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TUESDAY, SEPTEMBER 9, 1975

highlights

reminders

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

Rules Going Into Effect Today

DOT/FAA—Alteration of transition area; Wichita, Kans..... 30633; 7–22–75
Designation of transition area; Neodesba, Kans..... 30633; 7–22–75

The following government agencies have submitted Privacy Act documents to the Office of the Federal Register for publication. These documents are available for public inspection at the Federal Register Office, 1100 L St. NW., Rm. 8401. They will be published according to the following schedule:

Agency	*1975 Date of Issue*
Consumer Product Safety Commission, proposed rules	Sept. 10

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contents

CONTENTS

list of cfr parts affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, follows beginning with the second issue of the month.

A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

4 CFR

PROPOSED RULES:
410---- 41801

5 CFR

213 (3 documents)---- 41755

7 CFR

908---- 41755

11 CFR

PROPOSED RULES:
113---- 41932

12 CFR

523---- 41755
545---- 41756

16 CFR

13 (5 documents)---- 41756–41758

17 CFR

270---- 41759

PROPOSED RULES:
240---- 41808
270---- 41818

18 CFR

2---- 41760
157---- 41769

21 CFR

452---- 41773
561 (2 documents)---- 41773

PROPOSED RULES:
121---- 41797
640---- 41799

23 CFR

658---- 41774

29 CFR

PROPOSED RULES:
1910---- 41797

30 CFR

77---- 41775

40 CFR

52 (4 documents)---- 41778, 41779, 41787, 41942
162---- 41788

43 CFR

PUBLIC LAND ORDERS:
5525---- 41794

45 CFR

100---- 41795
101---- 41795

46 CFR

146---- 41795

49 CFR

Chapter V---- 41796

CUMULATIVE LIST OF PARTS AFFECTED—SEPTEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.

3 CFR

EXECUTIVE ORDERS:
July 2, 1910 (Revoked in part by PLO 5512) 40162
(Revoked in part by PLO 5517) 40814
1959 (Revoked in part by PLO 5515) 40811
7594 (Revoked in part by PLO 5515) 40811
7595 (Revoked in part by PLO 5515) 40811
11861 (Amended by EO 11877) 40797
11864 (Superseded by EO 11877) 40797
11876 40501
11877 40797
MEMORANDUMS:
Memorandum of August 17, 1975 40139

4 CFR

PROPOSED RULES:
410 41801

5 CFR

213 41755

7 CFR

2 41085
354 41513
725 41513
908 ..... 40505, 40815, 41755
910 41086
989 40141
1421 41087
1434 41087

PROPOSED RULES:
1 40849
51 40522
201 40524
910 40528
931 40170
948 40528
982 40836
989 40842
1046 40843
1464 41530

9 CFR

54 40505
91 40506
78 41516
113 41088

PROPOSED RULES:
113 41139
317 41139
319 41139

10 CFR

50 40816
205 40141
210 40818
211 40821
212 ..... 40142, 40818, 40821, 40824
213 40143

RULINGS:
1975–9 40826
1975–10 40826
1975–11 40827

10 CFR—Continued

1975–12 40828
1975–13 40831
1975–14 40833
1975–15 40832
1975–16 40834

11 CFR

Ch. I 40668

PROPOSED RULES:
113 41932

12 CFR

213 40506
215 40506
523 41755
545 41756
603 40454
701 41090

PROPOSED RULES:
9 40859
208 40857
337 ..... 40548, 41530
341 40856

14 CFR

39 ..... 41090–41092, 41519
71 41520
73 41092
97 41092
171 41093
378a 41093

PROPOSED RULES:
39 ..... 41143, 41537
385 40816

15 CFR

371 40507
377 40507

16 CFR

4 40780
13 ..... 40143–40154, 40508, 41071–41081, 41756–41758

PROPOSED RULES:
454 41144

17 CFR

17 41117
18 41117
146 41056
200 40512
240 ..... 40512, 41520
249 ..... 40512, 41521
270 41759

PROPOSED RULES:
210 40550
230 40555
240 ..... 40858, 41808
249 40858
270 ..... 40555, 41818

18 CFR

2 41760
157 41769

18 CFR—Continued

PROPOSED RULES:
154 41539
157 41539
201 41539
260 41539

19 CFR

112 41084
148 41084

PROPOSED RULES:
12 41118
201 40173
210 40173

20 CFR

200 41084
260 41084

PROPOSED RULES:
405 ..... 40171, 40537, 40850

21 CFR

Ch. I 40520
121 ..... 40799, 41085
431 41522
436 41522
449 41523
452 41773
556 41085
561 41773
1010 40800
1040 40800

PROPOSED RULES:
1 40682
2 40682
5 40682
6 40682
8 40682
10 40682
11 40682
80 40682
90 40682
100 40682
102 40682
121 ..... 40529, 40682, 41797
202 40682
310 40682
312 40682
314 40682
328 40682
330 40682
429 40682
430 40682
431 40682
433 40682
511 40682
514 40682
601 40682
640 41799
701 40682
1003 40682
1004 40682
1210 40682

22 CFR

PROPOSED RULES:
6a 40456

23 CFR
658 41774
710 41523

24 CFR
280 40261
570 41509
888 40513
1914 41509
1915 41510
1917 41108–41115
1920 ..... 41115, 41116

25 CFR
PROPOSED RULES:
33 40982
401 40982
402 40982
403 40982
404 40982
405 40982
406 40982
407 40982

26 CFR
PROPOSED RULES:
1 41118

28 CFR
2 41328

29 CFR
570 40800
1952 40155–40157
2530 41654
PROPOSED RULES:
603 40537
608 40537
609 40537
687 40537
1910 ..... 40170, 40849, 41530, 41797
1915 41530
1916 41530
1917 41530
1918 41530
1926 ..... 40170, 41530
1952 41148

30 CFR
77 41775
PROPOSED RULES:
211 41122
216 41122

32 CFR
PROPOSED RULES:
2102 40792

33 CFR
117 41524
PROPOSED RULES:
117 41537
305 41636

35 CFR
PROPOSED RULES:
10 40485

36 CFR
901 41524
1000 40802
PROPOSED RULES:
7 41138
903 41530

38 CFR
PROPOSED RULES:
3 41540

40 CFR
52 ..... 40158–40160, 41778, 41779, 41787, 41942
162 41788
180 40161
230 41292
PROPOSED RULES:
16 40792
35 41644
52 ..... 40172, 40854–40856
126 41649
142 40538
162 40538
172 40545
180 41538
430 41298

41 CFR
8–2 40803
8–3 40803
14–3 40517
101–26 41093
114–42 40517
PROPOSED RULES:
14H–70 41025
60–5 41149

42 CFR
110 41095

43 CFR
PUBLIC LAND ORDERS:
2249 (Revoked in part by PLO 5515) 40811
4089 (Revoked in part by PLO 5515) 40811
4148 (Revoked in part by PLO 5515) 40811
4643 (Revoked in part by PLO 5511) 40162
4889 (Revoked in part by PLO 5515) 40811
5175 (Amended by PLO 5519) 40814
5180 (Amended by PLO 5519) 40814
5191 (Amended by PLO 5519) 40814
5394 (Amended by PLO 5519) 40814
5418 (See PLO 5519) 40814
5438 (Amended by PLO 5519) 40814
5511 40162
5512 40162
5513 40162
5514 40811
5515 40811
5516 40814
5517 40814
5518 40814
5519 40814
5520 40815
5521 40815
5522 41096
5523 41095
5524 41095
5525 41794
PROPOSED RULES:
23 41122
3040 41122

45 CFR
30 40162
46 40163
100 41795
101 41795
169 40518
1208 40805

45 CFR—continued
PROPOSED RULES:
56 41140
160a 41670
233 41143
706 40783

46 CFR
32 40163
35 40163
50 40163
52 40163
53 40163
54 40163
56 40164
58 40166
63 40169
146 41795
410 41526
402 41526

47 CFR
2 40810
74 40810
91 40169
PROPOSED RULES:
73 40172

49 CFR
25 41040
171 41527
172 41527
173 41527
174 41527
175 41527
177 41527
178 41527
385 40810
Ch. V 41796
1033 ..... 40518, 40519
1306 40518
1320 41528
1322 41528
PROPOSED RULES:
102 41537
107 41537
170 41537
171 ..... 40171, 40853, 40854, 41537
172 41537
173 41537
174 41537
175 41537
176 41537
177 41537
178 41537
179 41537
180 41537
181 41537
182 41537
183 41537
184 41537
185 41537
186 41537
187 41537
188 41537
189 41537
571 ..... 40537, 40853
1106 ..... 41153, 40854

50 CFR
20 41096
28 41105
32 ..... 40519, 40520, 40811, 41105–41108
PROPOSED RULES:
17 40521
216 41531
501 41066

FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

Pages	*Date*
40139–40500	2
40501–40795	3
40797–41070	4
41071–41507	5
41509–41754	8
41755–41988	9

rules and regulations

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Council on Wage and Price Stability

Section 213.3199 is amended to show that the expiration date for Schedule A exception of positions on the Council on Wage and Price Stability has been extended to September 30, 1977.

Effective on September 9, 1975, § 213.3199(r)(1) is revised as set out below:

§ 213.3199 Temporary Boards and Commissions.

* * * * *

(r) *Council on Wage and Price Stability.* (1) Until September 30, 1977, all positions on the staff of the Council.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

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

[FR Doc.75-23832 Filed 9-8-75;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Defense

Section 213.3206 is amended to show that one position of Net Assessment Coordinator is excepted under Schedule B.

Effective on September 9, 1975, § 213.3206(a)(5) is added as set out below:

§ 213.3206 Department of Defense.

(a) *Office of the Secretary.* * * *

(5) One Net Assessment Coordinator.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

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

[FR Doc.75-23833 Filed 9-8-75;8:45 am]

PART 213—EXCEPTED SERVICE

Administrative Office of the United States Courts

Section 213.3272 is amended to show that two positions of Clerks Liaison Officer, GS–13, in the Division of Clerks of Court are excepted under Schedule B.

Effective on September 9, 1975, § 213.3272(c) is added as set out below:

§ 213.3272 Administrative Office of the United States Courts.

* * * * *

(c) Two Clerks Liaison Officers, GS–13, in the Division of Clerks of Court.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

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

[FR Doc.75-23831 Filed 9-8-75;8:45 am]

Title 7—Agriculture

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

[Valencia Orange Reg. 513, Amdt. 1]

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

Limitation of Handling

This regulation increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period Aug. 29–Sept. 4, 1975. The quantity that may be shipped is increased due to improved market conditions for California-Arizona Valencia oranges. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908.

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

(2) The need for an increase in the quantity of oranges available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Valencia Orange Regulation 513 (40 FR 39522). The marketing picture now indicates that there is a greater demand for Valencia oranges than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of Valencia oranges to fill the current demand thereby making a greater quantity of Valencia oranges available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

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

(b) *Order, as amended.* The provisions in paragraph (b)(1)(i), and (ii) of § 908.813 (Valencia Orange Regulation 513 (40 FR 39522)) are hereby amended to read as follows:

(i) District 1: 233,000 cartons;

(ii) District 2: 517,000 cartons.

