"Base period" means the calendar quarter of 1973 which corresponds to the current quarter.

"Chemical processing" means the use of an allocated product in the manufacture of any chemical (including petrochemicals) for purposes other than as feedstock or use solely as fuel.

"Greases" means lubricating greases which are solid semi-fluid products comprising a dispersion of a thickening agent in a liquid lubricant.

"Lubricant base stock oils" means those refined petroleum products which are primary components used in the compounding and blending of lubricants and greases including but not limited to

bright stocks, solvent neutrals, coastal oils, pale oils and red oils.

"Lubricants" means all grades of lubricating oils which have been blended with the necessary lubricant additives so as to produce a lubricating oil composition in a form that is designed to be used for lubricating purposes in industrial, commercial and automotive use without further modification, wherein said lubricating oils are comprised of greater than ten (10) percent of refined petroleum products by weight.

"Other products" means allocated products which are not subject to allocation under subparts D through J of this part, including benzene, toluene, mixed xylenes, hexane, lubricants, greases, special naphthas (solvents), lubricant base stock oils and process oils.

"Special naphthas (solvents)" means all finished products within the gasoline range, specially refined to specified flash point and boiling range, for use as paint thinners, cleaner's naphthas, and solvents, but not to be marketed as motor gasoline, aviation gasoline, or used as petrochemical or synthetic natural gas plant feedstocks.

"Wholesale purchaser-consumer" means any firm that is an ultimate consumer which, as part of its normal business practices, purchases or obtains an allocated product from a supplier and receives delivery of that product into storage substantially under the control of that firm at a fixed location and purchased or obtained more than 20,000 gallons of lubricants, 10,000 pounds of greases or 55,000 gallons of any other product subject to this subpart in any completed calendar year subsequent to 1971.

§ 211.203 Allocation levels.

(a) *General.* The allocation levels listed in this section only apply to allocations made by suppliers to wholesale purchaser-consumers and end-users. 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 other products under an allocation level not subject to an allocation fraction shall receive first priority and be supplied sufficient amounts to meet one hundred (100) percent of their allocation requirements. End-users and wholesale purchaser-consumers which are entitled to purchase other products under an allocation level subject to reduction by application of an allocation fraction shall receive second priority.

(b) *Allocation levels not subject to an allocation fraction.* One hundred (100) percent of current requirements for the following uses:

(1) Agricultural production; and

(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) Passenger transportation services;

(v) Telecommunications services;

(vi) Cargo, freight and mail hauling;

(vii) Chemical processing; and

(viii) Petrochemical feedstock use.

(2) One hundred (100) percent of base period use for:

(i) Industrial use;

(ii) Synthetic natural gas plant feedstock use; and

(iii) Blending and compounding of lubricants.

(3) Ninety (90) percent of base period use for:

(i) Gasoline blending and manufacturing; and

(ii) All other uses.

§ 211.205 Supplier/purchaser relationships.

Supplier/purchaser relationship shall be as set forth in § 211.9–13, unless otherwise specified in this subpart.

§ 211.206 Method of allocation.

(a) *General.* Except as provided in paragraph (b) below, the allocation of other products shall be as specified in § 211.10. New wholesale purchasers and end-users are subject to the requirements of § 211.12.

(b) Firms which purchase lubricants, greases, or other products, whether for resale or for their own end-use, in containers with a capacity of 55 gallons or less, and which have not purchased more than 2,000 gallons of lubricants, 1,000 pounds of greases or 2,000 gallons of any remaining other product in any completed calendar year subsequent to 1972 shall be entitled to receive a volume of lubricants and greases equal to one hundred (100) percent of their current requirements without being subject to an allocation fraction. The maximum volume which any such firm may obtain pursuant to this paragraph is 2,000 gallons of lubricants, 1,000 pounds of greases or 2,000 gallons of any remaining other product.

§ 211.207 Procedures and reporting requirements.

(a) All documents to be filed by wholesale purchasers pertaining to the allocation of other products shall be addressed to the FEA National Office at the address provided in § 205.12.

(b) All applications by end-users for adjustment or assignment of a base period volume of any other product shall be filed in accordance with Subparts B and C, respectively, of Part 205 of this chapter.

(c) The provisions contained in subpart L of this part shall not apply to this subpart except §§ 211.223 and 211.225.

(d) All suppliers of products subject to this subpart shall report to the National FEA in accordance with forms and instructions to be issued by FEA.

Subpart L—General Reporting and Recordkeeping Requirements

§ 211.221 Scope.

This subpart provides the general reporting and recordkeeping requirements applicable to this part. Reporting and recordkeeping requirements that are limited in application to specific products or situations are contained in the other appropriate subparts of this part.

§ 211.222 Monthly reports by refiners and importers.

(a) Every refiner for each of its refineries; importer for each importing terminal; and gas processing plant operator for each of its processing plants shall report monthly to the National FEA in accordance with forms and instructions issued by FEA such information as is required including the following information for each allocated product:

(1) The inventory at the beginning and end of the preceding month by allocated product.

(2) Deliveries received during the preceding month by allocated products; deliveries of domestic crude oil should be segmented into new and released domestic crude oil. All allocated products should be listed by source and by country of origin for imports.

(3) Inventory fluctuations which occurred during the preceding month and were caused by other than deliveries, receipts and transfers.

(4) Total deliveries and supply redistribution in each State during the preceding month by allocated product.

(5) The estimated total supply for distribution in each State during the following month by product as described in § 211.10(b)(1) before adjustment for State set-aside and allocation requirements not subject to the supplier's allocation fraction.

(6) The estimated State set-aside volume for distribution in each State during the following month by product.

(7) The estimated volume by category for allocation requirements not subject to the supplier's allocation fraction to be supplied during the following month.

(8) Any existing inventory or production, importation, or purchase of an allocated product used to increase that inventory consistent with the provisions of § 211.22 by product.

(9) The allocable supply (i.e., paragraph (a)(5) minus paragraphs (a) (6), (7), and (8)), for distribution in each State during the following month, by product.

(10) The estimated supply obligation as described in § 211.10(b)(2) for the following month for purchasers to be supplied within each State, by product.

(11) The estimated average or shortfall, i.e., paragraph (a)(5) minus paragraphs (a) (7) and (10).

(12) The estimated allocation fraction, i.e., paragraph (a)(9) divided by (a)(10).

(13) The estimated total supply of allocated product which will be available in each of the following three (3) months.

(b) Beginning with the month of March, 1974, and thereafter, prime suppliers shall report monthly to the National FEA, appropriate regional offices and appropriate State Offices subparagraphs (4) through (13) of paragraph (a) above by refiner (not refinery). This

report will be the basis of the State set-aside program. Notwithstanding the provisions of § 205.4 concerning constructive receipt of documents submitted by registered or certified mail, the prime supplier's monthly report must be delivered to the National FEA in Washington, D.C., on or before the tenth (10th) day prior to the commencement of the month described as "the following month" in § 211.222(a)(5).

§ 211.223 Recordkeeping requirements.

Suppliers which sell to wholesale purchaser-consumers and end-users shall maintain records on FEA forms, subject to FEA audit, which demonstrate the basis for distribution of allocable supplies among their various purchasers. These records shall contain the following information for each allocated product and for each purchaser, on a monthly basis:

(a) Purchaser identification.

(b) Base period volume, adjusted base period volume, or current requirements, as appropriate.

(c) Allocation level.

(d) Allocation requirements (item (c) multiplied by item (b)).

(e) Purchaser's share of supplier's allocable supply (item d) multiplied by the supplier's allocation fraction if the fraction applies).

(f) Actual volume supplied.

§ 211.224 Weekly petroleum reporting system.

(a) This section establishes a weekly petroleum reporting system for each refiner or other firm which operates or controls a (1) refinery, (2) bulk terminal, (3) crude oil pipeline or (4) petroleum products pipeline, and for each importer which imports petroleum products by tanker, barge, or pipeline.

(b) *Definitions.* For the purposes of this section—

"Bulk terminal" means a facility which is primarily used for the marketing of gasoline, kerosene, and distillate and residual fuel oils and which (1) has total bulk storage capacity of 2,100,000 gallons or more, or (2) receives its petroleum products by tanker, barge or pipeline.

"Crude oil pipeline" means a pipeline which performs the trunk function as defined in 49 CFR § 1204.4–3(b) and which carries crude oil, including interstate, intrastate and intracompany pipelines.

"Petroleum products pipeline" means a pipeline which performs the trunk function as defined in 49 CFR § 1204.4–3 (b) and which carries petroleum products, including interstate, intrastate and intracompany pipelines.

(c) *Initial report.* By February 15, 1974, every refiner or other firm, and every importer which receives petroleum products by tanker, barge or pipeline, shall prepare and file with FEA a report entitled "Petroleum Reporting Address Information," in accordance with forms and instructions issued by FEA.

(d) *Weekly report.* Every refiner or other firm, and every importer which receives petroleum products by tanker, barge or pipeline, shall prepare and file with FEA a weekly report in accordance with forms and instructions issued by FEA. The weekly petroleum reporting system shall become effective February 22, 1974. The first weekly report must be received by FEA by 5 p.m., March 4, 1974.

§ 211.225 Report of new end-user and wholesale purchaser-consumer importers.

Pursuant to § 211.12(g) of this part, end-user and wholesale purchaser-consumer importers of an allocated product are required to report both to the National FEA and the appropriate regional FEA at least fifteen (15) days prior to commencing use of any allocated product which they import:

(a) The amounts and sources of these imports;

(b) Their intended use;

(c) Their projected monthly consumption; and

(d) A complete record of the domestic suppliers and amounts supplied of the allocated product which the purchaser intends to import, from January 1, 1972, to the date of the filing of the report.

APPENDIX A—FORMS AND INSTRUCTIONS

FEDERAL ENERGY ADMINISTRATION

INSTRUCTIONS FOR THE PREPARATION OF THE PETROLEUM REPORTING ADDRESS

This report is due at FEA when an item becomes obsolete or when an item requires change/correction.

GENERAL INSTRUCTIONS

A. Identification.

1. *FEA Identification Number:* Enter the six (6) position FEA identification code number, if known.

B. Executive Offices.

2. *Corporate Name:* Enter the primary parent company name.

3. *Corporate Address:* Enter the corporate street address or box number of the corporate headquarters.

4. *City:* Enter city name, location of the corporate headquarters.

5. *State:* Enter State name, where the corporate headquarters is located.

6. *ZIP Code:* Enter the ZIP code for the corporate headquarters location.

C. Reporting location.

7. *Reporting Office Name:* Enter name of Reporting Office. Refineries should enter the plant name, company divisions should enter division name, others should enter office or group name as appropriate.

8. *Reporting Office Address:* Enter the address of the reporting office.

9. *City:* Enter city of reporting office.

10. *State:* Enter State of reporting office.

11. *ZIP Code:* Enter ZIP code of reporting office.

12. *Reporting Agent:* Enter name of person, preferably who will prepare the FEA Weekly Petroleum Report, who may be contacted with questions concerning the report.

13. *Telephone Number:* Enter the area code, number, and extension where this person may be called.

14. *Reporting Category:* Check one only; complete separate form for each separate type of reporting unit.

a. Refinery (RF) means all those industrial plants, regardless of capacity, processing crude oil feedstocks and manufacturing refined petroleum products, except when such plant is a petrochemical plant.

b. Bulk terminal (BT) means a facility which is primarily used for the marketing of gasoline, kerosine, and distillate and residual fuel oils and which (1) has total bulk storage capacity of 2,100,000 gallons or more, or (2) receives its petroleum products by tanker, barge, or pipeline.

c. Crude Oil Pipeline (CP) means a pipeline which performs the trunk function as defined in 49 CFR 1204.4–3(b) which carries crude oil, including interstate, intrastate, or intracompany pipeline.

d. Petroleum Product Pipeline (PP) means a pipeline company which carries petroleum products including interstate, intrastate, and intracompany pipeline.

e. Importers (IM) means any firm, corporation, cooperative or government unit (excluding the Department of Defense), or any other person who receives any allocated substance into this country to the first place of storage, not necessarily the holder of import license. Only those receiving petroleum products by tanker, barge, or pipeline must report.