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

Dated: September 3, 1975.

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

[FR Doc.75-23843 Filed 9-8-75;8:45 am]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

[No. 75-799]

PART 523—MEMBERS OF BANKS

Liquid Assets; Correction

SEPTEMBER 3, 1975.

Federal Register Document No. 75-375, which amended § 523.10 of the Rules and Regulations for the Federal Home Loan Bank System (12 CFR 523.10) and was corrected by Board Resolution No. 75-535 of June 19, 1975 (40 FR 26672, June 25, 1975) is hereby further corrected by the Federal Home Loan Bank Board to set forth § 523.10(g)(4)(iii), as amended, as follows:

§ 523.10 Definitions.

* * * * *

(g) * * *

(4) * * *

(iii) Except for loans of unsecured day(s) funds, such deposits are: (*a*) Negotiable and have remaining periods to maturity of not more than 1 year, (*b*) not negotiable and have remaining periods to maturity of not more than 90 days, or (*c*) not withdrawable without notice and the notice periods do not exceed 90 days;

* * * * *

(Sec. 5A, 47 Stat. 727, as added by Sec. 1, 64 Stat. 256, as amended, Sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1425a, 1437, Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48, Comp., p. 1071)

By the Federal Home Loan Bank Board.

[SEAL] J. J. FINN, *Secretary.*

[FR Doc.75-23929 Filed 9-8-75;8:45 am]

[No. 75-809]

PART 545—OPERATIONS

Loans in Excess of 90 Percent of Value

SEPTEMBER 3, 1975.

By Resolution No. 75-518 (dated June 11, 1975, and published in the FEDERAL REGISTER on June 17, 1975, at 40 FR 25581), the Board amended § 545.6-1(a)(5)(ii) (12 CFR 545.6-1(a)(5)(ii)) to increase from 10 percent to 15 percent the percentage-of-assets limitation for investment in loans under § 545.6-1(a)(5). Said Resolution 75-518 should also have made a conforming amendment to § 545.6-1(a)(5)(iv) (12 CFR 545.6-1(a)(5)(iv)), which refers to the percentage-of-assets limitation in § 545.6-1(a)(5)(ii).

Accordingly, the Federal Home Loan Bank Board hereby corrects Board Resolution No. 75-518 by amending § 545.6-1(a)(5)(iv) to change the reference to the § 545.6-1(a)(5)(ii) percentage-of-assets limitation from 10 percent to 15 percent, as set forth below, effective June 17, 1975.

In view of the corrective nature of this amendment, the Board hereby finds that notice and public procedure as to this amendment are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); since publication of this amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date thereof is in the opinion of the Board likewise unnecessary for the same reason, the Board hereby provides that this amendment shall become effective as hereinbefore set forth.

The text of amended § 545.6-1(a)(5)(iv) is as follows:

§ 545.6-1 Lending powers under sections 13 and 14 of Charter K.

* * * * *

(a) * * *

(5) * * *

(iv) The aggregate of the principal amount of the association's investment in flexible payment loans under this paragraph and paragraph (a)(4) of this section (exclusive of loans with respect to which the unpaid principal balance has been reduced to an amount not in excess of 80 percent of the value or purchase price of the real estate, whichever is less, determined at the time the loans were made) does not exceed 5 percent of the association's assets, which 5 percent shall be included in the 15 percent of assets limitation set forth in paragraph (a)(5)(ii) of this section and in the 30 percent of assets limitation set forth in paragraph (a)(5)(ii) of this section; and

* * * * *

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071).

By the Federal Home Loan Bank Board.

[SEAL] J. J. FINN, *Secretary.*

[FR Doc.75-23930 Filed 9-8-75;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2713]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Commerce Drug Company, Inc. and Del Laboratories, Inc.

Subpart—Advertising falsely or misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.135 Nature of product or service; § 13.170 Qualities or properties of product or service; 13.170-52 Medicinal, therapeutic, healthful, etc; § 13.190 Results; § 13.205 Scientific or other relevant facts. Subpart—Corrective actions and/or requirements: § 13.533 Corrective actions and/or requirements; 13.533-45 Maintain records; 13.533-45(k) Records, in general. Subpart—Misrepresenting oneself and goods—Goods: § 13.1710 Qualities or properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts. Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.2063 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

In the Matter of Commerce Drug Company, Inc., a corporation, and Del Laboratories, Inc., a corporation.

Consent order requiring a Farmingdale, N.Y., producer of vitamins and/or mineral products, and its parent corporation, among other things to cease disseminating unsubstantiated advertisements regarding the efficacy, benefit or need to prospective purchasers of the products.

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

[1] Copies of the Complaint, Decision and Order, filed with the original document.

ORDER

It is ordered, That respondents Commerce Drug Company, Inc. and Del Laboratories, Inc., corporations, their successors and assigns, and their officers, agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of the product Revup vitamins or any vitamin and/or mineral product of Commerce Drug Company, Inc. or Del Laboratories, Inc. do forthwith cease and desist from:

A. Disseminating or causing to be disseminated any advertisement by United States mails or by any means in commerce, as "commerce" is defined in the Federal Trade Commission Act, which represents in writing, orally, visually or in any other manner, directly or by implication, that:

1. The stresses and strains a person undergoes create a condition which will be benefited by consumption of such product;

2. People need such a specially formulated product;

3. Such product is of special benefit to a person or particular group of persons;

4. There is a daily low-energy period in people at any particular time of day, or words of similar import or meaning;

5. Such product will make one feel like a new person, or words of similar import or meaning;

Unless, at the time the statement or representation is made, respondents have a reasonable basis for such representations consisting of competent and reliable evidence.

B. Disseminating or causing to be disseminated by any means, for the purpose of inducing, or which is likely to induce, directly or indirectly, the purchase of any such product in commerce, as "commerce" is defined in the Federal Trade Commission Act, any advertisement containing any representation referred to in Paragraph A above which is not supported by the aforesaid reasonable basis.

It is further ordered, That respondents maintain complete business records relative to the manner and form of their compliance with this order, and shall retain each record for three years after such record is made.

It is further ordered, That the respondents shall forthwith distribute a copy of this order to each of their present and future operating divisions, officers, and directors; and to all present and future agents or representatives engaged in the preparation or placement of advertisements.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporations which may affect compliance obligations arising out of this order.

It is further ordered, That respondents shall, within sixty (60) days after service

upon them of this order, file with the Commission a written report setting forth in detail the manner and form of their compliance with this order.

The Decision and Order was issued by the Commission July 29, 1975.

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-23906 Filed 9-8-75;8:45 am]

[Docket No. C-2685]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Diamond Shamrock Corp.

Subpart — Interlocking directorates unlawfully: § 13.1106 Interlocking directorates unlawfully.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies Sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45; sec. 8, 38 Stat. 732; 49 Stat. 717; 15 U.S.C. 19)

In the matter of Diamond Shamrock Corporation, a corporation.

Consent order requiring a Cleveland, Ohio, energy company, among other things to cease PERMITTING ANY INDIVIDUAL TO SERVE ON ITS BOARD OF DIRECTORS IF SUCH INDIVIDUAL IS OR WOULD BE AT THE SAME TIME A DIRECTOR OF The Standard Oil Company, an Ohio Corporation.

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

ORDER

I. *It is ordered,* That Diamond Shamrock Corporation (Diamond Shamrock), its successors and assigns, do forthwith cease and desist from permitting any individual to serve on its Board of Directors if such individual is or would be at the same time a director of the Standard Oil Company, an Ohio corporation (Sohio).

II. *It is further ordered,* That Diamond Shamrock shall, within thirty days after service of this Order, and annually for a period ending five (5) years thereafter, request from each member of its Board of Directors a written statement which discloses the name, business, and location of operations of each other corporation of which such member is also a director, exclusive of any corporation in which Diamond Shamrock controls, directly or indirectly through subsidiaries, more than 50 percent of the voting stock; exclusive of any corporation which derives annual gross revenues of less than $1,000,000 from exploration, production and sale of natural gas and crude petroleum; and exclusive of any corporation not engaged in "commerce" as defined as Section 1 of the Clayton Act as amended or Section 4 of the Federal Trade Commission Act.

III. *It is further ordered,* That for a period ending five (5) years after service of this Order, Diamond Shamrock shall, at least thirty (30) days prior to any directors' meeting at which one or more directors will be elected or the mailing of proxy statements for any shareholder meeting at which one or more directors will be elected, request from each person who is being considered as a member of its Board of Directors, but has not been a member of the Board of Directors during the previous year, a written statement which discloses the information described in Paragraph II.

IV. *It is further ordered,* That for a period ending five (5) years after service of this Order, Diamond Shamrock shall not permit on its Board of Directors any person who fails to submit a written statement pursuant to Paragraphs II and III, or any person who is a director of another corporation named in response to the statements required pursuant to Paragraphs II and III when said statement reveals or when a reasonably diligent investigation would reveal to respondent that such other corporation is a competitor of Diamond Shamrock by virtue of its business and location of operations in the exploration, production or sale of crude petroleum or natural gas. If compliance with Paragraphs I and IV requires any member of Diamond Shamrock's Board of Directors to resign or to be removed from the Board of Directors of either Diamond Shamrock or such other corporation, Diamond Shamrock shall be allowed a reasonable period of time within which to take any legal or other steps which are necessary to secure compliance with this Order.

V. *It is further ordered,* That Diamond Shamrock notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent which may affect compliance obligations arising out of this Order, such changes to include, but not be limited to, dissolution, assignment or sale resulting in the emergence of a successor corporation.

VI. *It is further ordered,* That respondent Diamond Shamrock shall, within thirty (30) days after service upon it of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order, and shall within sixty (60) days submit copies of those lists provided by all current directors of Diamond Shamrock pursuant to Paragraphs II and III designating all other corporations of which they are directors.

The Decision and Order was issued by the Commission July 17, 1975.

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-23907 Filed 9-8-75;8:45 am]

[1] Copies of the Complaint, Decision and Order, filed with the original document.

[Docket No. C-2692]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

General American Oil Company of Texas

Subpart — Interlocking directorates unlawfully: § 13.1106 Interlocking directorates unlawfully.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45; sec. 8, 38 Stat. 732; 49 Stat. 717; 15 U.S.C. 19)

In the matter of General American Oil Company of Texas, a corporation.

Consent order requiring a Dallas, Texas, energy company, among other things to cease PERMITTING ANY INDIVIDUAL TO SERVE ON ITS BOARD OF DIRECTORS IF SUCH INDIVIDUAL IS OR WOULD BE AT THE SAME TIME A DIRECTOR OF Pauley Petroleum, Inc.

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

ORDER

I. *It is ordered,* That General American Oil Company of Texas (General American), its successors and assigns, do forthwith cease and desist from permitting any individual to serve on its Board of Directors if such individual is or would be at the same time a director of Pauley Petroleum, Inc.

II. *It is further ordered,* That General American shall, within thirty days after service of this order, and annually for a period ending five (5) years thereafter, request from each member of its Board of Directors a written statement which discloses the name, business, and location of operations of each other corporation of which such member is also a director, exclusive of any corporation in which General American controls, directly or indirectly through subsidiaries, more than 50 percent of the voting stock; exclusive of any corporation which derives annual gross revenues of less than $1,000,000 from the exploration, production, and sale of natural gas and crude petroleum; and exclusive of any corporation not engaged in "commerce" as defined in Section 1 of the Clayton Act as amended or Section 4 of the Federal Trade Commission Act.

III. *It is further ordered,* That for a period ending five (5) years after service of this order, General American shall, at least thirty (30) days prior to any directors' meeting at which one or more directors will be elected or the mailing of proxy statements for any shareholder meeting at which one or more directors will be elected, request from each person who is being considered as a member of the Board of Directors, but has not been a member of the Board of Directors during the previous year, a written state-

[1] Copies of the Complaint, Decision and Order, filed with the original document.

ment which discloses the information described in Paragraph II.

IV. *It is further ordered,* That for a period ending five (5) years after service of this order, General American shall not permit on its Board of Directors any person who fails to submit a written statement pursuant to Paragraphs II and III, or any person who is a director of another corporation named in response to the statements required pursuant to Paragraphs II and III when said statement reveals or when a reasonably diligent investigation would reveal to respondent that such other corporation is a competitor of General American by virtue of its business and location of operations in the exploration, production or sale of crude petroleum or natural gas. If compliance with Paragraphs I and IV requires any member of General American's Board of Directors to resign or to be removed from the Board of Directors of either General American or such other corporation, General American shall be allowed a reasonable period of time within which to take any legal or other steps which are necesary to secure compliance with this Order.

V. *It is further ordered,* That General American notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent which may affect compliance obligations arising out of this order, such changes to include, but not be limited to, dissolution, assignment or sale resulting in the emergence of a successor corporation.

VI. *It is further ordered,* That respondent General American shall, within thirty (30) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order, and shall within sixty (60) days submit copies of those lists provided by all current directors of General American pursuant to Paragraphs II and III designating all other corporations of which they are directors.

The Decision and Order was issued by the Commission July 17, 1975.

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-23908 Filed 9-8-75;8:45 am]

[Docket No. C-2693]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Pauley Petroleum, Inc.

Subpart—Interlocking directorates unlawfully: § 13.1106 Interlocking directorates unlawfully.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat 719, as amended; 15 U.S.C. 45; sec. 8, 38 Stat. 732; 49 Stat. 717; 15 U.S.C. 19)

In the matter of Pauley Petroleum Inc., a corporation.

Consent order requiring a Los Angeles, Calif., energy company, among other things to cease PERMITTING ANY INDIVIDUAL TO SERVE ON ITS BOARD OF DIRECTORS IF SUCH INDIVIDUAL IS OR WOULD BE AT THE SAME TIME A DIRECTOR OF General American Oil Company of Texas.

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

ORDER

I. *It is ordered,* That Pauley Petroleum, Inc., (Pauley), its successors and assigns, do forthwith cease and desist from permitting any individual to serve on its Board of Directors if such individual is or would be at the same time a director of General American Oil Company of Texas.

II. *It is further ordered,* That Pauley shall, within thirty (30) days after service of this Order, and annually for a period ending five (5) years thereafter, request from each member of its Board of Directors a written statement which discloses the name, business, and location of operations of each other corporation of which such member is also a director, exclusive of any corporation in which Pauley controls, directly or indirectly through subsidiaries, more than 50 percent of the voting stock; exclusive of any corporation which derives annual gross revenues of less than $1,000,000 from the exploration, production and sale of natural gas and crude petroleum; and exclusive of any corporation not engaged in "commerce" as defined in Section 1 of the Clayton Act as amended or Section 4 of the Federal Trade Commission Act.

III. *It is further ordered,* That for a period ending five (5) years after service of this Order, Pauley shall, at least thirty (30) days prior to any directors' meeting at which one or more directors will be elected or the mailing of proxy statements for any shareholder meeting at which one or more directors will be elected, request from each person who is being considered as a member of the Board of Directors, but has not been a member of the Board of Directors during the previous year, a written statement which discloses the information described in Paragraph II.

IV. *It is further ordered,* That for a period ending five (5) years after service of this Order, Pauley shall not permit on its Board of Directors any person who fails to submit a written statement pursuant to Paragraphs II and III, or any person who is a director of another corporation named in response to the statements required pursuant to Paragraphs II and III when said statement reveals or when a reasonably diligent investigation would reveal to respondent that such other corporation is a competitor of Pauley by virtue of its business and location of operation in the exploration, production, or sale of crude petroleum or natural gas. If compliance with Paragraphs I and IV requires any member of Pauley's Board of Directors to resign or to be removed from the Board of Directors of either Pauley or such other corporation, Pauley shall be allowed a reasonable period of time within which to take any legal or other steps which are necessary to secure compliance with this Order.

It is further ordered, That Pauley notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent which may affect compliance obligations arising out of this Order, such changes to include, but not be limited to, dissolution, assignment or sale resulting in the emergence of a successor corporation.

VI. *It is further ordered,* That respondent Pauley shall, within thirty (30) days after service upon it of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order, and shall within sixty (60) days submit copies of those lists provided by all current directors of Pauley pursuant to Paragraphs II and III designating all other corporations of which they are directors.

The Decision and Order was issued by the Commission July 17, 1975.

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-23909 Filed 9-8-75;8:45 am]

[1] Copies of the Complaint, Decision and Order, filed with the original document.

[Docket No. 8962]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Saxony Pools, Inc. and Simon Sax

Subpart—Advertising falsely or misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.70 Fictitious or misleading guarantees; § 13.135 Nature of product or service; § 13.155 Prices; 13.155–10 Bait; 13.155–35 Discount savings; 13.155–70 Percentage savings; 13.155–100 Usual as reduced, special, etc.; § 13.160 Promotional sales plans; § 13.170 Qualities or properties of product or service; 13.170–30 Durability or permanence; § 13.205 Scientific or other relevant facts. Subpart—Corrective actions and/or requirements: § 13.533 Corrective actions and/or requirements; 13.533–45 Maintain records; 13.533–45(k) Records, in general. Subpart—Disparaging products, merchandise, services, etc.: § 13.1042 Disparaging products, merchandise, services, etc. Subpart—Misrepresenting oneself and goods—Goods: § 13.1647 Guarantees; § 13.1685 Nature; § 13.1710 Qualities or properties; § 13.1740 Scientific or other relevant facts—Prices: § 13.1817 Reductions for prospect referrals; § 13.1825 Usual as reduced or to be increased—Promotional sales plans; § 13.1830 Promotional sales plans. Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.1980 Guarantee, in general; § 13.2063 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

In the matter of Saxony Pools, Inc., a corporation, and Simon Sax, individually and as an officer of said corporation.

Consent order requiring a Linden, N.J., seller and distributor of swimming pools, among other things to cease using bait and switch tactics; misrepresenting prices; misrepresenting their product as "maintenance free"; furnishing false or misleading guarantees.

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

ORDER

It is ordered, That respondents Saxony Pools, Inc., a corporation, its successors and assigns, and its officers and Simon Sax, individually and as an officer of said corporation, and respondents' agents, representatives and employees directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale, distribution or installation of swimming pools or any home improvement product, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using any advertising, sales plan or procedure involving the use of false, deceptive or misleading statements or representations designed to obtain leads or prospects for the sale of other merchandise.

2. Representing directly or indirectly that any products or services are offered for sale when such is not a bona fide offer to sell said products or services.

3. Disparaging any product, installation or service which is advertised or offered for sale by respondents.

4. Representing, directly or by implication, through the use of terms such as special, pre-season, reduced or sale price, or words of similar import and meaning, that a swimming pool or any home improvement product has been reduced in price unless the lower price constitutes a significant reduction from the price at which such merchandise has been sold in substantial quantities by respondents in the recent regular course of business or when the price for such merchandise has not been established by respondents through offering said merchandise for sale in good faith for a substantial period of time in the recent regular course of business; or misrepresenting in any manner that respondents' purchasers or prospective purchasers will be granted reduced prices or will receive discounts, referral fees or allowances of any type.

5. Representing that the swimming pools or any home improvement products sold or offered for sale by respondents are maintenance free, or employing representations of similar meaning and import.

6. Representing directly or indirectly that any of respondents' products, installations or services are warranted or guaranteed, unless the nature and extent of the warranty or guarantee, the identity of the warrantor or guarantor and the manner in which the warrantor or guarantor will perform thereunder are clearly and conspicuously disclosed in immediate conjunction therewith; and unless respondents promptly and fully perform all of their obligations and requirements, directly or impliedly represented, under the terms of each such warranty or guarantee.

7. Representing, directly or by implication, through the use of the term "Lifetime", or through any other phrase or term, that the filter will last for the period of a lifetime or for any other period of time which is in excess of the time period covered by the filter's guarantee or warranty.

8. Representing directly or indirectly that any saving is afforded in the purchase of merchandise from the respondents' retail price unless the price at which the merchandise is offered constitutes a reduction from the price at which said merchandise is usually and customarily sold at retail by the respondents in the recent regular course of business.

9. Misrepresenting in any manner the amount of savings available to purchasers of respondents' merchandise, or the amount by which the price of merchandise has been reduced either from the price at which it has been usually and customarily sold by respondents in the recent regular course of business, or from the price at which it has been usually and customarily sold at retail in the trade area where the representation is made.

It is further ordered, That respondents shall maintain business records adequate to establish that the pricing claims and similar representations of the type referred to in Paragraph 4 of this order constitute a significant reduction from the prices at which such merchandise has been sold in substantial quantities or offered for sale in good faith by respondents for a substantial period of time in the recent regular course of their business.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

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

It is further ordered, That respondents shall forthwith distribute a copy of this Order to all operating personnel, agents or representatives concerned with the promotion, sale, distribution or installation of swimming pools or any home improvement product and secure from each such person a signed statement acknowledging receipt of said Order.

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

The Decision and Order was issued by the Commission July 28, 1975.

CHARLES A. TOBIN,
Secretary.

[FR Doc.75-23910 Filed 9-8-75;8:45 am]

[1] Copies of the Complaint, Decision and Order, filed with the original document.

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-8902]

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

Temporary Rule for ANCSA Corporations

Notice is hereby given that the Securities and Exchange Commission hereby adopts an amendment to temporary rule 6c-2(T) (17 CFR 270.6c-2) under the Investment Company Act of 1940 ("Act") exempting from all provisions of the Act except Sections 9, 17, 36, and 37 (15 U.S.C. 80a-9, 80a-17, 80a-36, 80a-37) corporations organized pursuant to the Alaska Native Claims Settlement Act of 1971 [1] ("ANCSA Corporations" and "Settlement Act," respectively) which register with the Commission pursuant to Section 8(a) of the Act.