15. *Report Cutoff Time:* Check one only. Indicate report cutoff time of 7 a.m. Friday by checking the first box. For those companies where 7 a.m. Friday report cutoff is inconsistent with the normal accounting procedures of the company, a time within 24 hours of the 7 a.m. Friday time may be acceptable. If you request an exception to this time, check the second box and specify both the day and time you propose for a cutoff (e.g., Thursday, 12:00 p.m.). An exception to the cutoff time does not affect the Monday 5 p.m. reporting requirement.

D. Site location.

16. *Site Name:* Enter the site location name.

17. *Site Address:* Enter the address or box number at the site location.

18. *City:* Enter the site location city.

19. *State:* Enter the site location State.

20. *ZIP Code:* Enter the site location ZIP Code.

REPORTING ADDRESS

Mail, via U.S. Postal Service, a copy of this form with all necessary information completed to:

Federal Energy Administration
Code 2891
Washington, D.C. 20461

Note: ZIP Code 20462 is the submission of Mailgram data to the Weekly Petroleum Reporting System *ONLY*; it is not to be used for regular correspondence.

FEA-RA (7-74)

FEDERAL ENERGY ADMINISTRATION

PETROLEUM REPORTING ADDRESS INFORMATION

(Print or Type All Information in Spaces Provided)

1. FEA Identification Number ☐☐☐☐☐☐

2. Corporate Name _____

3. Corporate Address _____

4. City _____ 5. State _____ 6. ZIP _____

REPORTING LOCATION

7. Reporting Office Name _____

8. Reporting Address _____

9. City _____ 10. State _____ 11. ZIP _____

12. Reporting Agent _____

13. Phone No. (area code) _____ Ext. _____

14. Reporting Category: ☐ RF ☐ BT ☐ CP ☐ PP ☐ IM

15. Reporting Cutoff Time ☐ 7:00 a.m. Friday ☐ Other (Specify) _____

SITE LOCATION

16. Site Name _____

17. Site Address _____

18. City _____ 19. State _____ 20. ZIP _____

FOR OFFICIAL USE ONLY

Capacity _____ Category _____

Importance _____ Address Flag _____ Pad _____

Ref. District _____ FEA Region _____

Create _____ Update _____ Delete _____

FEA-RA-F-08.

U. S. GOVERNMENT PRINTING OFFICE : 1974 O - 561-818

Form Approved OMB 180-R0006

FEDERAL ENERGY OFFICE

PRIME SUPPLIERS MONTHLY REPORT

FEO-1000
INSTRUCTIONS

I. PURPOSE

Form FEO-1000 provides the means by which prime suppliers report pursuant to 10 CFR §211.222(b).

Form FEO-1000 is designed to provide summary data regarding product supply in the State during the month immediately preceding the month in which the report is submitted (the "report month"), and detailed data on estimated product availability within the State, during the month following the report month.

II. WHO MUST SUBMIT

Form FEO-1000 must be filed by every prime supplier of any product subject to a State set-aside. A prime supplier is the supplier (or producer in the case of propane) which makes the first sale of an allocated product subject to State set-aside into the State distribution system *for consumption within the State*. Transactions which occur for transshipment only are excluded.

III. TO WHOM

Prime suppliers must file Form FEO-1000 and attachments that may be required as follows:

Two copies to:

FEDERAL ENERGY OFFICE
Code 2890
Washington, D.C. 20461

One copy each to the appropriate:

FEO Regional Office (see attached list)
State Office of Petroleum Allocation (see attached list)

IV. WHEN

A prime supplier must file Form FEO-1000 each month. A separate Form FEO-1000 must be submitted for each State for which the supplier is a prime supplier. The report must be delivered to the specified addresses at least 10 calendar days before the end of the month (§ 211.222(b)).

V. DEFINITIONS

A **"prime supplier"** is the supplier (or "producer" as defined under the propane allocation program) which makes the first sale of any quantity of any allocated product subject to a State set-aside into the State distribution system of any State for consumption within the State.

"State set-aside" is the amount of an allocated product which is reserved from the total supply of each prime supplier with respect to any State, for utilization by that State to resolve emergencies and hardships due to fuel shortages. State set-asides are reserved from the total supply for the following allocated products at the percentage levels indicated:

Propane, 3%
Motor Gasoline, 3%
Middle distillate, 4%
Residual fuel oils, except for utility use and as bunker fuel for maritime shipping, 3%

A **"Refiner"** means a firm that owns, operates, or controls the operations of one or more refineries.

A **"Refinery"** means an industrial plant, regardless of capacity, which processes crude oil feedstock and manufactures refined petroleum products, except when such plant is a petrochemical plant.

"Importer" means the firm—excluding the Department of Defense—which owns at the first place of storage in the United States, any allocated product or crude oil brought into the United States.

As used herein, a "gas processing plant operator" means a firm that owns, operates, or controls the operation of one or more gas processing plants.

"Gas processing plant" means a facility which recovers ethane, propane, butane and/or other natural gas products by a process of absorption, adsorption, compression, refrigeration cycling, or a combination of such processes, from mixtures of hydrocarbon that existed in a reservoir.

VI. SPECIFIC INSTRUCTIONS

The prime supplier must complete Form FEO-1000 as specified below. The entries required by Item 1 of the form are repeated at the top of page 2 for data processing purposes. These include: whether the report is original or a revision of an earlier report; the state which the report covers; the date of the report; the "EIN" (IRS Employer Identification Number); and the supplier's Zip Code.

Item No. 1

(a) Check the applicable box at Item 1(a) to indicate whether the submission is a revision to a previously submitted FEO-1000 (Rev. 5-74). If the report is the initial report for the report month, the box labeled "Original" should be checked. If, however, a report has already been submitted for the report month and this report is a revision of the initial report, the entry titled "Revision to Report Dated _____" should be completed, including the exact date of the earlier report.

(b) In "Date of Report" Item 1(b), enter the *exact date on which this report is completed, by month, day and year* (for example, May 19, 1974).

(c) Enter the name of the State to which the report pertains in Item 1(c).

(d) Enter the prime supplier's "EIN" (IRS Employer Identification Number) in Item 1(d).

(e) Enter prime supplier's Postal Service ZIP code in Item 1(e).

Item No. 2: REPORTING PRIME SUPPLIER IDENTIFICATION INFORMATION

(a) Enter name of the reporting prime supplier in Item 2(a).

(b, c, d) Enter complete street number and name (or box/RFD number if appropriate), city and State in Items 2(b), (c) and (d).

(e, f) In Items 2 (e) and (f), provide the name and telephone number of a responsible person who can respond to inquiries concerning the submission.

Item No. 3: CLASSIFICATION

Check all appropriate boxes indicating classification of reporting prime supplier. Note that *all* classifications which describe the prime supplier should be checked (see definitions in Section V, above).

Item No. 4: DELIVERIES DURING PRECEDING MONTH AND DETAILED ESTIMATED SUPPLY DATA FOR FOLLOWING MONTH (1000's OF BARRELS)

Provide indicated data for *all* products, Items 4(a) through (r), for which the prime supplier makes the first sale into the State distribution system for consumption within the State (not just those subject to the State set-aside). Note that in addition to providing the indicated data for all motor gasoline in Item 4(b), the reporting firm is to report, in Item 4(c), that amount of its total gasoline (4(b)) for each State which is unleaded. The quantities entered in Columns (1) through (7), should be stated in thousands of barrels to three decimal places. For example:

1,234 barrels should be entered as "1.234";

970 barrels should be entered as "0.970";

Above Column (1), in the blank following the phrase, "Total Delivered during the preceding month of", enter the appropriate four-digit code (for example, if the "Date of this report" in Item (1) is May 19, 1974, the "preceding month" is April, 1974, and the entry should be "04-74").

In Column (1), "Total Delivered During the Preceding Month of _____," enter the total amount of each product for which the prime supplier made the first sale into the State distribution system for consumption within the State during the preceding month.

Above Columns (2) through (8), in the blank following the phrase, "Data for the following month of," enter the appropriate four-digit code (for example, if the "Date of this report" in Item (1) is May 19, 1974, the "following month" is June, 1974, and the entry should be "06-74").

In Column (2), "Total Supply" means for the following month that portion of the prime supplier's total supply as defined in FEO's regulations which the prime supplier will distribute in the State. Total supply for a product means the sum of the prime supplier's estimated production, including amounts received under processing and any reduction in inventory of that product made pursuant to § 211.22 of FEO's regulations except as otherwise ordered by FEO. Total supply is calculated *before* adjustments for State set-aside and allocation requirements not subject to an allocation fraction. Any existing inventory, or production, importation or purchase of product used to increase that inventory consistent with the provisions of § 211.22 shall not be included in total supply. In calculating total supply, any amounts supplied to customers through exchange agreements should not be included.

In Column (3), "State set-aside", enter the number which results from multiplying the amount entered under total supply (column (2)) by the appropriate FEO State set-aside percent for that product. For example, the State set-aside for motor gasoline is 3%; therefore, if the total supply shown in column 1 is 100,000, the figure "3,000" would be entered in column 2 (.03 × 100,000).

See the definition of "State set-aside" in section V, above.

In Column (4), "Amounts supplied under Allocations not subject to an Allocation Fraction", enter the amounts to be supplied in the State which are *not* subject to an allocation fraction (for example, for agricultural production or for Department of Defense Use). Detailed data concerning entries in Column (4) must be provided in Item 7, page 2.

In Column (5), "Allocable Supply", enter the amount that is the total supply (Column (2)), less amounts designated for the State set-aside (Column (3)), and less amounts to be supplied under allocation levels not subject to an allocation fraction (Column (4)).

In Column (6), "Supply Obligation", enter the amount of the prime supplier's supply obligation for a product as defined in 10 CFR § 211.10(b)(2) which is to be delivered within the State. A prime supplier's supply obligation for a product is the sum of the amounts of its wholesale purchaser-resellers' base period uses as adjusted pursuant to FEO's regulations, and the amounts of allocation requirements of end-users and wholesale-purchaser-consumers supplied by the prime supplier, but excluding those amounts to be supplied for use under an allocation level not subject to an allocation fraction.

In Column (7), "Excess or shortfall", enter the amount by which the allocable supply (Column (5)) of a product exceeds or is short of the supply obligation (Column (6)) of the product. For example, if the allocable supply of kerosene is 285,000 barrels (entered as 285,000 in Column (4)) and the supply obligation is 295,000 barrels (entered as 295,000 in Column (6)), the entry in Column (7) will be (−) 10,000 (285,000 − 295,000 = (−) 10,000 or a shortfall of 10,000 barrels. If the allocable supply of kerosene is 285,000 barrels (entered as 285,000 in Column (5)) and the supply obligation of kerosene is 280,000 barrels (entered as 280,000 in Column (6)) then the entry in Column (7) is 5,000 (285,000 − 280,000 = 5,000) or an excess of 5,000 barrels.

In Column (8), "Allocation Fraction", enter the number which results from dividing the amount entered under "Allocable Supply" (Column (5)) by the amount entered under "Supply Obligation" (Column (6)). For example, if the allocable supply is 100,000 barrels and the supply obligation is 125,000 barrels, the entry in Column (8) will be 100,000 divided by 125,000 or ".80".

If the resulting allocation fraction exceeds 1.0, this report may serve as the required notification to the Federal Office pursuant to (10 CFR 211.10(g)(2)). Form FEO-22 provides directions for the computation of the distribution of excess product when the supplier's allocation fraction exceeds 1.0 for that product.

Suppliers with two or more distribution subsystems or regions independent of one another may petition National FEO for permission to use multiple allocation fractions whenever use of a single allocation fraction would be impracticable or inconsistent with the objectives of the program.

Item No. 5: CERTIFICATION

Type the name and title of the individual who has signed the certification (Item 5(a)) and the date of signing (Item 5(c)). The individual who signs and certifies this Form FEO-1000 (Item 5(b)) must be the Chief Executive Officer of the Parent or such other executive officer authorized to sign for him for this purpose. In the latter case, the reporting firm must file with FEO a letter of authorization signed by the Chief Executive Officer which identifies other officials authorized to certify forms for the firm. A sample format for this letter is available from any FEO Regional Office.