Rule 6c-2(T) was adopted by the Commission on February 26, 1974, in the same release as originally proposed Rule 6c-2,[2] and has provided ANCSA Corporations registering with the Commission pursuant to Section 8(a) of the Act substantial interim relief from the provisions of the Act. The Commission declared Rule 6c-2(T) effective as of December 18, 1971, the date of enactment of the Settlement Act, so that ANCSA Corporations registering pursuant to Section 8(a) would not be subject to legal challenge for operating as unregistered investment companies prior to the adoption of the rule. However, the Commission has decided that this purpose may not have effectively been explained, since the rule's retroactive effect was not spelled out in the body of the rule but merely implied by its effective date. To correct this deficiency and to make it clear that registration pursuant to Section 8(a) of the Act is necessary to qualify for the exemptive relief afforded by the rule, the Commission hereby amends Rule 6c-2(T) to provide that all ANCSA Corporations which register pursuant to Section 8(a) will thereby obtain the exemptive relief afforded by the rule as of December 18, 1971, the date of enactment of the Set-

[1] Pub. L. 92-203, 92d Cong. 85 Stat. 688.
[2] Investment Company Act Rel. No. 8251, February 26, 1974.

tlement Act. The proposed permanent rule, Rule 6c–2, will supersede Rule 6c–2 (T), if adopted, but will afford no retroactive relief; ANCSA Corporations registering after the effective date of Rule 6c–2 would be protected, prospectively only, from the date of such registration. Hence, to obtain the relief provided in Rule 6c–2(T) from the date of enactment of the Settlement Act, any ANCSA Corporations which have not yet registered pursuant to Section 8(a) but wish to obtain the retroactive relief afforded by Rule 6c–2(T) should register immediately so as to insure their registration prior to the date Rule 6c–2 takes effect. Such registration will subject the registrant to the more extensive requirements of proposed Rule 6c–2 if that rule is adopted.

The Commission finds that the amendment of Rule 6c–2(T) is appropriate in the public interest and is consistent with the protection of investors and the purposes intended by the policy and provisions of the Act. The Commission further finds in accordance with the provisions of the Administrative Procedure Act[3] that notice of Rule 6c–2(T), as amended, is unnecessary because the terms of substance of the rule have already been given in the notice[4] announcing its original adoption.[5] In addition, since Rule 6c–2(T) is a substantive rule which grants an exemption and the present amendment of the rule is merely a clarification of its meaning and not a substantive change in its provisions, the rule may be made effective immediately.[6]

COMMISSION ACTION

Pursuant to the authority in sections 6(c), 38(a) and 39 of the Act, the Securities and Exchange Commission hereby adopts an amendment to § 270.6c–2 under Part 270 of Chapter II of Title 17 of the Code of Federal Regulations, which is a temporary regulation pending consideration of the Commission's proposal to adopt Rule 6c–2 in permanent form, said temporary regulation, as amended hereby, to read as follows:

§ 270.6c–2 (Rule 6c–2(T)) Temporary exemption for corporations organized pursuant to the Alaska Native Claims Settlement Act of 1971.

Any corporation organized pursuant to the Alaska Native Claims Settlement Act of 1971 ("ANCSA Corporation" and "Settlement Act", respectively) which registers with the Commission in the manner prescribed by Section 8(a) of the Act shall, as of December 18, 1971, be temporarily exempt from all provisions of the Act except Sections 9, 17, 36, and 37 subject to the following conditions: Any company claiming exemptions pursuant to this rule shall file annually with the Commission copies of the reports required by Sections 7(o) and 8(c) of the Settlement Act and shall maintain and keep current the accounts, books and other documents relating to its business which constitute the record forming the basis for such information and of the auditor's certifications thereto. All such accounts, books and other documents shall be subject at any time and from time to time to such reasonable periodic, special and other examinations by the Commission, or any member or representative thereof, as the Commission may prescribe. Such company shall furnish to the Commission, within such time as the Commission may prescribe, copies of or extracts from such records which may be prepared without undue effort, expense, or delay as the Commission may by order require. (Secs. 6(c), 38(a), 39, 54 Stat. 800, 841, 842, 15 U.S.C. 80a–6(c), 80a–37 (a), 80–38).

EFFECTIVE DATE

This temporary rule 6c–2(T) shall become effective on August 22, 1975 retroactive to December 18, 1971, the date of enactment of the Settlement Act.

Information concerning the Commission's proposed Rule 6c–2 is found under the heading "Proposed Rulemaking" elsewhere in this issue of the FEDERAL REGISTER. All interested persons are invited to submit their views and comments with respect to that proposed rule in accordance with the directions contained there.

By the Commission.

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

AUGUST 22, 1975.

[FR Doc.75–23847 Filed 9–8–75;8:45 am]

[3] 5 U.S.C. § 551 et seq. (1970).

[4] Investment Company Act Rel. No. 6251.

[5] See Sections 553(b)(3) and 553(b)(3)(B) of the Administrative Procedure Act.

[6] Section 553(d) of the Administrative Procedure Act provides, in pertinent part, that the required publication of a substantive rule must be made not less than 30 days before its effective date except in the case of a substantive rule which grants or recognizes an exemption or relieves a restriction. Section 553(d)(1).

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

[Docket No. RM75–25; Order No. 533]

PART 2—GENERAL POLICY AND INTERPRETATIONS

Certification of Pipeline Transportation Agreements

AUGUST 28, 1975.

Pursuant to the Administrative Procedure Act, 5 U.S.C. 551, *et seq.* (1967) (APA) and Sections 7, 15 and 16 of the Natural Gas Act (Act),[1] the Commission herein adopts as Section 2.79 of its General Policy and Interpretations, 18 C.F.R. § 2.79, a statement of policy with respect to the transportation by jurisdictional pipelines of natural gas sold by certain producers from the on-shore domain and the off-shore non-federal domain to non-resale industrial and commercial customers for high priority uses. Nothing in this § 2.79 is intended to amend, modify or in any way change any existing rule or regulation.

As we stated in our notice in this proceeding issued April 4, 1975 (40 FR 16220, Apr. 10, 1975, information available to the Commission indicates that pipelines subject to our jurisdiction are experiencing such severe supply shortages that their direct and indirect customers who use natural gas for high priority end uses[2] may be, or already are, subject to curtailment.[3] For example, a report issued November 15, 1974, by our Bureau of Natural Gas predicted increasing supply deficiencies of serious proportions.[4] Subsequent experience has confirmed this prediction.[5] Moreover, recent indications are that the level of pipeline curtailment will continue to increase.[6]

This steady increase in curtailment levels has led to a corresponding increase in the number of petitions filed with the Commission for extraordinary relief. These petitions indicate that a wide variety of commercial and industrial products and processes have been affected by curtailments.[7] We have also observed that many of the petitions for extraordinary relief involve high priority uses for which natural gas is essential. Curtailment of deliveries to customers using gas for such purposes could lead to production cutbacks, plant closings, employee layoffs, and resulting shortages of various products and services. Such shortages could in turn result in increased inflation as consumers offer to pay higher prices for the decreasing supply of goods and services available. Such shortages could also lead to dislocations in industries that depend upon the availability of these products and services. In short, unless supplies of natural gas become available to high priority customers, the adverse effects of curtailment could ripple through the economy to the detri-

[1] 52 Stat. 824, 825, 829, 830; 56 Stat. 83, 84; 61 Stat. 459; 15 U.S.C. 717f, 717n, 717o.

[2] The high priority uses referred to in our notice are the uses of natural gas covered by the highest end use priorities set forth in § 2.78(a) of the Commission's General Policy and Interpretations, 18 CFR § 2.78(a). Specifically, the uses referred to in our notice are Priority 1 uses, Priority 2 uses, and Priority 3 uses that would otherwise have been Priority 2 uses had the gas been purchased on a firm basis.

[3] *See* Notice of Proposed Rulemaking to Adopt Policy Statement With Request For Comments, at 3–4.

[4] FPC News Release No. 20849. The report predicted that net curtailments of firm service for the 1974–75 winter would be 919,384,000 Mcf. This represented 12.87 per cent of firm requirements, an increase of 107 per cent over the actual net firm curtailments experienced during the 1973–74 winter. *Id.* at 3.

[5] The recent gas curtailment report issued by our Bureau of Natural Gas on June 6, 1975, shows, for example, that the actual net firm curtailments for the 1974–75 winter totalled 1,019,203,000 Mcf. FPC News Release No. 21454 at 3. Thus, actual curtailments for the 1974–75 winter not only reached the 919,384,000 Mcf level projected in the November 15, 1974 report, *supra*, note 4, they exceeded the predicted level by 99,819,000 Mcf, or 10.9%.

[6] FPC News Release No. 21454, *supra*, note 5.

[7] See, *e.g.* Notice of Proposed Rulemaking, *supra*, note 3, at 4–6.

ment of numerous businesses and large numbers of employees and consumers.

There may nevertheless be a way for high priority industrial and commercial customers to obtain supplies of natural gas and thus prevent, or at least mitigate, the threatened adverse consequences of deepening levels of pipeline curtailments. As we pointed out in our notice of April 4, high priority customers might be able to buy gas directly from producers. Because such direct sales would not be subject to our rate jurisdiction, high priority customers could compete with the producer's intrastate customers for gas supplies not otherwise available to the interstate market. While the sale would be non-jurisdictional, the transportation of the gas from the producer to the buyer in interstate commerce would be subject to our jurisdiction. Such transportation would require a certificate of public convenience and necessity from the Commission under Section 7 of the Act.

In view of the important role that jurisdictional pipelines would play in such direct sale arrangements, and in further view of the importance of obtaining Commission approval of the transportation of the direct sale gas, we concluded that it might be appropriate for us to issue a statement of policy that would make clear our views on such pipeline transportation arrangements. The need for such a statement of policy is underscored by the fact that in two prior cases in which we denied applications for transportation certificates we may have given the impression that we were predisposed to deny all applications for such certificates, *F.P.C.* v. *Transcontinental Gas Pipe Line Corp.*, 365 U.S. 1 (1961); and *Arizona Public Service Co.* v. *F.P.C.*, — U.S.App.D.C. —, 483 F.2d 1275 (1973). In neither of these cases did we mean to imply that we were, without exception, opposed to the granting of all transportation certificates. On the contrary, our denial of the transportation certificates in *Transco* and *APS* was based upon three factors: (1) the consumer intended to use the gas for boiler fuel—an inferior end use; (2) the pipeline had failed to show that transportation of the gas was not preempting pipeline capacity which would otherwise be available for higher priority uses; and (3) the price of the gas was above the field rates set by the Commission for jurisdictional sales, the effect of which would be a general rise in the field prices, or a reduction in the amount of gas available for customers in the interstate market, particularly for high priority customers. Thus, we recognize that it might be possible for a pipeline to distinguish the *Transco* and *APS* cases and to show that the present and future public convenience and necessity requires certification of a particular transportation arrangement. It was to make our views clear and a matter of public record that we proposed to adopt the policy statement contained in the April 4 notice. By adopting the statement of policy we hoped to encourage high priority customers to explore the possibilities of entering into direct sales contracts with producers and of arranging for transportation of the gas by pipelines subject to our jurisdiction.

In view of the significance of our deliberations, and in view of the possibility that the proposed policy statement might contain disadvantages as well as advantages, we concluded that before deciding to adopt the policy statement we should afford interested parties the opportunity to file comments and suggestions.[8] Approximately 150 persons including senators, congressmen, governors, public agencies, industrial customers, pipelines, producers, consumer groups and private citizens filed comments.[9] After careful consideration of the comments that were submitted, we have concluded that the policy statement should be adopted. Nevertheless, in view of the comments and suggestions we have made several clarifications and modifications.