Item No. 6: AMOUNTS CERTIFIED FOR USE UNDER ALLOCATION LEVELS NOT SUBJECT TO AN ALLOCATION FRACTION (1,000's OF BARRELS)

Item 6 must be completed to provide data concerning any "Amounts Supplied under Allocations not Subject to an Allocation Fraction" reported in Column (4), Item 5, on page 1. Provide the indicated data for all products in Item 6(a), (b), and (d) through (q) in the appropriate, non-shaded boxes, in thousands of barrels to three decimal places. For example:

1,234 barrels should be entered as "1.234";

970 barrels should be entered as "0.970".

In Columns (1) and (2), enter amounts certified to or by the prime supplier for (1) agricultural production and (2) Department of Defense uses, respectively.

Entries may *NOT* be made in Columns (1) and (2) for #4 Fuel Oil for Utility Use (Code 510, Item 6(k)) or for #5, #6 Fuel Oils for Utility Use (Code 520, Item 6(l)).

Column (3), "Space heating", may be used *ONLY* for kerosenes (Code 310, Item 6(d)), No. 2 heating oil (Code 320, Item 6(e)) and residual fuel oils (Codes 530, 540, and 570 (Item 6(m), (n), and (q)).

Column (4), "For Utility Use", may be used *ONLY* for #4 Fuel Oil for Utility Use (Code 510, Item 6(k)), and for #5, #6 Fuel Oils for Utility Use (Code 520, Item 6(l)).

The amount shown under Column (5), "Total", for each product must agree with the amount shown for that product under "Amounts Supplied under Allocations not Subject to an Allocation Fraction" (Item 5, Column (4), and with the amounts shown for that product in Columns (1) through (4).

FEDERAL ENERGY OFFICE
PRIME SUPPLIER'S MONTHLY REPORT
FEO-1000

FOR FEO USE ONLY
FORM NO. 0 4
ACCESSION NO.
STATE CODE

1. a. This Report is (1) ☐ Original or (2) ☐ Revision to Report Dated _____ b. Date of this Report _____
c. Report for State of _____ d. Prime Supplier EIN ☐☐☐☐☐☐☐☐☐ e. Prime Supplier ZIP Code ☐☐☐☐☐

2. REPORTING PRIME SUPPLIER IDENTIFICATION INFORMATION
a. Name
b. Street/Box/RFD c. City d. State
e. Name of Contact Official f. Telephone Number (Including Area Code) (☐☐☐) ☐☐☐ – ☐☐☐☐

3. CLASSIFICATION OF REPORTING PRIME SUPPLIER (Check all applicable boxes):
a. ☐ Refiner b. ☐ Importer c. ☐ Gas Processing Plant Operator d. ☐ Other

4. DELIVERIES DURING PRECEDING MONTH AND DETAILED ESTIMATED SUPPLY DATA FOR FOLLOWING MONTH (IN 1,000's OF BARRELS)

PETROLEUM PRODUCTS	CODE	TOTAL DELIVERED DURING THE PRECEDING MONTH OF [000'S BBLS] (1)	DATA FOR THE FOLLOWING MONTH OF _____ (000'S BBLS.) TOTAL SUPPLY (2)	STATE SET-ASIDE AMOUNT (3)	AMOUNTS SUPPLIED UNDER ALLOCATIONS NOT SUBJECT TO ALLOCATION FRACTION* (4)	ALLOCABLE SUPPLY (Col. 2 – Col. 3 – Col. 4) (5)	SUPPLY OBLIGATION (6)	EXCESS SHORTFALL (Col. 5 – Col. 6) (7)	ALLOCATION FRACTION (Col. 5 / Col. 6) (8)
a. PROPANE	110								
b. MOTOR GASOLINE (TOTAL)	200								
c. UNLEADED MOTOR GASOLINE	220								
d. KEROSENE	310								
e. #2 HEATING OIL	320								
f. DIESEL FUEL	330								
g. OTHER MIDDLE DISTILLATES	340								
h. AVIATION GASOLINE	410								
i. KEROSENE-BASE JET FUEL	420								
j. NAPHTHA-BASE JET FUEL	430								
k. #4 FUEL OIL FOR UTILITY USE	510								
l. #5, #6 FUEL OILS FOR UTILITY USE	520								
m. #4 FUEL OIL FOR NON-UTILITY USE	530								
n. #5, #6 FUEL OILS FOR NON-UTILITY USE	540								
o. BUNKER C	550								
p. NAVY SPECIAL FUEL OIL	560								
q. OTHER RESIDUAL FUEL OILS	570								
r. CRUDE OIL (USED AS FUEL ONLY)	940								

*IF ANY DATA ARE ENTERED IN COLUMN 4, PAGE 2 MUST BE COMPLETED AND ATTACHED. (Continued on reverse side)

FEO-1000 (REV. 6-74)

5. CERTIFICATION. I certify that the information shown above and appended hereto (if any) is true and accurate to the best of my knowledge.

a. _____ b. _____ c. _____
Name and Title of Certifying Official Signature Date of Certification

Title 18 USC 1001 makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

FEO-1000 PAGE 2

FOR FEO USE ONLY
FORM NO. 0 2
ACCESSION NO.
STATE CODE

1. a. This Report is (1) ☐ Original or (2) ☐ Revision to Report Dated _____ b. Date of this Report _____
c. Report for State of _____ d. Prime Supplier EIN ☐☐☐☐☐☐☐☐☐ e. Prime Supplier ZIP Code ☐☐☐☐☐

6. AMOUNTS CERTIFIED FOR USE UNDER ALLOCATION LEVELS NOT SUBJECT TO AN ALLOCATION FRACTION (1,000's OF BARRELS):

PETROLEUM PRODUCTS	CODE	FOR AGRICULTURAL PRODUCTION (1)	FOR DEPARTMENT OF DEFENSE USE (2)	FOR SPACE HEATING (3)	FOR UTILITY USES (4)	TOTAL* (Col. 1 + Col. 2 + Col. 3 + Col. 4) (5)
a. PROPANE	110					
b. MOTOR GASOLINE (TOTAL)	200					
c. UNLEADED MOTOR GASOLINE	220					
d. KEROSENE	310					
e. #2 HEATING OIL	320					
f. DIESEL FUEL	330					
g. OTHER MIDDLE DISTILLATES	340					
h. AVIATION GASOLINE	410					
i. KEROSENE-BASE JET FUEL	420					
j. NAPHTHA-BASE JET FUEL	430					
k. #4 FUEL OIL FOR UTILITY USE	510					
l. #5, #6 FUEL OILS FOR UTILITY USE	520					
m. #4 FUEL OIL FOR NON-UTILITY USE	530					
n. #5, #6 FUEL OILS FOR NON-UTILITY USE	540					
o. BUNKER C	550					
p. NAVY SPECIAL FUEL OIL	560					
q. OTHER RESIDUAL FUEL OILS	570					
r. CRUDE OIL (USED AS FUEL ONLY)	940					

*ALSO MUST EQUAL COLUMN (5), ITEM 5.

FEO-1000 (Rev. 6-74)

U.S. GOVERNMENT PRINTING OFFICE: 1974 O - 695-783

Form Approved OMB [illegible]

FEDERAL ENERGY OFFICE
REFINER/IMPORTER/GAS PROCESSING PLANT OPERATOR MONTHLY REPORT BY FACILITY

FEO-1001

INSTRUCTIONS

I. PURPOSE

Form FEO-1001 provides the means by which the monthly reporting requirements of 10 CFR § 211.222(a) are satisfied. (Form FEO-1000 provides the means by which prime suppliers report pursuant to 10 CFR § 211.222(b)).

Form FEO-1001 is designed to provide summary data regarding production and inventory for each facility of the reporting firm.

II. WHO MUST SUBMIT

The following are required to submit Form FEO-1001:

Refiners: a separate FEO-1001 must be filed by a refiner for each of its refineries.

Importers: a separate FEO-1001 must be filed by an importer for each of its importing terminals, with respect only to those allocated products or crude oil for which the importer was the "importer" as defined below in Section V.

Importers: a separate FEO-1000 must be filed by a refiner for each of its importing terminals.

Gas processing plant operators: a separate FEO-1001 must be filed by a gas processing plant operator for each of its gas processing plants.

Note: A facility reporting on Form FEO-1001 can be more than one type of facility for the purposes of this report. Such a facility must report separately for each such capacity in which it acts.

III. TO WHOM

The reporting firm must file two copies of Form FEO-1001 with:

Federal Energy Office
Code 2890
Washington, D.C. 20461

IV. WHEN

The reporting firm must file Form FEO-1001 every month, by the 10th day before the end of the month.

V. DEFINITIONS

A "Refiner" means a firm that owns, operates, or controls the operations of one or more refineries.

A "Refinery" means an industrial plant, regardless of capacity, which processes crude oil feedstock and manufactures refined petroleum products, except when such plant is a petrochemical plant.

"Importer" means the firm—excluding the Department of Defense—which owns at the first place of storage in the United States, any allocated product or crude oil brought into the United States.

As used herein, "importing terminal" means the first place of storage used by the importer (as defined above) of any allocated product or crude oil to store the allocated product or crude oil, regardless of whether the importer owns or operates the "importing terminal."

As used herein, a "gas processing plant operator" means a firm that owns, operates, or controls the operation of one or more gas processing plants.

"Gas processing plant" means a facility which recovers ethane, propane, butane and/or other natural gas products by a process of absorption, adsorption, compression, refrigeration cycling, or a combination of such processes, from mixtures of hydrocarbon that existed in a reservoir.

VI. SPECIFIC INSTRUCTIONS

The entries required by Items 1–4 and at the top of each page including "Date of This Report", reporting firm "EIN" (IRS Employer Identification Number), "Facility ZIP", and whether the report is the initial report for this facility for the month or a revision to the initial report are needed for computer processing. These entries must be completed on all pages as indicated.

Item No.1

(a) If the report is the initial report for this facility for the report month, check the box labeled "(1) Original". If, however, a report has already been submitted for the report month and this report is a revision of the original report, check the box labeled "(2) Revision to Report Dated _____" and enter the exact date of the initial report in the space provided.

(b) For the "Date of This Report" (Item No. 1(b)), enter the exact date on which this report is completed including full month, day and year (for example, May 19, 1974).

(c) Enter the reporting firm's IRS Employer Identification Number, in Item 1(c), "EIN".

(d) Enter the reporting facility's Postal Service Zip Code.

Item No. 2: REPORTING FIRM

(a) Enter the name of the reporting firm.

(b,c,d) Enter the complete street number and name (or box/RFD number, if appropriate), city and State in Items 2(b), (c), and (d).

(e,f) In Items 2(e) and (f), provide the name and telephone number of a responsible person who can respond to inquiries concerning the submission.

Item No. 3: REPORTING FACILITY

A separate report must be submitted for each facility. Item 3 provides the means of identifying the reporting facility. Enter the appropriate facility name, street address, city, state, and EIN.

Item No. 4: CLASSIFICATION OF REPORTING FACILITY

Check the box which indicates the classification of the *facility* to which the report pertains. Note that only one classification should be checked.

Item No. 5: DATA FOR PRECEDING MONTH

"Preceding month" means the month preceding the month during which the report is to be submitted. For example, if the "Date of This Report" (as given in Item 1) is May 19, 1974, then April, 1974, is the "preceding month".

(1-6) The quantities entered in Columns (1)–(6) should be stated in thousands of barrels to three decimal places (e.g., 1,234 barrels should be entered as "1.234"; 970 barrels should be entered as ".970").

Provide indicated data for *all* petroleum products for the specified facility.

(q) "All other outputs" (Code 800) includes all outputs not categorized in Codes 210 through 570, including unfinished products.

(s) "Natural gas liquids" (Code 950) include such substances as propane, normal butane, isobutane, butane-propane mixes, natural gasoline, isopentane, and plant condensate, *when used as feedstocks for crude processing units.*

(t) "Other inputs" (Code 960) include unfinished oils and other hydrocarbons not included in codes 900 and 950, *when used as feedstocks for crude processing units.*

(1) The entry in Column (1) "Inventory: Start of Month" for each product is the inventory of that product on-hand at beginning of the "preceding month" discussed above.

In Column (2) "Quantity Received", enter the total amount of product shipments received during the month at the facility.

(3) Figures entered in Column (3) "Production" may be either positive or negative, depending on the specific product involved.

Normally, figures in this column indicate "Production" in the conventional sense, that is, they represent amounts of a product which are produced and which thus add to the available supply of that product. Therefore, these figures are *positive* numbers. However, "Production" also entails the use of input materials. For example, the last three products on the list—Crude oil (Code 900) Natural gas liquids (Code 950), and Other inputs to crude oil processing units (Code 960)—are consumed in the production of the other products on the list. Therefore, for these three products Column (5) may contain a negative number which will indicate an amount consumed in the "Production" of *other* products.

The "Production" date shown in Column (3) must relate only to processing operations within the reporting facility.

In Column (4) "Domestic Shipments", report only those shipments from the reporting facility to customers within the United States.

In Column (5) "Other", report all occurrences which affect inventory, other than those reported in Columns (2), (3), and (4). For example, losses, direct export shipments or any additions not accounted for by "Quantity Received" Column (2) and "Production" Column (3) would be reported in Column (5).

In Column (6) "Inventory, End of Month", enter the end-of-month inventory, which equals the sum of Columns (1) through (5).

Item No. 6: RECEIPTS OF CRUDE OIL

Item 6 is to be completed for refineries only.

Quantities should be entered in thousands of barrels stated to three decimal places. For example: 1.234 barrels should be entered as "1.234"; 970 barrels should be entered as ".970".

"Old domestic crude oil" is that portion of any month's base production control level for any property (see § 212.72 of the Petroleum Allocation and Price Regulations) remaining after "released domestic crude oil" (see explanation in the next item) has been deducted.

"Released domestic crude oil" is that portion of any month's base production control level which has been "released" from the otherwise applicable ceiling price, and which may be sold at the free market price (see § 212.74(b)), due to production of new domestic crude oil (see § 212.72). The volume of released crude oil is equal to the volume of new crude oil produced.

"New domestic crude oil" is production in excess of the base production control level (also see § 212.72, "new crude petroleum"). For purposes of this report, new crude includes crude oil from stripper well leases (see § 210.32).

Item No. 7: RECEIPTS OF IMPORTED PRODUCTS

Item 7 is to be completed by importers only. The importer should include in the FEO–1001 for each importing terminal, data with respect only to allocated products or crude oil for which it was the "importer", as defined above in Section V.

Item 7 must provide data for receipts of imported products on a country-by-country basis. One page 3 should be completed for each country of origin and the specific country should be named in the block provided in Item No. 7 names. Please reproduce as many page 3's as needed to submit one for each country of origin. The quantities entered under "Quantity Received" should be stated in thousands of barrels to three decimal places. For example: 1.234 barrels should be entered as "1.234"; 970 barrels should be entered as ".970".

Enter in the block provided in Item 7, the total number of pages 3 completed and included as part of your report.

Number the first page 3 as "3–1". If you have completed more than one page 3, number subsequent pages "3–2", "3–3", etc.

Item No. 8: PROJECTED AVAILABILITY

Enter an estimate of the amounts of each petroleum product that the facility will have available for distribution in each of the three months following the month during which the report is to be submitted. The quantities entered in Columns (1), (2), and (3) should be stated in thousands of barrels to three decimal places. For example: 1.234 barrels should be entered as "1.234"; 970 barrels should be entered as ".970".

Refer to the instructions for Item No. 5 for explanation of the terms, "Natural Gas Liquids" and "Other Inputs".

Over Columns (1), (2), and (3) following "Month of _____" enter four-digit month and year codes for the three months following the report month (the report month is the month in which the FEO–1001 is being submitted pursuant to § 211.222 (a)). For example, if the report is prepared on May 10, 1974, the three following months would be June, July, and August and "06–74", "07–74", and "08–74" would be entered over columns (1), (2), and (3), respectively.

Item No. 9: CERTIFICATION

Type the name and title of the individual who has signed the certification, and the date of signing, in the spaces provided on the form. The individual who signs and certifies this form must be the Chief Executive Officer of the Parent *or* such other executive officer of the entity as authorized by the Chief Executive Officer to sign for him for this purpose. In the latter case, the reporting firm *must* file with the addressee office, a letter of authorization signed by the Chief Executive Officer which identifies other officials authorized to certify forms for the firm. A sample format for this letter is available from any FEO Regional Office.

FEDERAL ENERGY OFFICE
REFINER/IMPORTER/GAS PROCESSING PLANT OPERATOR
MONTHLY REPORT BY FACILITY
FEO–1001

FOR FEO USE ONLY
FORM NO. 0 5
ACCESSION NO.

1. a. THIS REPORT IS (1) ☐ ORIGINAL, OR (2) ☐ REVISION TO REPORT DATED_____ b. DATE OF THIS REPORT_____

c. REPORTING FIRM EIN ☐☐☐☐☐☐☐☐☐ d. REPORTING FACILITY ZIP ☐☐☐☐☐

2. REPORTING FIRM

a. NAME

b. STREET/BOX/RFD c. CITY d. STATE

e. NAME OF CONTACT OFFICIAL f. TELEPHONE (INCL. AREA CODE) (☐☐☐) ☐☐☐–☐☐☐☐

3. REPORTING FACILITY

a. NAME b. EIN ☐☐☐☐☐☐☐☐☐

c. STREET/BOX/RFD d. CITY e. STATE f. ZIP CODE ☐☐☐☐☐

4. CLASSIFICATION OF REPORTING FACILITY (CHECK ONE BOX ONLY) (SEE SECTION II OF THE INSTRUCTIONS)

a. ☐ REFINERY — Complete pages 1, 2, and 4 only
b. ☐ IMPORTING TERMINAL — Complete pages 1, 3, and 4 only
c. ☐ GAS PROCESSING PLANT — Complete pages 1 and 4 only

5. a. DATA FOR PRECEDING MONTH OF_____ (1,000's OF BARRELS):

PETROLEUM PRODUCTS	CODE	INVENTORY START OF MONTH (1)	QUANTITY RECEIVED (2)	PRODUCTION (3)	DOMESTIC SHIPMENTS (4)	OTHER (5)	INVENTORY END OF MONTH (COL. 1 + COL. 2 ± COL. 3 – COL. 4 ± COL. 5) (6)
OUTPUTS:							
b. LEADED MOTOR GASOLINE	210						
c. UNLEADED MOTOR GASOLINE	220						
d. KEROSENE	310						
e. #2 HEATING OIL	320						
f. DIESEL FUEL	330						
g. OTHER MIDDLE DISTILLATES	340						
h. AVIATION GASOLINE	410						
i. KEROSENE-BASE JET FUEL	420						
j. NAPHTHA-BASE JET FUEL	430						
k. #4 FUEL OIL FOR UTILITY USE	510						
l. #5, #6 FUEL OILS FOR UTILITY USE	520						
m. #4 FUEL OIL FOR NON-UTILITY USE	530						
n. #5, #6 FUEL OILS FOR NON-UTILITY USE	540						
o. BUNKER C	550						
p. NAVY SPECIAL FUEL OIL	560						
q. OTHER RESIDUAL FUEL OILS	570						
r. ALL OTHER OUTPUTS	800						
INPUTS:							
s. CRUDE OIL	900						
t. NATURAL GAS LIQUIDS	950						
u. OTHER INPUTS	960						

FEO–1001 (REV. 8-74)

FEO–1001 PAGE 2

FOR FEO USE ONLY
FORM NO. 0 7
ACCESSION NO.

7. a. THIS REPORT IS (1) ☐ ORIGINAL, OR (2) ☐ REVISION TO REPORT DATED_____ b. DATE OF THIS REPORT_____

c. REPORTING FIRM EIN ☐☐☐☐☐☐☐☐☐ d. REPORTING FACILITY ZIP ☐☐☐☐☐

8. RECEIPTS OF CRUDE OIL (TO BE COMPLETED FOR REFINERIES ONLY)

CRUDE OIL RECEIPTS	CODE	QUANTITY RECEIVED (1,000's OF BBLS)	AVERAGE PRICE PER BARREL
a. OLD DOMESTIC CRUDE OIL	910		
b. RELEASED DOMESTIC CRUDE OIL	915		
c. NEW DOMESTIC CRUDE OIL	920		
d. IMPORTED CRUDE OIL	930		
TOTAL CRUDE OIL	900		

FEO-1001 PAGE 3

FOR FEO USE ONLY
FORM NO. 0 8
ACCESSION NO.

1. a. THIS REPORT IS (1) ☐ ORIGINAL, OR (2) ☐ REVISION OF REPORT DATED _____ b. DATE OF THIS REPORT _____

c. REPORTING FIRM EIN

d. REPORTING FACILITY ZIP

7. RECEIPTS OF IMPORTED PRODUCTS (To be completed for Importing Terminals only).

a. COUNTRY OF ORIGIN* _____

b. NUMBER OF PAGE(S) 3 COMPLETED (INCLUDING THIS PAGE) _____

IMPORTED PRODUCT NAME	CODE	QUANTITY RECEIVED (1,000's OF BBLS)	AVERAGE PRICE PER BARREL
c. LEADED MOTOR GASOLINE	210		
d. UNLEADED MOTOR GASOLINE	220		
e. KEROSENE	310		
f. #2 HEATING OIL	320		
g. DIESEL FUEL	330		
h. OTHER MIDDLE DISTILLATES	340		
i. AVIATION GASOLINE	410		
j. KEROSENE-BASE JET FUEL	420		
k. NAPHTHA-BASE JET FUEL	430		
l. #4 FUEL OIL FOR UTILITY USE	510		
m. #5, #6 FUEL OILS FOR UTILITY USE	520		
n. #4 FUEL OIL FOR NON-UTILITY USE	530		
o. #5, #6 FUEL OILS FOR NON-UTILITY USE	540		
p. BUNKER C	550		
q. NAVY SPECIAL FUEL OIL	560		
r. OTHER RESIDUAL FUEL OILS	570		
s. CRUDE OIL	930		

*IF PRODUCTS WERE IMPORTED FROM MORE THAN ONE COUNTRY, COMPLETE A SEPARATE PAGE THREE FOR EACH COUNTRY OF ORIGIN. IN THE SPACE PROVIDED, INDICATE THE NUMBER OF PAGE(S) 3 YOU HAVE COMPLETED.

FEO-1001 PAGE 4

FOR FEO USE ONLY
FORM NO. 0 6
ACCESSION NO.

1. a. THIS REPORT IS (1) ☐ ORIGINAL, OR (2) ☐ REVISION TO REPORT DATED _____ b. DATE OF THIS REPORT _____

c. REPORTING FIRM EIN

d. REPORTING FACILITY ZIP

8. ESTIMATED TOTAL SUPPLY FOR THE FOLLOWING THREE MONTHS (1,000's OF BARRELS):

PETROLEUM PRODUCT	CODE	MONTH OF _____ (1)	MONTH OF _____ (2)	MONTH OF _____ (3)
OUTPUTS:				
a. LEADED MOTOR GASOLINE	210			
b. UNLEADED MOTOR GASOLINE	220			
c. KEROSENE	310			
d. #2 HEATING OIL	320			
e. DIESEL FUEL	330			
f. OTHER MIDDLE DISTILLATES	340			
g. AVIATION GASOLINE	410			
h. KEROSENE-BASE JET FUEL	420			
i. NAPHTHA-BASE JET FUEL	430			
j. #4 FUEL OIL FOR UTILITY USE	510			
k. #5, #6 FUEL OILS FOR UTILITY USE	520			
l. #4 FUEL FOR NON-UTILITY USE	530			
m. #5, #6 FUEL OILS FOR NON-UTILITY USE	540			
n. BUNKER C	550			
o. NAVY SPECIAL FUEL OIL	560			
p. OTHER RESIDUAL FUEL OILS	570			
q. ALL OTHER OUTPUTS	800			
INPUTS:				
r. CRUDE OIL	900			
s. NATURAL GAS LIQUIDS	950			
t. OTHER INPUTS	960			

9. I CERTIFY THAT INFORMATION SHOWN HEREIN AND APPENDED HERETO IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

CERTIFYING OFFICER:

NAME _____ SIGNATURE _____ DATE _____

TITLE 18 USC 1001, MAKES IT A CRIME FOR ANY PERSON KNOWINGLY AND WILLINGLY TO MAKE TO ANY AGENCY OR DEPARTMENT OF THE UNITED STATES ANY FALSE, FICTITIOUS OR FRAUDULENT STATEMENTS AS TO ANY MATTER WITHIN ITS JURISDICTION.