We shall not attempt to enumerate or discuss each comment received or suggestion made, but shall set forth the comments generally, and our responses thereto. We discuss first those comments which questioned our authority to implement the policy statement and then discuss the comments and suggestions directed to the wisdom of this policy.

The Commission's Authority To Issue And To Implement The Policy Statement

Several persons have questioned our authority to issue, or to implement, the proposed statement of policy. Some of these persons argue that we are required to assert jurisdiction over producer sales to local distributors for resale and to non-resale customers. Failure to regulate these sales, we are told, would constitute deregulation in derogation of our responsibilities under the Act.

Our notice of April 4, 1975, expressly recognized (Mimeo, p. 7) that producer sales to distributors for resale would be subject to our rate regulation. However, for the reasons set forth, *infra*, we have decided not to include direct sales to distributors for resale within the terms of this policy statement. Accordingly, we need not consider such sales further.

Unlike producers' sales for resale which are subject to our rate jurisdiction,[10] producers' sales to non-resale customers are beyond our authority to regulate. Section 1(b) of the Act limits our jurisdiction to sales for resale:

> The provisions of this act shall apply to the transportation of natural gas in interstate commerce, *to the sale in interstate commerce of natural gas for resale* for ultimate public consumption for domestic, commercial, industrial, or any other use, and to natural-gas companies engaged in such transportation or sale, *but shall not apply to any other transportation or sale of natural gas* or to the local distribution of natural gas or to the facilities used for such distribution or to the production or gathering of natural gas.

Consequently, failure to regulate direct sale rates does not constitute unlawful deregulation. This conclusion finds support in several cases decided by the United States Supreme Court. In *Panhandle Eastern Pipe Line Co.* v. *Public Service Commission*, 332 U.S. 507 (1947), the Court unequivocally stated (332 U.S. at 516–17) that:

> Three things and three only Congress drew within its own regulatory power, delegated by the Act to its agent, the Federal Power Commission. These were: (1) the transportation of natural gas in interstate commerce; (2) its sale in interstate commerce for resale; and (3) natural gas companies engaged in such transportation or sale.
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> The omission of any reference to other sales, that is, to direct sales for consumptive use, in the affirmative declaration of coverage was not inadvertant. It was deliberate. For Congress made sure its intent could not be mistaken by adding the explicit prohibition that the Act "shall not apply to *any other* • • • sale • • •." Those words plainly mean that the Act shall not apply to any sales other than sales "for resale for ultimate public consumption for domestic, commercial, industrial, or any other use." Direct sales for consumptive use of whatever sort were excluded.
>
> The line of the statute was thus clear and complete. It cut sharply and clearly between sales for resale and direct sales for consumptive uses. No exceptions were made in either category for particular uses, quantities or otherwise. And the line drawn was that one at which the decisions had arrived in distributing regulatory power before the Act was passed.

This interpretation of Section 1(b) was reiterated by the Court when it cited the above language from *Panhandle* with approval in *F.P.C.* v. *Louisiana Power & Light Co.*, 406 U.S. 621 (1972). Moreover, this interpretation, we submit, forms the basis upon which the Court correctly recognized in *F.P.C.* v. *Transcontinental Gas Pipe Line Corp.*, 365 U.S. 1 (1961) that a direct sale between a producer and a non-resale customer "is not subject to the Commission's jurisdiction except insofar as section 7 requires the Commission to certificate the transportation of gas pursuant to the sale." 365 U.S. at 4.

The Court's recognition in *Transco* that the direct sale there was non-jurisdictional has not, we believe, been undermined by the Court's later decision in *California* v. *Lo Vaca Gathering Co.*, 379

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[8] Since the policy statement has been adopted under our general power of rulemaking set forth in Section 553 of the APA and Section 16 of the Natural Gas Act, its adoption is not subject to requirements of notice and hearing. Section 553(b), (APA). Nevertheless by seeking public comment we have provided a hearing within the meaning of Section 553(c) of the APA. Accordingly, we do not believe it necessary to grant the request for a public conference made by one of the persons commenting on the proposed policy.

[9] A list of those filing comments is attached hereto as Appendix B. Some of these comments were untimely filed. These comments will nevertheless be accepted for filing. Some persons have filed petitions to intervene. We hereby grant these petitions to intervene. Moreover, we will make those persons who filed comments, but did not file separate petitions to intervene, parties to this proceeding. By taking this action we will insure that any person, who is aggrieved by our action today, will have an opportunity to seek judicial review.

[10] *Phillips Petroleum Co.* v. *Wisconsin*, 347 U.S. 672 (1954).

U.S. 366 (1965). The Court in *Lo Vaca* held that a producer's sale to a pipeline under contracts that restricted the use of gas to internal company use was a sale for resale and therefore subject to the Commission's jurisdiction. In reaching this result the Court relied upon the fact that the gas sold by the producer would "flow in a commingled stream with gas from other sources and that at least a portion of the gas will in fact be resold out of Texas." 379 U.S. at 368. The fact that the direct sale gas contemplated by our proposed policy statement may be commingled with resale gas in the transporting pipeline has been seized upon in one of the comments to argue that under *Lo-Vaca* all of the gas transported in the pipeline, including the direct sale gas, must be treated as resale gas subject to our full rate jurisdiction. We have not been persuaded by this argument. The direct sales contemplated by the instant statement of policy are between a producer and a non-resale customer. As such, these sales, unlike the sales in *Lo-Vaca*, are separate nonjurisdictional transactions of a precise amount of gas not-for-resale. As recognized by the Court in *Lo-Vaca*, such separate transactions present an entirely different jurisdictional question than do restricted sales of gas to a pipeline.[11] The gas sold to the pipeline in *Lo-Vaca*, while purchased under contracts which restricted its use to internal company purposes, was in fact commingled with the pipeline's supply thereby increasing the supply of gas available to the pipeline to satisfy its resale obligations. In those circumstances it was, we submit, proper to subordinate the contractual restrictions contained in the gas sale agreements to the requirements of the Natural Gas Act and to treat the gas as jurisdictional gas which had been sold to the pipeline in contemplation of its resale in interstate commerce. On the other hand, the gas to be sold by producers directly to high priority non-resale customers, will not become part of a larger volume of gas that is subject to resale. While this direct sale gas may be temporarily commingled in transit with resale gas, it is commingled solely for the purpose of transportation and never becomes subject to resale. It therefore appears to us that the direct sales contemplated by the instant policy statement are non-jurisdictional and beyond our regulatory control.

It has also been alleged that even if we lack the authority to regulate the direct rate, we nevertheless have a positive duty to deny a pipeline's application for a transportation certificate if the rate paid to the producer is higher than the highest price that the pipeline could lawfully pay to the producer. Closely related to this argument is the allegation that transportation agreements cannot be certificated unless the underlying direct sale rate passes muster under the just and reasonable standard. However, any attempt to impose the rate ceilings applicable to jurisdictional sales on direct sale rates, or to make direct sale rates comply with the just and reasonable standard, would constitute regulation of the direct sale rate and would thus exceed the limitations placed upon our jurisdiction by Section 1(b). *Panhandle, supra; Transco, supra; Louisiana Power & Light, supra.*

This is not to say that we will not consider the direct sale price in determining whether the pipeline's application for a transportation certificate should be granted. In a certificate proceeding under Section 7 we are required by the public convenience and necessity standard to consider all relevant factors. This would certainly include consideration of the direct sale price. Nor do we intend to consider the direct sale price *solely* against price levels in the interstate market. Consideration would also be given to interstate price levels as well as other important considerations. To make it clear that a transportation certificate will not be issued unless the public convenience and necessity standard has been met, we have amended the policy statement to so provide. Thus, the allegation that we have changed the standards for regulating interstate sales or transportation agreements is without merit. Our policy statement is no more than an announcement that we are prepared to exercise powers expressly granted to us by the Act when the record before us demonstrates that such action is required by the public convenience and necessity. We have issued such certificates in the past, and our power to do so has been judicially recognized. *Transco, supra; APS, supra.*

Several persons allege that certification of the transportation of direct sale gas will inevitably result in unlawful discrimination, and that we are therefore precluded as a matter of law from issuing such certificates. The alleged discrimination is essentially of two types. First, we are told that because sales to pipelines and to distributors for resale are subject to Commission established rate ceilings, pipelines and distributors will be unable to compete with non-resale customers for available gas supplies. We are also told that our policy will inevitably discriminate in favor of large non-resale customers, as opposed to small non-resale customers, because the larger customers will be in a better position financially to pay the price necessary to elicit gas supplies. We are not persuaded by these arguments. The Act envisions the issuing of such certificates when Section 1(b) gives the Commission jurisdiction over interstate transportation of gas while at the same time withholding jurisdiction over direct sales in interstate commerce. With respect to the allegation of discrimination against pipelines and distributors, we would point out that neither the Act nor the courts require that a producer's resale customers be accorded preference over non-resale customers. See *Transco, supra*, 365 U.S. at 30–31. This does not mean that a direct sale could never discriminate unlawfully against a sale to a resale customer. Whether such discrimination would result is, however, more properly a question to be resolved in a specific transportation certificate proceeding. With respect to the allegation that our policy would discriminate in favor of large non-resale customers, we would point out that it is by no means an established fact that small non-resale customers will not be in a position to obtain gas supplies. To the extent that it is necessary for the smaller customers to compete with the larger customers we note that successful competition depends upon a number of factors in addition to size of the particular customer including plant location, competitive position of the particular industry, competitive position within that industry, etc. Moreover, as several persons have pointed out, it may be possible for smaller non-resale customers to form joint ventures to compete with larger customers for available supplies. In any event, the question of discrimination between large and small non-resale customers is a matter that is more properly to be raised in a particular certificate proceeding. We recognize, as pointed out by another person, that joint action by smaller customers *may* run afoul of the antitrust laws. Again, however, we would point out that the mere possibility that such consequences may follow from *some* joint actions does not, as a matter of law, prohibit us from adopting or implementing the proposed policy statement. Again, questions of this sort are more appropriately addressed in a specific proceeding. In short, none of the arguments which challenge our statutory authority to adopt the proposed policy statement have persuaded us that we lack such authority, or that we may not in appropriate cases implement the policy.

In a related argument, it was asserted in one of the comments that since gas sold directly to a non-resale customer will not be part of the pipeline's gas supplies, this gas will not be subject to the pipeline's curtailment plan. Therefore, it is alleged that by implementing this policy the Commission will be giving up its power to allocate gas in contravention of its duties under the Natural Gas Act. However, the fact that the gas will not be subject to a pipeline's curtailment plan does not result from any illegal action by the Commission. The Act expressly makes provision for the certification of the transportation of direct sale gas. As already noted, *supra*, neither the Act nor the Courts require the Commission to accord preference to resale customers over non-resale customers. By implementing its policy the Commission will merely be exercising its powers under the Act to certificate the transportation of gas when required by the public convenience and necessity. Whether a particular transportation agreement should be certificated is a question to be decided upon a consideration of all rec-

[11] In this regard, see *United States* v. *Public Utilities Comm'n*, 345 U.S. 295, 317–18; *City of Hastings* v. *Federal Power Comm'n*, 221 F. 2d 31. These cases indicate some of the factors that are relevant to a determination of whether there is in fact a separate direct sale transaction that should be recognized as nonjurisdictional under the Act.

ord facts. We are not as a matter of law precluded from certificating such agreements simply because the gas transported will not be subject to the transporting pipeline's curtailment plan.