U.S. GOVERNMENT PRINTING OFFICE : 1974 O—550-772

Form Approved OMB 180–R0023

FEDERAL ENERGY ADMINISTRATION

INSTRUCTIONS FOR PREPARATION OF THE WEEKLY CRUDE OIL PIPELINE REPORT

(FEA–1002–CP)

(7–74)

Reports are due each Monday by MAILGRAM for the previous week.

IDENTIFICATION DATA

This report form must be completed by all trunk pipeline companies which carry crude oil including interstate, intrastate, and intra-company pipeline in the 50 States and the District of Columbia.

FEA Identification Number:

Enter the six-digit code which the FEA has assigned to you. This number is included on the label of this package. If you do not presently have this number, FEA will assign you one; regardless, you must submit these data, leaving the FEA Identification Number blank.

For Week Ended 7 a.m.:

Seven-day period *ending* 7 a.m. Friday. Indicate the specific month and ending day using the following format: Month/Day/Year (e.g., 03/15/74). Please use the following numerical codes for each month in order to design a six-digit date code:

January	01	July	07
February	02	August	08
March	03	September	09
April	04	October	10
May	05	November	11
June	06	December	12

Zip Code:

Enter the ZIP code of the pipeline location, not the reporting office.

Pipeline Company Name:

Enter the legal name of the crude oil pipeline company.

NUMBER SIGN

There is a # (number sign—also called a pound sign or tic-tac-toe sign) appearing as a separate line (paragraph) preceding the first product data line (paragraph). There is also a # following the last product data line (paragraph).

When calling (or keying) in this form's data to Western Union, please be sure to specify the # (only once) as a *separate* line just *before* reporting the first product data line. Likewise, specify the # (only once) as a *separate* line right *after* the last product data line has been reported.

Refer to the MAILGRAM instructions for a detailed explanation of # usage.

SUMMARY TABULAR DATA

General Instructions:

1. Report all figures in THOUSANDS OF 42-GALLON BARRELS.

2. All figures should represent actual physical inventories of crude oil on the last day of the reporting period.

3. Report all stocks of crude oil on a CUSTODY BASIS regardless of ownership.

4. Report stocks less bottom settlings and water (BS&W).

5. Remember to fill in all blanks. If necessary, include zero (0) as an entry, but do not leave any blank spaces.

6. Include all crude oil stocks of domestic origin held in your custody at tankfarms operated by the reporting company, including pipeline fill and stocks in working tanks of pipelines. Include as stocks of foreign origin only those that have cleared customs or for which duty has been paid. Exclude stocks of foreign origin held in bonded storage. Do not include lease stocks.

7. Identify stocks by individual P.A.D. District, generating a total for each product code. Consult the list which follows to identify the breakdown by P.A.D. District.

STATE LIST

State	P.A.D. No.	State	P.A.D. No.
Alabama	III	Nebraska	II
Alaska	V	Nevada	V
Arizona	V	New Hampshire	IA
Arkansas	III	New Jersey	IB
California	V	New Mexico	III
Colorado	U	New York	IB
Connecticut	IA	North Carolina	IC
Delaware	IB	North Dakota	II
District of Columbia	IB	Ohio	II
Florida	IC	Oklahoma	II
Georgia	IC	Oregon	V
Hawaii	V	Pennsylvania	IB
Idaho	IV	Rhode Island	IA
Illinois	II	South Carolina	IC
Indiana	II	South Dakota	II
Iowa	II	Tennessee	II
Kansas	II	Texas	III
Kentucky	II	Utah	IV
Louisiana	III	Vermont	IA
Maine	IA	Virginia	IC
Maryland	IB	Washington	V
Massachusetts	IA	West Virginia	IC
Michigan	II	Wisconsin	II
Minnesota	II	Wyoming	IV
Mississippi	III	Puerto Rico	VI
Missouri	II	Virgin Islands	VII
Montana	IV		

PRODUCT DEFINITIONS

Domestic Crude Oil (010):

A mixture of hydrocarbons that existed in liquid phase in underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities. Also, lease condensate moving to a refinery is included. Lease condensate is defined as a natural gas liquid recovered from gas-well gas (associated and non-associated) in lease separators or field facilities. Drips are also included but topped crude oil and other unfinished oils are excluded. Natural gas liquids produced at natural gas processing plants and mixed with crude oil are likewise excluded. Domestic crude is petroleum produced in the United States or from its "outer continental shelf" as defined in 43 U.S.C. 1331. Puerto Rico is considered to be part of the U.S. for this system.

Foreign Crude Oil (020):

A mixture of hydrocarbons that existed in liquid phase in underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities. Also lease condensate moving to a refinery is included. Lease condensate is defined as a natural gas liquid recovered from gas-well gas (associated and non-associated) in lease separators or field facilities. Drips are also included but topped crude oil and other unfinished oils are excluded. Natural gas liquids produced at natural gas processing plants and mixed with crude oil are likewise excluded. Foreign crude is petroleum produced outside the United States. Puerto Rico is considered to be a part of the U.S. for this system.

REPORT TO

Use this form as a worksheet. Report the information via Mailgram to:

Federal Energy Administration
Code 2891
Washington, D.C. 20462

NOTE: ZIP Code 20462 is for submission of Mailgram data to the Weekly Petroleum Reporting System *ONLY;* it is not to be used for other correspondence.

Corrections:

Submit all corrections using this form to the FEA via U.S. Postal Service to:

Federal Energy Administration
Code 2891
Washington, D.C. 20461

Form Approved OMB 180-R0003

FEDERAL ENERGY ADMINISTRATION
WEEKLY CRUDE OIL PIPELINE REPORT

REPORT TYPE FEA-1002-CP

FEA Identification Number

Week Ending Date Month Day Year

ZIP Code

Pipeline Company Name

#

Stocks of Crude Oil in Pipelines and Tankfarms at End of Reporting Period by P.A.D. District
(REPORT ALL FIGURES IN THOUSANDS OF 42-GALLON BARRELS)

Item Description	Product Code	P.A.D. Districts IA	IB	IC	II	III	IV	V	TOTAL
Domestic Crude Oil	010								
Foreign Crude Oil	020								

#

FEA-1002-CP (7-74)

U.S. GOVERNMENT PRINTING OFFICE : 1974 O-553-031

Form Approved OMB 180–R0024

FEDERAL ENERGY ADMINISTRATION

INSTRUCTION FOR THE PREPARATION OF THE WEEKLY REFINERY REPORT

(FEA–1003–RF)

(7–74)

Reports are due each Monday by MAILGRAM for the previous week.

IDENTIFICATION DATA

This report must be completed by all refineries or other firms for each refinery operated or controlled by them in the 50 States, District of Columbia, and Puerto Rico.

FEA Identification Number:

Enter the six-digit code which the FEA has assigned to you. This number is included on the label of this package. If you do not presently have this number, FEA will assign you one; regardless, you must submit these data, leaving the FEA identification number blank.

For Week Ended 7 a.m.:

Seven-day period *ending* 7 a.m. Friday. Indicate the specific month and ending day using the following format: Month/Day/Year (e.g., 03/15/74). Please use the following numerical codes for each month in order to design a six-digit code:

January	01	July	07
February	02	August	08
March	03	September	09
April	04	October	10
May	05	November	11
June	06	December	12

ZIP Code:

Enter the ZIP Code of the refinery location, not the reporting office.

Refinery name:

Enter the legal name of the refinery.

NUMBER SIGN

There is a # (number sign—also called a pound sign or tic-tac-toe sign) appearing as a separate line (paragraph) preceding the first product data line (paragraph). There is also a # following the last product data line (paragraph).

When calling (or keying) in this form's data to Western Union, please be sure to specify the # (only once) as a *separate* line just *before* reporting the first product data line. Likewise, specify the # (only once) as a *separate* line right *after* the last product data line has been reported.

Refer to the MAILGRAM instructions for a detailed explanation of # usage.

SUMMARY TABULAR DATA

General Instructions:

1. Enter the beginning of the reporting week refinery stocks which are expressed in THOUSANDS OF 42-GALLON BARRELS. Report all stocks IN CUSTODY of the refinery, regardless of ownership.

2. Submit the total amount of crude petroleum, natural gas liquids, and unfinished oils which are *received* at the refinery during the week. Receipts are to include material in transit to the refinery from domestic sources via means other than pipeline.

3. Report stocks less bottom settlings and water (BS&W).

4. Enter the amount of crude oil, unfinished oils, and natural gas liquids which are used as inputs for the refining process. Please do not confuse inputs with receipts since inputs may be either drawn from current receipts or from existing stocks.

5. Include the current week's production level IN THOUSANDS OF 42-GALLON BARRELS for each item.

6. Enter shipments *from* the refinery and all losses (including the refinery's own fuel use during the week). Enter negative values as applicable.

7. Enter the end-of-week stocks held IN CUSTODY by the refinery for each item.

8. Include separate values only for receipts of domestic and foreign natural gas liquids and unfinished oils. Beginning stocks, inputs, production, and ending stocks are to be a total of domestic and foreign.

Notes

1. The following arithmetic check is suggested for each line entry, for the following products: "Domestic Crude Oil, Foreign Crude Oil, Domestic Natural Gas Liquids, Foreign Natural Gas Liquids, Domestic Unfinished Oils, and Foreign Unfinished Oils": the sum of the columns "Stocks at the Beginning of Reporting Period, Receipts During Reporting Period, and Production During Reporting Period" should equal the sum of columns "Inputs During Reporting Period, Shipments, Losses and Refinery Fuel Use During Reporting Period, and Stocks at End of Reporting Period."

2. Also, remember to fill in *all* nonshaded blanks. If necessary, include zero (0) as an entry, but do not leave any blank spaces.

3. When calling (keying) in this form's data to Western Union, the × shown in a shaded block must be specified as data. Thus, each data block will have an entry, whether it is a value you have entered, zero, or an ×.

PRODUCT DEFINITIONS

Domestic Crude Oil (010):

A mixture of hydrocarbons that existed in liquid phase in underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities. Also, lease condensate moving to a refinery is included. Lease condensate is defined as a natural gas liquid recovered from gas-well gas (associated and nonassociated) in lease separators or field facilities. Drips are also included, but topped crude oil and other unfinished oils are excluded. Natural gas liquids produced at natural gas processing plants and mixed with crude oil are likewise excluded. Domestic crude is petroleum produced in the United States or from its "outer continental shelf" as defined in 43 U.S.C. 1331 (Puerto Rico is considered to be a part of U.S. for this system).

Foreign Crude Oil (020):

A mixture of hydrocarbons that existed in liquid phase in underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities. Also, lease condensate moving to a refinery is included. Lease condensate is defined as a natural gas liquid recovered from gas-well gas (associated and nonassociated) in lease separators or field facilities. Drips are also included but topped crude oil and other unfinished oils are excluded. Natural gas liquids produced at natural gas processing plants and mixed with crude oil are likewise excluded. Foreign crude is petroleum produced outside the United States. Puerto Rico is considered to be a part of the U.S. for this system.

Domestic Natural Gas Liquids (230):

Includes all products received directly, or through jobbers, from natural gas processing plants for processing or blending at a refinery. These products include propane, butane (isobutane, normal butane, and other butane), butane-propane mixtures, natural gasoline and isopentane, and plant condensate. Domestic natural gas liquids are produced within the confines of the 50 States, the District of Columbia, and Puerto Rico.

Foreign Natural Gas Liquids (239):

Includes all products received directly, or through jobbers, from natural gas processing plants for processing or blending at a refinery. These products include propane, butane (isobutane, normal butane, and other butane), butane-propane mixtures, natural gasoline and isopentane, and plant condensate. Foreign natural gas liquids are produced outside the 50 States, the District of Columbia, and Puerto Rico.

Domestic Unfinished Oils (813):

Includes all oils requiring further processing, i.e., any operation except mechanical blending. Foreign unfinished oils are those unfinished oils which are produced within the confines of the 50 States, the District of Columbia, and Puerto Rico.

Foreign Unfinished Oils (814):

Includes all oils requiring further processing, i.e., any operation except mechanical blending. Foreign unfinished oils are those unfinished oils which are imported from countries and trust territories outside the 50 States, the District of Columbia, and Puerto Rico.

Motor Gasoline (131):

A complex mixture of relatively volatile hydrocarbons, with or without small quantities of additives, which have been blended to form a fuel suitable for use in spark ignition engines. Includes all refinery products within the gasoline range (ASTM Specification D 439; Federal Specification VV–G–766) that are to be marketed as motor gasoline without further processing, i.e., any refinery operation except mechanical blending. Also includes finished components in the gasoline range which will be used for blending or compounding into finished gasoline.

Aviation Gasoline (111):

All special grades of gasoline for use in aviation reciprocating engines, as given in ASTM Specification D 910. Includes all refinery products within the gasoline range that are to be marketed straight or in blends as aviation gasoline without further processing, i.e., any refinery operation except mechanical blending. Also includes finished components in the gasoline range which will be used for blending or compounding into aviation gasoline.

Jet Fuel—Naphtha-Type (211):

A fuel in the heavy naphtha boiling range with an average gravity of 52.8° API and 10 percent to 90 percent distillation temperatures of 210° F. to 420° F. and meeting Military Specifications MIL–F–5624 and MIL–T–5624G. Used for turbojet and turboprop aircraft engines, primarily by the military. Includes JP–4. Excludes ramjet and petroleum rocket fuels.

Jet Fuel—Kerosine-Type (213):

A quality kerosine product with an average gravity of 40.7° API and 10 percent to 90 percent distillation temperatures of 390° F. to 470° F. covered by ASTM D 1655 specifications. Used primarily as fuel for commercial turbojet and turboprop aircraft engines. A relatively low freezing point distillate of the kerosine type. Includes Military JP–5 (MIL–T–562G Amend. 1).

Kerosine (311):

A petroleum distillate in the 300°F. to 550°F. boiling range and generally having a flashpoint higher than 100°F. by ASTM Method D 56, a gravity ranging from 40°

to 46° API, and a burning point in the range of 150°F. to 175°F. It is a clean burning product suitable for use as an illuminant when burned in wick lamps. Kerosine is often used as range oil.

Distillate Fuel Oil (Less No. 4) (412):

A general classification for one of the petroleum fractions which, when produced in conventional distillation operations, has a boiling range from 10 percent point at 300°F. to 90 percent point at 675°F. Included are products known as Nos. 1 and 2 heating oils and diesel fuels.

No. 4 Fuel Oil (414):

No. 4 fuel oil is defined as an oil for commercial burner installations not equipped with preheating facilities. Extensively used in industrial plants. This grade is a blend of distillate fuel oil and residual fuel oil stocks. Tentative ASTM D 396 specifications for this grade specify kinematic viscosities between 5.8 and 26.4 cs at 100°F.

Residual Fuel Oil (511):

Topped crude oil obtained in refinery operations, includes ASTM Grades No. 5 and No. 6, heavy diesel. Navy Special, and Bunker C oils used for generation of heat and/or power. Also includes acid sludge and pitch used for refinery fuels.

Total Input to Crude Oil Distillation Units (888):

Enter the sum of all refinery inputs which tillation units. Reprocessing of gross unfintillation unts. Reprocessing of gross unfinished oil in a distillation unit is to be included. Do not include crude oil charged directly to coking units.

REPORT TO

Use this form as a worksheet. Report the information via Mailgram to:

Federal Energy Administration
Code 2891
Washington, D.C. 20462

NOTE: ZIP Code 20462 is for submission of Mailgram data to the Weekly Petroleum Reporting System *ONLY;* it is not to be for other correspondence.

Corrections:

Submit all corrections using this form to the FEA via U.S. Postal Service to:

Federal Energy Administration
Code 2891
Washington, D.C. 20461

Form Approved OMB 180-R0024

FEDERAL ENERGY ADMINISTRATION
WEEKLY REFINERY REPORT

REPORT TYPE FEA-1003-RF

FEA Identification Number

Week Ending Date (Month / Day / Year)

ZIP Code

Refinery Name
#

Report All Figures in Thousands of 42-Gallon Barrels.

Item description	Product Code	Stocks at Beginning of Reporting Period	Receipts During Reporting Period	Inputs During Reporting Period	Production During Reporting Period	Shipments, Losses, Refinery Use During Reporting Period	Stock at End of Reporting Period
Domestic Crude Oil	010				X		
Foreign Crude Oil	020				X		
Domestic Natural Gas Liquids	230				X		
Foreign Natural Gas Liquids	239	X		X	X	X	X
Domestic Unfinished Oils	813						
Foreign Unfinished Oils	814	X		X	X	X	X
Motor Gasoline	131		X	X		X	
Aviation Gasoline	111		X	X		X	
Jet Fuel—Naphtha Type	211		X	X		X	
Jet Fuel—Kerosine Type	213		X	X		X	
Kerosine	311		X	X		X	
Distillate Fuel Oil (Less No. 4)	412		X	X		X	
No. 4 Fuel Oil	414		X	X		X	
Residual Fuel Oil	511		X	X		X	
Total Input to Crude Distl. Units	888						

#

Company Name

FEA-1003-RF (7-74)

U.S. GOVERNMENT PRINTING OFFICE : 1974 O-560-302

FEDERAL ENERGY ADMINISTRATION

INSTRUCTIONS FOR PREPARATION OF THE WEEKLY PRODUCTS PIPELINE REPORT

(FEA-1004-PP)

(7-74)

Reports are due each Moday by MAILGRAM for the previous week.

IDENTIFICATION DATA

This report must be completed by all product pipeline companies which carry petroleum products including interstate, intrastate, and intracompany pipeline in the 50 States and the District of Columbia.

FEA Identification Number:

Enter the six-digit code which the FEA has assigned to you. This number is included on the label of this package. If you do not presently have this number, FEA will assign you one; regardless, you must submit these data, leaving the FEA identification number blank.

For Week Ended 7 a.m.:

Seven-day period *ending* 7 a.m. Friday. Indicate the specific month and ending day using the following format: Month/Day/Year (e.g., 03/15/74). Please use the following numerical codes for each month in order to design a six-digit date code:

January	01	July	07
February	02	August	08
March	03	September	09
April	04	October	10
May	05	November	11
June	06	December	12

ZIP Code:

Enter the ZIP code of the pipeline location, not the reporting office.

Pipeline Company Name:

Enter the legal name of the products pipeline company.

NUMBER SIGN

There is a # (number sign—also called a pound sign or tic-tac-toe sign) appearing as a separate line (paragraph) preceding the first product data line (paragraph). There is also a # following the last product data line (paragraph).

When calling (or keying) in this form's data to Western Union, please be sure to specify the # (only once) as a *separate* line just *before* reporting the first product data line. Likewise, specify the # (only once) as a *separate* line right *after* the last product data line has been reported.

Refer to the MAILGRAM instructions for a detailed explanation of # usage.

SUMMARY TABULAR DATA

1. Report all figures in THOUSANDS OF 42-GALLON BARRELS.

2. All figures should represent actual inventories of petroleum products on the last day of the reporting period.

3. Report all stocks on a CUSTODY BASIS regardless of ownership.

4. Report stocks less bottom settlings and water (BS&W).

5. Remember to fill in *all* blanks. If necessary, include zero (0) as an entry, but do not leave any blank spaces.

6. Include all pipeline products stocks of domestic origin held in your custody, including pipeline fill and stocks in working tanks of pipelines. Include as stocks of foreign origin only those that have cleared customs or for which duty has been paid. Exclude stocks of foreign origin held in bonded storage.

7. Identify shipments by individual P.A.D. District, generating a total for each product code. Consult the list that follows to identify the breakdown by P.A.D. District.

STATE LIST

State	P.A.D. No.	State	P.A.D. No.
Alabama	III	Nebraska	II
Alaska	V	Nevada	V
Arizona	V	New Hampshire	IA
Arkansas	III	New Jersey	IB
California	V	New Mexico	III
Colorado	IV	New York	IB
Connecticut	IA	North Carolina	IC
Delaware	IB	North Dakota	II
District of Columbia	IB	Ohio	II
Florida	IC	Oklahoma	II
Georgia	IC	Oregon	V
Hawaii	V	Pennsylvania	IB
Idaho	IV	Rhode Island	IA
Illinois	II	South Carolina	IC
Indiana	II	South Dakota	II
Iowa	II	Tennessee	II
Kansas	II	Texas	III
Kentucky	II	Utah	IV
Louisiana	III	Vermont	IA
Maine	IA	Virginia	IC
Maryland	IB	Washington	V
Massachusetts	IA	West Virginia	IC
Michigan	II	Wisconsin	II
Minnesota	II	Wyoming	IV
Mississippi	III	Puerto Rico	VI
Missouri	II	Virgin Islands	VII
Montana	IV		

PRODUCT DEFINITIONS

Motor Gasoline (131):

A complex mixture of relatively volatile hydrocarbons, with or without small quantities of additives, which have been blended to form a fuel suitable for use in spark ignition engines. Includes all refinery products within the gasoline range (ASTM Specification D 439; Federal Specification VV-G-766) that are to be marketed as motor gasoline without further processing, i.e., any refinery operation except mechanical blending. Also includes finished components in the gasoline range which will be used for blending or compounding into finished gasoline.

Aviation Gasoline (111):

All special grades of gasoline for use in aviation reciprocating engines, as given in ASTM Specification D 910. Includes all refinery products within the gasoline range that are to be marketed straight or in blends as aviation gasoline without further processing, i.e., any refinery operation except mechanical blending. Also includes finished components in the gasoline range which will be used for blending or compounding into aviation gasoline.

Jet Fuel—Naphtha-Type (211):

A fuel in the heavy naphtha boiling range with an average gravity of 52.8° API and 10 percent to 90 percent distillation temperatures of 210°F. to 420°F. and meeting Military Specifications MIL-F-5624 and MIL-T-5624G. Used for turbojet and turboprop aircraft engines, primarily by the military. Includes JP-4. Excludes ramjet and petroleum rocket fuels.

Jet Fuel—Kerosine-Type (213):

A quality kerosine product with an average gravity of 40.7° API and 10 percent to 90 percent to 90 percent distillation temperatures of 390°F. to 470°F. covered by ASTM D 1655 specifications. Used primarily as fuel for commercial turbojet and turboprop aircraft engines. A relatively low freezing point distillate of the kerosine type. Includes Military JP-5 (MIL-T-5624G Amend. 1).

Kerosine (311):

A petroleum distillate in the 300°F. to 550°F. boiling range and generally having a flashpoint higher than 100°F. by ASTM Method D 56, a gravity ranging from 40° to 46° API, and a burning point in the range of 150°F. to 175°F. It is a clean burning product suitable for use as an illuminant when burned in wick lamps. Kerosine is often used as range oil.

Distillate Fuel Oil (Less No. 4) (412):

A general classification for one of the petroleum fractions which, when produced in conventional distillation operations, has a boiling range from 10 percent point at 300°F. to 90 percent point at 675°F. Included are products known as Nos. 1 and 2 heating oils and diesel fuels.

No. 4 Fuel Oil (414):

No. 4 fuel oil is defined as an oil for commercial burner installations not equipped with preheating facilities. Extensively used in industrial plans. This grade is a blend of distillate fuel oil and residual fuel oil stocks. Tentative ASTM D 396 specifications for this grade specify kinematic viscosities between 5.8 and 26.4 cs at 100°F.

REPORT TO

Use this form as a worksheet. Report the information via Mailgram to:

Federal Energy Administration
Code 2891
Washington, D.C. 20462

NOTE: ZIP code 20462 is for submission of Mailgram data to the Weekly Petroleum Reporting System *ONLY*; it is not to be used for other correspondence.