In addition to arguing that the proposed policy statement is illegal, one of the persons filing comments suggests that the Commission should make intrastate gas available to the interstate market by either exercising jurisdiction over intrastate rates and/or by allocating *all* gas reserves between intrastate and interstate consumption. The authority to do this, we are told, has by virtue of *Houston East & West Texas Ry. Co.* v. *United States*, 234 U.S. 342 (1914), the so-called *Shreveport Case*, already been given to the Commission in the Natural Gas Act. In *Shreveport* the Supreme Court, in affirming an order of the Interstate Commerce Commission, expressly held (1) that Congress had the constitutional authority to control intrastate charges of an interstate carrier to prevent injurious discrimination against interstate traffic; and (2) that Congress exercised this power when it enacted Section 3 of the Interstate Commerce Act granting the Commission the authority to prevent undue discrimination. It may be that under *Shreveport* Congress has the constitutional authority to control intrastate rates and practices of natural gas companies. However, in enacting the Gas Act Congress did not, as it did in the Commerce Act, exercise whatever constitutional power it had to regulate intrastate rates. Nor did Congress in the Gas Act exercise any constitutional authority to allocate intrastate supplies of gas. The differences between the two acts is striking. As the Supreme Court said in *Shreveport*, the language of Section 3 of the Interstate Commerce Act "is certainly sweeping enough to embrace all the discriminations * * * which it was within the power of Congress to condemn." 234 U.S. at 356. Consistent with this broad grant of authority the Court narrowly interpreted the proviso to Section 3 to withhold from the ICC only the power to regulate *purely* intrastate matters. Those intrastate matters which were injuriously affecting interstate traffic were, on the other hand, found to be within the ICC's control. In contrast, Section 1(b) of the Gas Act, *supra*, expressly states that the Act "shall apply to the transportation of natural gas in *interstate commerce*, to the sale in *interstate commerce* of natural gas for resale * * * *but shall not apply to any other transportation or sale of natural gas* * * *" Unlike the broad grant of authority in Section 3 of the Interstate Commerce Act (as qualified by the narrow terms of its proviso), the grant of authority in Section 1(b) of the Gas Act is clearly a limited grant, limited to transportation and sales *in interstate commerce*. In short, *Shreveport* is distinguishable on its facts as are the other cases cited to support our authority to regulate the intrastate market.[12] We simply do not have the authority under the Gas Act to control intrastate rates or to allocate gas which is not transported or sold in interstate commerce. In any event, the question of the extent of our authority over the intrastate market is entirely beside the point. The question is whether we are authorized to adopt and to implement the proposed policy statement. As shown above, we possess such authority.

Comments And Suggestions

Several of the comments we received indicate that certain points in our statement of policy require clarification. First, it was our intent in proposing the statement of policy, and it is still our intent, that it apply to direct sales by producers to non-resale high priority customers whether those customers (1) were purchasing directly from a pipeline, or (2) were purchasing from a distributor. In other words, the policy is intended to apply to both direct and indirect customers of curtailing pipelines.

The question arises whether the transportation by a local distributor of direct sale gas received from an interstate pipeline for delivery to the non-resale customer may constitute "the transportation of natural gas in interstate commerce" subject to the Commission's jurisdiction under Section 1(b) of the Act. If our jurisdiction extended to this kind of transportation it would be necessary for the local distributor to either (1) obtain an exemption from the provisions of the Natural Gas Act, pursuant to Section 1(c) of the Act and Part 152 of our regulations, 18 CFR §§ 152.1, *et seq.*, or (2) to obtain a certificate from us authorizing such transportation. We believe that the limits of the jurisdiction of this Commission are carefully circumscribed by Section 1(b), which provides in part that the Act shall not apply to "other (than in interstate commerce) transportation" or to "local distribution" of nautral gas. Moreover, the Commission's affirmative grant of jurisdiction extends only to transportation and sale for resale "in interstate commerce." The House report on the Natural Gas Act stated that the "other transportation" and "local distribution" exclusions were "not actually necessary." H.R. Report No. 709, 75th Congress, 1st Session, p. 3. That statement was interpreted by the Supreme Court to mean for purposes of the affirmative grant of jurisdiction that "interstate commerce" terminates at the point at which "local distribution" commences. *East Ohio Gas Co.* v. *F.P.C.*, 338 U.S. 464, 470–1 (1950). See also, *Public Utilities Commission* v. *Landon*, 249 U.S. 236, 244 (1918) ("Interstate movement ended when the gas passed into local mains.")

Unquestionably, local distribution companies engage in transportation *and* sale of natural gas received from interstate commerce on a continuous basis without the necessity of obtaining any authorization from this Commission. We do not consider the transportation by a distribution company contemplated by this policy statement to be jurisdictional. We do not believe that adoption of this policy statement confers jurisdiction when the statute and its history clearly withholds jurisdiction from us. The operative limit on the authority of the Commission is described by the term "interstate commerce" as used by Congress in the Natural Gas Act and interpreted by the Courts. Activity behind the local distribution system is not in "interstate commerce" for purposes of the Natural Gas Act.

We conclude that there is no need for the Commission to require local distribution companies to acquire an exemption under Section 1(b) or certificate under Section 7(c) from this Commission to enable them to engage in the "transportation" to a local customer of natural gas that is transported to the city gate pursuant to the policy expressed in RM75–25.

In our April 4 notice we stated that the proposed policy would apply to the transportation of gas sold directly to high priority non-resale customers for Priority 2 uses or for those Priority 3 uses that would otherwise have been in Priority 2 had the gas been purchased on a firm basis. *See* § 2.78(a) of our General Policy and Interpretations, 18 CFR § 2.78 (a). As we explained in our notice (Mimeo, p. 4), the policy was directed at these customers because natural gas is essential for continued operation of their businesses. To further clarify our original intent, we will amend our proposed policy statement to provide that it will apply only when the direct sale purchasers have no alternate fuel capabilities as defined in § 2.78(c)(10) of our General Policy and Interpretations, 18 CFR § 2.78(c)(10).

Several persons have questioned whether the words "non-federal domain" modify both "on-shore" and "off-shore" or just "off-shore." In proposing the policy statement we intended that it apply to the on-shore domain (whether federal or non-federal) and to the off-shore non-federal domain, *i.e.*, the only domain to which this statement of policy does not apply is the off-shore federal domain. We thought the reason for this restriction was apparent. One of the main goals of our statement of policy is to make gas otherwise sold only in the intrastate market available to the interstate market. The transportation or sale of gas from the off-shore federal domain is by definition transported or sold in interstate commerce. Since gas from the off-shore federal domain is therefore already available to the interstate market, we see no need for making the policy applicable to the off-shore federal domain.

There were several other points which

[12] *Pennsylvania* v. *West Virginia*, 262 U.S. 553 (1923); *West* v. *Kansas Natural Gas Co.*, 221 U.S. 229 (1911); *Louisiana Power & Light Co.*, 406 U.S. 621 (1972).

we were requested to clarify: *e.g.* whether we intended to permit distributors purchasing from a producer to pay a rate in excess of the applicable area or national rate; whether distributors could only purchase for their small commercial Priority 1 customers, or whether they could purchase for their residential Priority 1 customers as well. In view of our elimination of sales by producers to distributors for resale from the operations of the policy statement, *infra*, it is unnecessary to discuss such requests further.

As originally proposed our policy statement was intended to apply to both (1) direct sales by producers to high priority non-resale industrial and commercial customers, and (2) direct sales by producers to local distributors for resale to high priority industrial or commercial customers, or for resale to residential uses. We recognized in our notice of April 4, 1975, that sales to distributors for resale would be jurisdictional and therefore subject to the applicable area or national rate. We further recognized that this might handicap distributors who attempted to make such purchases. Nevertheless, we thought that distributors should be allowed to attempt to enter into direct sales transactions. Numerous comments were received on direct sales to distributors for resale. Some advocated allowing distributors to purchase at rates above the applicable area or national rate, thereby improving their ability to compete with non-resale customers for available gas supplies. We are not prepared to take that course of action. Sales to distributors for resale are jurisdictional sales whose rates are subject to the just and reasonable standard of Sections 4 and 5 of the Act. We are not authorized by the Act to exempt sales to distributors for resale from the operation of Sections 4 and 5. On the other hand, we were urged by a number of persons to exclude sales to distributors for resale from the operation of the proposed policy. These persons argued that since such sales were jurisdictional, the distributors would be in no better position than pipelines presently are to attract gas away from the intrastate market. Accordingly, inclusion of distributors within the terms of the policy statement would merely increase the number of potential purchasers in the interstate market without increasing the chances that additional supplies of gas would be made available to the interstate market. We have been persuaded by this argument. Accordingly, we have eliminated direct sales to distributors for resale from our policy statement.

Many of the comments we have received have supported the policy statement insofar as it applies to direct sales to non-resale high-priority customers. These comments have pointed to the benefits that would follow from such direct sales, not the least of which would be the continued employment of thousands of workers who stand to lose their jobs or be indefinitely laid off because of the increased shortages expected during the coming year, *see supra*. Not only would employment of these workers be protected if the policy statement is successfully implemented, but the production of vital products and essential services could also continue uninterrupted. A number of other benefits may flow from this policy. For example, an increase in the amount of gas available to the interstate market will result in the utilization of unused pipeline capacity with attendant cost benefits to pipelines and their customers. Furthermore, direct sales may result in an increase in producer revenues which would promote increased exploration for, and development of, gas supplies.

Several persons have stated that despite the advantages that might result from the implementation of this policy, it will by no means solve the natural gas shortage in this country. Only deregulation of the wellhead price or regulation of the intrastate market, we are told, could possibly lead to a solution of the gas shortage. As these same persons recognize, however, deregulation of wellhead prices or regulation of the intrastate market are matters for the Congress to decide upon. Until Congress acts on the various proposals now pending before it, it is our duty to deal with the shortages as best we can under the statute as it exists. While we agree that adoption of this policy statement will not solve the gas shortage, as we noted above, it may result in an increase in exploration and development activities with a consequent increase in supplies of gas. Even if new supplies are not discovered, Implementation of the policy statement should, by making intrastate gas available to the interstate market, help mitigate the serious effects that will follow from curtailment of customers who are peculiarly dependent upon natural gas. While this policy statement will not "solve" the natural gas shortage, its implementation should alleviate some of its more serious consequences caused by rigid price ceilings imposed by the Natural Gas Act. Overall implementation of our policy statement will ration gas more efficiently between intrastate and interstate users.

In several comments it has been argued that intrastate customers being much closer to sources of supply will have lower transportation costs and will accordingly be in a position to outbid any interstate customer for available gas. The only result of our policy would allegedly be an increase in gas prices. We cannot agree with this analysis. While such a result is possible, we believe that incremental supplies of gas over and above intrastate demands will be sold to interstate users and that there will be some diversion of natural gas available to the intrastate market.