Corrections:

Submit all corrections using this form to the FEA via U.S. Postal Service to:

Federal Energy Administration
Code 2891
Washington, DC. 20461

Form Approved OMB 160-R0025

FEDERAL ENERGY ADMINISTRATION
WEEKLY PRODUCTS PIPELINE REPORT

REPORT TYPE FEA-1004-PP

FEA Identification Number

Week Ending Date Month Day Year

ZIP Code

Pipeline Company Name

#

Stocks of Pipeline Products in Lines and Working Tanks at End of Week by P.A.D. District
(REPORT ALL FIGURES IN THOUSANDS 42-GALLON BARRELS)

Item Description	Product Code	P.A.D. Districts							TOTAL
		IA	IB	IC	II	III	IV	V	
Motor Gasoline	131								
Aviation Gasoline	111								
Jet Fuel—Naphtha Type	211								
Jet Fuel—Kerosine Type	213								
Kerosine	311								
Distillate Fuel Oil (Less No. 4)	412								
No. 4 Fuel Oil	414								

#

FEA-1004-PP (7-74)

U.S. GOVERNMENT PRINTING OFFICE : 1974 O-559-559

Form Approved OMB 180–R0026

FEDERAL ENERGY ADMINISTRATION

INSTRUCTIONS FOR PREPARATION OF THE WEEKLY IMPORTS REPORT

(FEA–I005–IM)

(7–74)

Reports are due each Monday by MAILGRAM for the previous week

IDENTIFICATION DATA

This report form must be completed by all companies in the 50 States, the District of Columbia, and Puerto Rico who import petroleum products by ocean vessel or pipeline. Reports will be completed by terminal operators who take petroleum products into custody and who are not necessarily the importers of record.

FEA Identification Number:

Enter the six-digit code which the FEA has assigned to you. This number is included on the label of this package. If you do not presently have this number, FEA will assign you one; regardless, you must submit these data, leaving the FEA identification number blank.

For Week Ended 7 a.m.:

Seven-day period *ending* 7 a.m. Friday. Indicate the specific month and ending day using the following format: Month/Day/Year (e.g., 03/15/74). Please use the following numerical codes for each month in order to design a six-digit date code:

January	01	July	07
February	02	August	08
March	03	September	09
April	04	October	10
May	05	November	11
June	06	December	12

ZIP Code:

Enter the ZIP code of the import location, not the reporting office.

Dealer's Name:

Enter the legal name of the importing company.

NUMBER SIGN

There is a # (number sign—also called a pound sign or tic-tac-toe sign) appearing as a separate line (paragraph) preceding the first product data line (paragraph). There is also a # following the last product data line (paragraph).

When calling (or keying) in this form's data to Western Union, please be sure to specify the # (only once) as a *separate* line just *before* reporting the first product data line. Likewise, specify the # (only once) as a *separate* line right *after* the last product data line has been reported.

Refer to the MAILGRAM instructions for a detailed explanation of # usage.

SUMMARY TABULAR DATA

General Instructions:

1. Imported petroleum and petroleum products are those items which have been received from all countries and trust territories outside the 50 States, the District of Columbia, and Puerto Rico.

2. Report all figures in THOUSANDS OF 42-GALLON BARRELS.

3. Remember to fill in *all* blanks. If necessary, include zero (0) as an entry, but do not leave any blank spaces.

4. Identify shipments by individual P.A.D. District, generating a total for each product code. Consult the list which follows to identify the breakdown by P.A.D. District.

STATE LIST

State	P.A.D. No.	State	P.A.D. No.
Alabama	III	Nebraska	II
Alaska	V	Nevada	V
Arizona	V	New Hampshire	IA
Arkansas	III	New Jersey	IB
California	V	New Mexico	III
Colorado	IV	New York	IB
Connecticut	IA	North Carolina	IC
Delaware	IB	North Dakota	II
District of Columbia	IB	Ohio	II
Florida	IC	Oklahoma	II
Georgia	IC	Oregon	V
Hawaii	V	Pennsylvania	IB
Idaho	IV	Rhode Island	IA
Illinois	II	South Carolina	IC
Indiana	II	South Dakota	II
Iowa	II	Tennessee	II
Kansas	II	Texas	III
Kentucky	II	Utah	IV
Louisiana	III	Vermont	IA
Maine	IA	Virginia	IC
Maryland	IB	Washington	V
Massachusetts	IA	West Virginia	IC
Michigan	II	Wisconsin	II
Minnesota	II	Wyoming	IV
Mississippi	III	Puerto Rico	VI
Missouri	II	Virgin Island	VII
Montana	IV		

PRODUCT DEFINITIONS

Motor Gasoline (131):

A complex mixture of relatively volatile hydrocarbons, with or without small quantities of additives, which have been blended to form a fuel suitable for use in spark ignition engines. Includes all refinery products within the gasoline range (ASTM Specification D 439; Federal Specification VV–G–766) that are to be marketed as motor gasoline without further processing, i.e., any refinery operation except mechanical blending. Also includes finished components in the gasoline range which will be used for blending or compounding into finished gasoline.

Aviation Gasoline (111):

All special grades of gasoline for use in aviation reciprocating engines, as given in ASTM Specification D 910. Includes all refinery products within the gasoline range that are to be marketed straight or in blends as aviation gasoline without further processing, i.e., any refinery operation except mechanical blending. Also includes finished components in the gasoline range which will be used for blending or compounding into aviation gasoline.

Jet Fuel—Naphtha-Type (211):

A fuel in the heavy naphtha boiling range with an average gravity of 52.8° API and 10 percent to 90 percent distillation temperatures of 210° F. to 420° F. and meeting Military Specifications MIL–F–5624 and MIL–T–5624G. Used for turbojet and turboprop aircraft engines, primarily by the military. Includes JP–4. Excludes ramjet and petroleum rocket fuels.

Jet Fuel—Kerosine-Type (213):

A quality kerosine product with an average gravity of 40.7° API and 10 percent to 90 percent distillation temperatures of 390° F. to 470° F. covered by ASTM D 1655 specifications. Used primarily as fuel for commercial turbojet and turboprop aircraft engines. A relatively low freezing point distillate of the kerosine type. Includes Military JP–5 (MIL–T–5624G Amend. 1).

Kerosine (311):

A petroleum distillate in the 300° F. to 550° F. boiling range and generally having a flashpoint higher than 100° F. by ASTM Method D 56, a gravity ranging from 40° to 46° API, and a burning point in the range of 150° F. to 175° F. It is a clean burning product suitable for use as an illuminant when burned in wick lamps. Kerosine is often used as range oil.

Distillate Fuel Oil (Less No. 4) (412):

A general classification for one of the petroleum fractions which, when produced in conventional distillation operations, has a boiling range from 10 percent point at 300°F. to 90 percent point at 675°F. Included are products known as Nos. 1 and 2 heating oils and diesel fuels.

No. 4 Fuel Oil (414):

No. 4 fuel oil is defined as an oil for commercial burner installations not equipped with preheating facilities. Extensively used in industrial plants. This grade is a blend of distillate fuel oil and residual fuel oil stocks. Tentative ASTM D 396 specifications for this grade specify kinematic viscosities between 5.8 and 26.4 cs at 100°F.

Residual Fuel Oil (511):

Topped crude oil obtained in refinery operations, includes ASTM Grades No. 5 and No. 6, heavy diesel. Navy Special, and Bunker C oils used for generation of heat and/or power. Also includes acid sludge and pitch used for refinery fuels.

Petrochemical Feedstocks (042):

Includes all refinery streams which are sold to or directed to chemical or rubber manufacturing operations for further processing. Excludes finished petrochemical products. For example, marketable benzene, tolulene, cumene, etc., are considered petrochemical products and only their feedstock equivalents should be reported. Omit coke.

Special Naphthas (051):

All finished products within the gasoline range, specially refined to specified flashpoint and boiling range, for use as paint thinners, cleaners, solvents, etc., but not to be marketed as motor gasoline, aviation gasoline, or used as petrochemical feedstocks.

Liquefied Petroleum Gas (238):

Includes propane and butane (isobutane, normal butane, and other butane) and butane-propane mixtures, but not ethane. (Do not report imports for use at refineries.)

Asphalt (900):

The definition includes crude asphalt as well as finished products such as cements, fluxes, the asphalt content of emulsions (exclusive of water), and petroleum distillates blended with asphalt ,to make cutback asphalts. The conversion factor is 5.5 barrels of 42 gallons each per short ton.

Crude Oil (020):

Crude Oil (020):

A mixture of hydrocarbons that existed in liquid phase in underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities. Also, lease condensate moving to a refinery is included. Lease condensate is defined as a natural gas liquid recovered from gas-well gas (associated and nonassociated) in lease separators or field facilities. Drips are also included but topped crude oil and other unfinished oils are excluded. Natural gas liquids produced at natural gas processing plants and mixed with crude oil are likewise excluded. (Do not report imports for use at refineries.)

Plant Condensate (210):

One of the natural gas plant products, mostly pentanes and heavier, recovered and separated as liquids at gas inlet separators or scrubbers in processing plants or field facilities. Plant condensate is not suitable for blending with natural gasoline or refinery gasoline. (Do not report imports for use at refineries.)

Unfinished Oils (814):

Includes all oils requiring further processing, i.e., any operation except mechanical blending. (Do not report imports for use at refineries.)

REPORT TO

Use this form as a worksheet. Report the information via Mailgram to:

Federal Energy Administration
Code 2891
Washington, D.C. 20462

NOTE: ZIP code 20462 is for submission of Mailgram data to the Weekly Petroleum Reporting System *ONLY;* it is not to be used for other correspondence.

Corrections:

Submit all corrections using this form to the FEA via U.S. Postal Service to:

Federal Energy Administration
Code 2891
Washington, D.C. 20461

Form Approved OMB 180-R0026

FEDERAL ENERGY ADMINISTRATION
WEEKLY IMPORTS REPORT

REPORT TYPE FEA-1605-IM

FEA Identification Number

Week Ending Date (Month / Day / Year)

ZIP Code

Dealer Name

#

Imports (Receipts) of Foreign Crude Petroleum and Petroleum Products by P.A.D. District
(REPORT ALL FIGURES IN THOUSANDS OF 42-GALLON BARRELS)

Item Description	Product Code	P.A.D. District								TOTAL
		IA	IB	IC	II	III	IV	V	VI	
Motor Gasoline	131									
Aviation Gasoline	111									
Jet Fuel—Naphtha Type	211									
Jet Fuel—Kerosine Type	213									
Kerosine	311									
Distillate Fuel Oil (Less No. 4)	412									
No. 4 Fuel Oil	414									
Residual Fuel Oil	511									
Petrochemical Feedstocks	042									
Special Naphthas	051									
Liquified Petroleum Gas	238									
Asphalt	900									
Crude Oil	920									
Plant Condensate	210									
Unfinished Oils	814									

#

FEA-1005-IM (7-74) U.S. GOVERNMENT PRINTING OFFICE : 1974 O—538-334

Form Approved OMB 180-R0027

FEDERAL ENERGY ADMINISTRATION

INSTRUCTIONS FOR PREPARATION OF THE WEEKLY BULK TERMINAL STOCKS REPORT

(FEA-1006-BT)

(7-74)

Reports are due each Monday by MAILGRAM for the previous week

IDENTIFICATION DATA

This report form must be completed by every terminal operating company to include all bulk terminals it operates within each P.A.D. District.

FEA Identification Number:

Enter the six-digit code which the FEA has assigned to you. This number is included on the label of this package. If you do not presently have this number, FEA will assign you one; regardless, you must submit these data, leaving the FEA identification number blank.

For Week Ended 7 a.m.:

Seven-day period *ending* 7 a.m. Friday. Indicate the specific month and ending day using the following format: Month/Day/Year (e.g., 03/15/74). Please use the following numerical codes for each month in order to design a six-digit date code:

January	01	July	07
February	02	August	08
March	03	September	09
April	04	October	10
May	05	November	11
June	06	December	12

ZIP Code:

Enter the ZIP code of the bulk terminal location, not the reporting office.

Terminal Operating Company Name:

Enter the legal name of the terminal operating company.

NUMBER SIGN

There is a # (number sign—also called a pound sign or tic-tac-toe sign) appearing as a separate line (paragraph) preceding the first product data line (paragraph). There is also a # following the last product data line (paragraph).

When calling (or keying) in this form's data to Western Union, please be sure to specify the # (only once) as a *separate* line just *before* reporting the first product data line. Likewise, specify the # (only once) as a *separate* line right *after* the last product data line has been reported.

Refer to the MAILGRAM instructions for a detailed explanation of # usage.

SUMMARY TABULAR DATA

General Instructions:

1. Report all figures in THOUSANDS OF 42-GALLON BARRELS.

2. All figures should represent actual physical inventories. Make sure to include the individual product totals for all districts.

3. Remember to fill in all blanks. If necessary, include zero (0) as an entry, but do not leave any blank spaces.

4. Bulk terminal means a facility which is primarily used for the marketing of gasoline, kerosine and distillate and residual fuel oils and which (1) has total bulk storage capacity of 2,100,000 gallons or more or (2) receives its petroleum products by tanker, barge, or pipeline.

5. *Stocks:* Report stocks less bottom settlings and water (BS & W). Include all stocks of domestic origin held IN CUSTODY by your

company at bulk terminals and in transit, other than by pipeline. Include all stocks of foreign origin held in the CUSTODY of your company at bulk terminals, which have cleared customs for domestic consumption. Exclude stocks of foreign origin held in bond.

6. Identify shipments by individual P.A.D. District, generating a total for each product code. Consult the list that follows to identify the breakdown by P.A.D. District.

STATE LIST

State	P.A.D. No.	State	P.A.D. No.
Alabama	III	Nebraska	II
Alaska	V	Nevada	V
Arizona	V	New Hampshire	IA
Arkansas	III	New Jersey	IB
California	V	New Mexico	III
Colorado	IV	New York	IB
Connecticut	IA	North Carolina	IC
Delaware	IB	North Dakota	II
District of Columbia	IB	Ohio	II
Florida	IC	Oklahoma	II
Georgia	IC	Oregon	V
Hawaii	V	Pennsylvania	IB
Idaho	IV	Rhode Island	IA
Illinois	II	South Carolina	IC
Indiana	II	South Dakota	II
Iowa	II	Tennessee	II
Kansas	II	Texas	III
Kentucky	II	Utah	IV
Louisiana	III	Vermont	IA
Maine	IA	Virginia	IC
Maryland	IB	Washington	V
Massachusetts	IA	West Virginia	IC
Michigan	II	Wisconsin	II
Minnesota	II	Wyoming	IV
Mississippi	III	Puerto Rico	VI
Missouri	II	Virgin Islands	VII
Montana	IV		

PRODUCT DEFINITIONS

Motor Gasoline (131):

A complex mixture of relatively volatile hydrocarbons, with or without small quantities of additives, which have been blended to form a fuel suitable for use in spark ignition engines. Includes all refinery products within the gasoline range (ASTM Specification D 439; Federal Specification VV–G–766) that are to be marketed as motor gasoline without further processing, i.e., any refinery operation except mechanical blending. Also includes finished components in the gasoline range which will be used for blending or compounding into finished gasoline.

Aviation Gasoline (111):

All special grades of gasoline for use in aviation reciprocating engines, as given in ASTM Specification D 910. Includes all refinery products within the gasoline range that are to be marketed straight or in blends as aviation gasoline without further processing, i.e., any refinery operation except mechanical blending. Also includes finished components in the gasoline range which will be used for blending or compounding into aviation gasoline.

Jet Fuel—Naptha-Type (211):

A fuel in the heavy naphtha boiling range with an average gravity of 52.8° API and 10 percent to 90 percent distillation temperatures of 210°F. to 420°F. and meeting Military Specifications MIL–F–5624 and MIL–T–5624G. Used for turbojet and turboprop aircraft engines, primarily by the military. Includes JP–4. Excludes ramjet and petroleum rocket fuels.

Jet Fuel—Kerosine-Type (213):

A quality kerosine product with an average gravity of 40.7° API and 10 percent to 90 percent distillation temperatures of 390°F. to 470°F. covered by ASTM D 1655 specifications. Used primarily as fuel for commercial turbojet and turboprop aircraft engines. A relatively low freezing point distillate of the kerosine type. Includes Military JP–5 (MIL–T–5624G Amend. 1).

Kerosine (311):

A petroleum distillate in the 300°F. to 550°F. boiling range and generally having a flashpoint higher than 100°F. by ASTM Method D 56, a gravity ranging from 40° to 46° API, and a burning point in the range of 150°F. to 175°F. It is a clean burning product suitable for use as an illuminant when burned in wick lamps. Kerosine is often used as range oil.

Distillate Fuel Oil (Less No. 4) (412):

A general classification for one of the petroleum fractions which, when produced in conventional distillation operations, has a boiling range from 10 percent point at 300°F. to 90 percent point at 675°F. Included are products known as Nos. 1 and 2 heating oils and diesel fuels.

No. 4 Fuel Oil (414):

No. 4 fuel oil is defined as an oil for commercial burner installations not equipped with preheating facilities. Extensively used in industrial plants. This grade is a blend of distillate fuel oil and residual fuel oil stocks. Tentative ASTM D 396 specifications for this grade specify kinematic vicosities between 5.8 and 26.4 cs at 100°F.

Residual Fuel Oil (511):

Topped crude oil obtained in refinery operations includes ASTM grades No. 5 and No. 6, heavy diesel, Navy special, and Bunker C oils used for generation of heat and/or power. Also includes acid sludge and pitch used for refinery fuels.

REPORT TO

Use this form as a worksheet. Report the information via Mailgram to:

Federal Energy Administration
Code 2891
Washington, D.C. 20462

NOTE: ZIP code 20462 is for submission of Mailgram data to the Weekly Petroleum Reporting System ONLY; it is not to be used for other correspondence.

Corrections:

Submit all corrections using this form to the FEA via U.S. Postal Service to:

Federal Energy Administration
Code 2891
Washington, D.C. 20461

Form Approved OMB 160-R0027

FEDERAL ENERGY ADMINISTRATION
WEEKLY BULK TERMINAL STOCKS REPORT

REPORT TYPE FEA–1006–BT

FEA Identification Number

Week Ending Date Month Day Year

ZIP Code

Terminal Operating Company Name

#

Bulk Terminal Stocks of Petroleum Products Held in Custody by your Company at the End of the Reporting Period According to P.A.D. District
(REPORT ALL FIGURES IN THOUSANDS OF 42-GALLON BARRELS)

Item Description	Product Code	P.A.D. Districts IA	IB	IC	II	III	IV	V	VI	TOTAL
Motor Gasoline	131									
Aviation Gasoline	111									
Jet Fuel – Naphtha Type	211									
Jet Fuel – Kerosine Type	213									
Kerosine	311									
Distillate Fuel Oil (Less No. 4)	412									
No. 4 Fuel Oil	414									
Residual Fuel Oil	511									

#

FEA–1006–BT (7–74)

U.S. GOVERNMENT PRINTING OFFICE : 1974 O—553-339

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

NOTE: This document in no way affects the existing Part 212—Mandatory Petroleum Price Regulations. The regulations published January 15, 1974 (39 FR 1949), as amended, remain in force. FEA anticipates that a compilation and republication of Part 212 will be issued in the near future.

PART 215—LOW SULFUR PETROLEUM PRODUCTS REGULATION

Sec.

AUTHORITY: Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159; E.O. 11748, 38 FR 33575; FEO Order 3 (Feb. 5, 1974).

§ 215.1 Purpose and intent.

The purpose of this part is to assure the optimum use of the limited supplies of low sulfur petroleum products in a manner consistent with the provisions of the Clean Air Act, as amended, and the Clean Fuels Policy of the Environmental Protection Agency. This Part is not intended to affect or preempt the development of individual source compliance schedules or other actions associated with implementation of the Clean Air Act, except with regard to the timing of actual shifts to burning lower sulfur oil during the period this Part is in effect.

§ 215.2 Definitions.

"Power generator" means any boiler, burner, or other combustor of fuel or any combination of boilers at a single site in any electric power generating plant or industrial or commercial plant having a total firing rate of 50 million B.T.U./hour or greater in commercial operation on or prior to December 7, 1973 and includes combustion turbines used in the generation of electrical energy.

"Petroleum product" means crude oil, residual fuel oil, and refined petroleum products as defined in Part 211 of this Title.

"Primary ambient air quality standards" means the national primary ambient air quality standards provided for in the Clean Air Act, as amended. (42 U.S.C. 1857 et seq.)

§ 215.3 Power generators not currently burning petroleum products.

No petroleum product shall be sold or otherwise provided to or accepted by any firm for burning under power generators that were not using the petroleum product on December 7, 1973. Automatic exception is granted for power generators converting from natural gas, provided that alternative fuels, such as coal, cannot practically be utilized.

§ 215.4 Power generators currently burning petroleum products.

(a) Petroleum products may continue to be purchased and utilized by firms using them in power generators burning petroleum products on December 7, 1973 except that:

(1) No petroleum product having a lower specified sulfur content, by weight, than the average content of the petroleum products in use in such a power generator during November, 1973 or during the last month in which the power generator consumed such products, shall be sold or otherwise provided or accepted by any firm for use in such power generator;

(2) The aggregate quantity of petroleum products utilized by such firm in any month subsequent to April, 1974 in any such power generator capable of burning coal and petroleum products shall not exceed the larger of the aggregate quantity of petroleum products consumed in the corresponding month of 1972 or in July 1973, except that the quantity of petroleum products burned may be increased in proportion to the increased output of energy or increased need for startups.

(3) The quantity of middle distillate fuel oil utilized by such firm in any month subsequent to April, 1974 in any such power generator shall not exceed the larger of the quantity of middle distillate fuel oil consumed in the corresponding month of 1972 or in July 1973, except that the quantity of middle distillate fuel oil burned may be increased in proportion to the increased output of energy, or increased need for startups.

(4) In order to discourage further increase in the indirect use of middle distillate and residual fuel oils:

(i) No firm shall blend more middle distillate fuel oils into residual fuel oil than the greater of the quantities blended in the corresponding month of 1972, or in July 1973, except where essential to meeting Primary Ambient Air Quality Standards.

(ii) No firm shall use under a power generator a blended fuel containing a greater proportion of middle distillate fuels from the larger of:

(A) The proportion included in the corresponding month of 1972, or

(B) The proportion included in July 1973, except where essential to meeting Primary Ambient Air Quality Standards.

(iii) Those quantities of fuels containing middle distillates that constitute plant or firm inventories as of the effective date of this Part may be consumed by or sold for use in power generators until those quantities are depleted.

(5) Automatic exception is granted for power generators converting from natural gas, provided that alternative non-petroleum product fuels, such as coal, cannot practically be utilized.

§ 215.5 New power generators.

(a) Any firm with power generators which commenced commercial operations after December 7, 1973 shall not utilize any petroleum products with sulfur content by weight lower than that needed to meet Primary Ambient Air Quality Standards or to comply with EPA new source performance standards or for startup.

(b) This part is not intended to preempt the new source performance standards of the Clean Air Act, as amended. In the event this Part conflicts with such standards, the provisions of the Clean Air Act prevail and the provisions of this Part do not apply.

§ 215.6 Exceptions to meet primary ambient air quality standards.

(a) The FEA shall automatically grant exceptions to the provisions of this Part as provided in Subpart D of Part 205 of this chapter when the use of petroleum products is properly certified by the appropriate State air pollution control agency to be essential to meeting the Primary Ambient Air Quality Standard of the air quality region in which the plant is located.

(b) With respect to § 215.3, FEA shall grant exceptions pursuant to this paragraph only when suitable alternative non-petroleum product fuels are not available.

§ 215.7 Other exceptions.

The FEA may also grant exceptions from the provisions of this Part as provided in Subpart D of Part 205 of this chapter if:

(a) Any firm subject to this Part can demonstrate that compliance would cause an undue economic hardship; or

(b) Fuels necessary for compliance with this Part are not available.

[FR Doc.74-22707 Filed 9-30-74;8:45 am]

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