Another alleged consequence of our statement of policy would be that producers would hold gas off the interstate market that would otherwise be sold to interstate pipelines in the hope of obtaining an outrageous price for the gas. While this possibility exists, it is outweighed, we believe, by the likelihood that instead of withholding gas from the interstate market which is normally available to interstate pipelines, producers will be induced to increase volumes sold in the interstate market. The shortages in the interstate market have reached a level where those customers whose continued operations require natural gas may be required to close down. For us to take no action will, according to the latest curtailment projections, *supra*, result in the curtailment of many of these customers. On the other hand, if our proposed policy is implemented, many customers that would otherwise have been curtailed will be able to obtain gas and to continue their operations. In these circumstances we believe that as a policy matter the availability of increased supplies to the interstate market warrants the risk that some producers might profiteer by withholding gas otherwise available to the interstate market. In this connection, we note that some persons have suggested that if we adopt the policy statement, we should refuse to certificate the transportation of direct sale gas which would otherwise have been available to the interstate market. Such action would be intended as a deterrent to the withholding of gas from interstate pipelines for sale directly to non-resale customers. Along these lines one person has suggested that certification of the transportation of direct sale gas should be granted only upon (1) a showing that the producer has offered to sell the gas to an interstate buyer for resale and that potential buyer has refused to purchase the gas, or (2) a showing that the buyer has agreed to purchase the gas on terms which the Commission subsequently refused to certificate. This latter suggestion is, we believe, overly restrictive. If adopted, its effect would be that the *only* direct sale gas covered by our policy would be gas otherwise available to the interstate market, but which for a number of reasons never entered the interstate market. Such a restriction would completely exclude from the operation of the policy all gas which had never been offered to an interstate resale purchaser. This would frustrate a major goal of our policy, namely, the inducement of sales to interstate consumers of gas which has otherwise been sold in the intrastate market. We therefore reject this suggestion. Nevertheless, we are concerned that gas that would otherwise have been sold in the interstate market will be withhold from interstate resale purchasers. This is not to say that we will in all cases deny certification of the transportation of direct sale gas when it can be shown that this gas would otherwise have been sold in interstate commerce for resale. This would be only one of the factors to be considered in a certificate proceeding, *see Transco, supra*. Nevertheless, such a fact, if it could be established on the record in a particular case, would be an important factor to be considered.

Several persons argue that the proposed policy statement should not be adopted because it results in discrimination against interstate pipelines and against smaller non-resale customers who attempt to enter into direct sales transactions with producers. We have treated these same objections earlier, when we addressed challenges to our statutory authority to issue and to im-

plement the proposed policy statement. While the instant objections challenge the wisdom of our policy and not its legality, we believe that the same responses we gave earlier in addressing challenges to our statutory authority to issue and to implement the policy are applicable here. See, *supra*. Several distributors have also complained that if this policy is implemented they will be adversely affected by a decrease in the amount of gas they sell with a corresponding loss of revenue. We are not persuaded by this argument. As the policy statement expressly states, it applies only to direct purchases by customers who are curtailed because of curtailments by interstate pipeline suppliers. It is the curtailment by a jurisdictional pipeline, not the policy statement, that is responsible for a distributor's loss of sales. By implementing the policy statement the load of a distributor who delivers direct sale gas to the purchaser will be increased, together with the distributor's revenues for transporting the gas.

A number of comments submitted to us express basic agreement with our proposed policy. They object only to the restrictions that are contained therein. Some persons have urged us to expand the scope of the policy to include sales from the off-shore federal domain. This, we are told, would be an incentive to further exploration and development of this area. We are not persuaded that such an incentive is needed at this time. Moreover, one of the main goals of our policy is to increase supplies available to the interstate market from the unregulated intrastate market. Since gas produced in the off-shore federal domain is already available to the interstate market, we feel it is unnecessary to include the off-shore federal domain within the scope of this policy to achieve our goal.

Several comments suggest that we make the policy applicable to lower priority customers than the Priority 2 and 3 customers set forth in our April 4 notice. We will not preclude the filing of applications for transportation of gas sold directly to such lower priority customers. It may be that in particular circumstances the certification of such transportation would be required by the public convenience and necessity. On the other hand, as a matter of general policy we are not persuaded that direct sales for lower priority uses would be in the public interest or should be encouraged. Accordingly, we deny the request to expand our policy to include transportation of gas sold directly to lower priority customers.

Nor will we expand the policy to include direct sales to Priority 1 purchasers. Again, transportation of gas sold directly to certain of these customers may be in the public interest. However, the exceedingly large number of residential and small commercial customers that might try to take advantage of such a policy, convinces us that further study is necessary before expanding the policy to include these customers. Moreover, statistics available to us, *supra*, seem to indicate that service to Priority 1 customers has not been imperiled to the degree that it has for Priority 2 and 3 customers. As with lower priority customers we will neither preclude the filing of applications for transportation certificates covering gas sold directly to Priority 1 customers, nor will we expand the policy to include these customers.

In addition to requesting the inclusion of direct sales to Priority 1 consumers within the terms of our policy, we have been asked to take a number of other steps to protect service to Priority 1. A number of persons have suggested that we condition any transportation certificates we may issue to provide that in periods of emergency the direct sale gas must be given to Priority 1 customers. Consideration of this proposal is premature. We therefore take no position with respect to it. Ample opportunity will be available in specific certificate proceedings to consider such actions. In any event, protection will be afforded to Priority 1 customers by the fact that we will monitor the operation of our policy to determine whether it is having an injurious effect on service to Priority 1 customers. In addition to other data available to us, we will also be able to use the data submitted to us as part of each certificate application, as well as data we will require to be filed with us monthly by the transporting natural gas company (*infra*), to evaluate the effect of our policy on Priority 1 consumers. Finally, to protect Priority 1 customers we will limit any transportation certificate we issue to a maximum term of two years which will cover two successive heating seasons.

It has also been suggested that the policy be amended to include direct sales to pipelines or to distributors for their own use. We note first of all that if gas sold directly to a pipeline for its own use were commingled with the pipeline's resale gas, under the doctrine of *Lo Vaca, supra*, such sales to the pipeline would be sales for resale and subject to our rate regulation. Under these circumstances, we see no purpose in including gas used directly by pipelines within our statement of policy. Moreover, we are concerned that including gas sold directly to pipelines or distributors for their own use may only free up gas otherwise used for these purposes for sale to low priority customers. We therefore decline to make the policy applicable to direct sales to pipelines or distributors for their own uses.

Several comments have been directed to subparagraph (d) of the proposed policy (now subparagraph (e)) which restricts application of the policy to existing customers whose deliveries are curtailed because of curtailments by their jurisdictional pipeline suppliers. As explained in our notice (Mimeo, p. 10), this restriction was intended to make it clear that gas covered by our policy was not to be used "to supply a new plant or new customers or to increase the volumes of gas that such plants or customers would have received had they not been curtailed as a result of curtailments by their jurisdictional pipeline supplier." Several persons have nevertheless argued that the policy should be expanded to apply to the transportation of gas which is in addition to the gas they would receive from their pipeline supplier in the absence of curtailment. This suggestion must be rejected. We recognize that it might be possible in certain circumstances to show that the public convenience and necessity requires the transportation of direct sale gas in addition to volumes presently being received by a customer from a jurisdictional pipeline. We further recognize that in certain circumstances the public convenience and necessity might require the transportation of direct sale gas to new plants. Our purposes in issuing this statement of policy are, however, limited to the protection of existing service. We reserve for future consideration the question of whether our policy should be expanded in the manner requested.

We recognize that our decision to certificate only the transportation of direct sale gas used to offset curtailed volumes may present some practical problems. Producers may be unwilling to make direct sales of volumes which fluctuate with the levels of curtailment. There may be practical problems in transporting and delivering direct sale volumes which replace, but do not exceed, a direct sale customer's level of curtailment. The parties to such a direct sale transaction—the producer; the transporting pipelines; the local distributor if any; and the nonresale customer—are, we believe, in the best position to consider, in the first instance, how these details should be worked out. Accordingly, we will not attempt to dictate how such transactions should be structured. These details should and will be considered in specific transportation certificate proceedings. However, in those cases in which arrangements cannot be made to vary the volumes of direct sale gas being transported as curtailment levels of eligible Priority 2 or 3 categories fluctuate, we will take the necessary steps to insure that the gas transported pursuant to any transportation certificate we issue is used solely to offset the curtailment of Priority 2 or 3 gas covered by this policy. To this end, we have amended our proposed policy to provide that it will be our policy in such situations to issue transportation certificates upon the condition that the purchaser agree to reduce his takes under the curtailment plan of his existing pipeline supplier to the extent that the volumes of gas transported under the transportation certificate exceeds the volume of curtailment experienced by that customer in the eligible Priority 2 or 3 categories.

While our proposed policy was restricted to customers who are being curtailed, we did not mean to preclude those customers who have not yet been curtailed but who stand in imminent danger of being curtailed. No useful purpose would be served by refusing to certificate the transportation of direct sale gas until curtailment had begun, plants had been closed and employees thrown out of work.

Accordingly, we have amended our proposed policy to apply to those high priority customers who are in imminent danger of curtailment.

A number of persons have suggested that we expand the policy to include the interstate transportation of gas sold directly to non-resale customers by intrastate pipelines or by intrastate industrial users. We decline to follow this suggestion. Inclusion of such sellers might, we fear, provide an incentive for intrastate pipelines and intrastate industrial customers to tie up as much intrastate gas as possible for direct sales to interstate non-resale customers. We also decline to expand the policy to include the transportation of gas which is produced by the industrial consumer itself. Our purpose in adopting the instant policy statement was to encourage producers who would otherwise sell in the intrastate market to sell in the interstate market. If this attempt proves to be successful, it will be unnecessary to encourage for gas consumers to engage in their own gas production activities. In any event, further study of this proposal is necessary before we adopt the suggested modification.

We have received several comments which are critical of our decision to exclude direct sales by affiliates or producing divisions of jurisdictional pipelines. Such sales were excluded because the corporate relationship between jurisdictional pipelines and their affiliates or producing divisions often provides a strong incentive to sell available gas to the pipeline for resale in the interstate market. Moreover, interstate pipelines should not be induced to divert their production at higher prices to industrial users. Pipeline production should be a stabilizing influence on prices to interstate buyers. If we were to expand our policy to include their own production, pipelines would be hoist with their own petard. We therefore feel it is unnecessary to provide further incentives to affiliates and producing divisions.

In issuing this statement of policy we recognize that several of the pipelines that filed comments indicated their opposition to transporting direct sale gas. Several of the persons commenting on this problem suggested that it might be necessary to secure the pipeline's consent to transport the gas by either offering the pipeline a percentage of the gas transported, or by threatening the pipeline with various Commission sanctions. We decline to discuss incentives or sanctions any further at this time. We anticipate that specific cases will provide us with ample opportunity to consider these matters further.

General Comments

As we have repeatedly stated in our April 4 notice and in the instant order, the new § 2.79 which we adopt today is merely a statement of policy. Whether a transportation certificate is issued will depend upon whether the record in each case demonstrates that the present and future public convenience and necessity requires certification. All relevant factors will be considered in each certificate proceeding. In view of the seriousness of the shortages predicted for this coming winter we will make every effort to process applications for transportation certificates as expeditiously as the requirements of due process permit. However, we will not, as one party suggested, use the data contained in Form 45 [12] as conclusive evidence of the price of gas on the intrastate market for purposes of determining whether the contract price in direct sales made under the proposed policy should be permitted. While such use of the Form 45 data could expedite the certificate proceedings, and while we do not preclude use of this data in these proceedings, we are not prepared to decide at the present time that the interest in expediting consideration of certificate applications outweighs the interest of allowing other evidentiary presentations on the intrastate price level.

The attached table (Appendix A hereto) provides an indication of the quantity of natural gas which could qualify for transportation under this policy. The four pipeline systems shown there represent approximately 25 percent of the total interstate natural gas pipeline deliveries. The pipelines are Texas Eastern Transmission Corporation, Panhandle Eastern Pipe Line Company, Transcontinental Gas Pipe Line Corporation, and Columbia Gas Transmission Corporation, and serve a large portion of the industrial economy of the southeast, midwest, and eastern United States. The study shows that a total volume of 450 Bcf of curtailment is projected by these four pipelines to high priority industrial consumers for the twelve months ending March 1976. The 450 Bcf in priorities 2 and 3 amounts to 10.7 percent of the total system firm requirements of these companies of 4.2 Tcf for that period.

Based on normal winter conditions and normal demands for natural gas projected as of April 1975, anticipated curtailments of high priority industrial consumers on these four pipeline systems, range from 74 to 94 percent for the forthcoming winter heating season, November 1975, through March 1976. Unless this winter is warmer than normal or the nation's industrial economy continues to be sluggish with respect to fuel demand, these data indicate that substantial industrial dislocation may result if projected curtailments levels are actually affected.

The attached table, Appendix A, indicates that the potential volume of natural gas to be curtailed from these high priority industrial consumers by four major interstate pipelines will approximate 450 Bcf annually. While only a fraction of industrial requirements in Priorities 2 and 3 may be supplied by implementation of our policy, we believe that the value of incremental supplies to the interstate market for these high priority users will be substantial and will mitigate the economic consequences of curtailment. Many of the industrial consumers making up the total are small volume consumers and would probably encounter difficulty in arranging purchases from producers for these limited quantities. Other industrial consumers may have already converted to alternate fuels as a result of the gas shortage. Moreover, the availability of intrastate supply to the interstate market will become more limited as industrial economic recovery accelerates. There are also time constraints between the adoption of this policy and the coming winter which will further limit the application of the policy. Furthermore, it does not appear that other interstate pipeline systems will exhibit as severe a level of curtailment as the four shown here, and thus would not qualify under this policy unless an emergency can be demonstrated with respect to curtailment of high priority industrial consumers.

The policy is admittedly experimental and requires empirical evidence of its merits in specific applications and trial before we can determine whether the public convenience and necessity demands the policy be made permanent. *Permian Basin Area Rate Cases*, 390 U.S. 747 at 772 (1968); *F.P.C.* v. *Texaco, Inc.*, 417 U.S. 380 at 392–393 (1974); *Mobil Oil Corp.* v. *F.P.C.*, 417 U.S. 283 at 331–332 (1974). If, upon review, it appears that the policy has not resulted in the attraction of incremental gas supplies to meet the demands of the interstate market and to avert an imminent crisis in the winter of 1975–1976, we will revise or abandon the experiment.

To insure that we will have the necessary data to evaluate each certificate application, we have modified our proposed policy by requiring the submission of specific data in addition to any other information submitted in support of the application. It will also be our policy to attach appropriate conditions to any certificates we issue requiring the periodic submission of relevant data. This latter requirement will not only enable us to review the effect of our policy, but will insure that gas transported pursuant to any transportation certificates we issue will be used only for high priority uses.

Summary

We emphasize that the implementation of this policy statement will not avert the shortfall of deliverable natural gas supplies, it will serve only to mitigate to a limited extent imminent and deepening curtailments of natural gas service. It is also essential that the supply of substitutable fuels and refined products be improved and sufficient quantities be made available to high priority industrial users which are unable to secure commitments of deliverable gas supplies for this forthcoming winter. This policy statement will not be implemented in a manner that will allow industrial customers to absorb all available onshore supplies of natural gas at the expense of the interstate pipelines, which must continue to

[12] Order No. 521 (issued January 9, 1975), No. 521–A (issued February 19, 1975) and No. 521–B (issued March 17, 1975), established Form 45 as part of a data collection system to investigate rates for non-jurisdictional sales by jurisdictional companies.

seek supplies for higher priority users and customers that do not have practical ability to utilize this procedure. Close attention must be accorded the question of whether a particular certification would result in diversion of gas from the interstate pipeline systems.

In summary, the application of this order will be limited as follows:

(1) Those persons who may purchase natural gas supplies pursuant to this order are commercial and industrial customers whose requirements are "large commercial requirements (50 Mcf or more on a peak day), [and] firm industrial requirements for plant protection, feedstock and process needs" classified as Priority 2 and 3 (only if such uses would be classified as Priority 2 if such purchase was not made on an interruptible basis) under § 2.78 (18 C.F.R. §§ 2.78(a) (2), (3)) for which there is no technically feasible alternate fuel (18 C.F.R. § 2.78(c) (10)).

(2) Certificated transportation will be authorized only for purchases for existing plants within the limits of delivery volumes below contract amounts between the purchaser and the transporting pipeline or the distributor, or volumetric requirements of the purchaser, whichever is lower.

(3) The industrial customer must reduce its takes under the curtailment plan of the transporting pipeline from day to day to the extent that the gas transported under RM75–25 exceeds the amount of curtailment experienced by that customer in the eligible Priority 2 and 3 categories.

(4) The industrial or commercial customer must actually be curtailed by its pipeline supplier (if a direct sale customer) or distributor (if a behind the city-gate customer) or must reasonably anticipate curtailment during the 1975–1976 winter heating season.

(5) The purchasers must file with this Commission in support of the transporting pipeline's application for a certificate of public convenience and necessity its gas purchase contracts including a concise summary of the terms of those contracts as to the price to be paid, the volumes to be delivered, the uses for which this gas will be consumed, and such other terms of the contract as may affect the public interest.

(6) The transporting pipeline must be curtailing deliveries of natural gas to its customers and have available unused capacity to transport natural gas supplies committed by eligible contracts executed between an industrial or commercial customer and an independent gas producer under the terms of this order.

(7) The transporting pipeline must file for and obtain a certificate of public convenience and necessity as issued by the Commission to transport the gas committed to purchases under this order.

The adoption and implementation of this order and policy statement will help achieve the goals of the Employment Act of 1946 to "promote free competitive enterprise and the general welfare, conditions under which there will be afforded useful employment opportunities, including self-employment, for those able, willing, and seeking to work, and to promote maximum employment, production and purchasing power" [14] as well as the current objectives of the Congress and the Administration to increase productivity, to reduce inflation, and to alleviate unemployment.

Conclusion

We believe the Natural Gas Act empowers the Commission to issue this policy statement and to take implementing action thereunder. However, we are also mindful that our actions will probably be appealed through the Federal court system for further review. In the meantime the implementation of our policy may be placed in jeopardy at a crucial time to secure incremental gas supply for the interstate market to avert a potential calamity to our economic welfare this winter. Accordingly, we have submitted to the Speaker of the House and the President of the Senate a proposed draft bill basically declaratory of the policy herein expressed to eliminate any uncertainty generated by appeals as to our powers under the Natural Gas Act to take implementing action pursuant to our policy statement.[15]

The Commission further finds: (1) The notice and opportunity to participate in this proceeding with respect to the matters presently before the Commission through the submission, in writing, of data, views, comments and suggestions in the manner as described above are consistent and in accordance with all procedural requirements therefor as prescribed in Section 553, Title 5 of the United States Code. Since the amendment prescribed here does not prescribe an added duty or restriction, compliance with the effective date requirements of 5 U.S.C. 553(d) is unnecessary.

(2) The amendment of Part 2, General Rules of Practice and Procedure, General Policy and Interpretations, Subchapter A, Chapter 1, Title 18 of the Code of Federal Regulations, § 2.79, Policy With Respect To Pipeline Transportation Agreements, as herein prescribed, is necessary and appropriate for the administration of the Natural Gas Act.

(3) Since the modifications to the amendments prescribed herein which were not included in the notice of this proceeding are of a minor nature, and are consistent with the prime purpose of the proposed rulemaking, further notice thereof is unnecessary. However, to insure that all those persons who commented on our proposed policy (see Appendix B hereto), are given an adequate opportunity to comment further on the modifications made herein, we will forward copies of this order to them.

The Commission, acting pursuant to the provisions of the Natural Gas Act, as amended, particularly Sections 7, 15 and 16 thereof (52 Stat. 824, 825, 829, 830; 56 Stat. 83, 84; 61 Stat. 459; 15 U.S.C. 717f, 717n, and 717o) *orders:*

(A) Part 2 of the Commission's General Rules of Practice and Procedure, General Policy and Interpretations, Subchapter A, Chapter I, Title 18 of the Code of Federal Regulations is amended by adding new § 2.79, as follows:

§ 2.79 Policy with respect to certification of pipeline transportation agreements.

(a) The national interest in the protection of natural gas service to consumers who use natural gas for high priority end uses during periods of curtailed deliveries by jurisdictional pipeline companies will be served by the Commission's accepting for filing and approving, if required by the present or future public convenience and necessity, applications for certificates of public convenience and necessity filed by natural gas companies to transport gas sold by producers of natural gas from both the onshore domain (both federal and nonfederal) and/or the off-shore non-federal domain directly to non-resale industrial and commercial customers for Priority 2 uses or for those Priority 3 uses that would otherwise have been in Priority 2 had the gas been purchased on a firm basis.

(b) As used in this section, the term "natural gas company" is used to refer to any person engaged in, or who proposes to engage in, the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission under Section 1(b) of the Natural Gas Act and which has available unused capacity to transport such natural gas.

(c) As used in paragraph (a) of this section, Priorities 2 and 3 uses refer to the uses covered by Priorities 2 and 3 as set forth in § 2.78 of the Commission's General Policy and Interpretations, § 2.78 (a) for which there exists no alternate fuel capabilities, as defined in § 2.78(c) (10).

(d) This policy is not intended to apply to gas which is already committed to jurisdictional pipelines under an advance payment plan, or to gas sold by an affiliate of a jurisdictional pipeline, or to gas sold by a producing division of a jurisdictional pipeline.

(e) This policy is intended to apply only to those existing industrial and commercial consumers whose deliveries for the high priority uses specified in paragraph (a) of this section are curtailed because of curtailments by their jurisdictional pipeline supplier, or whose deliveries for such high priority uses are subject to imminent curtailment because of curtailments by their jurisdictional supplier, when no other reasonable method of averting an emergency exists; *provided* that, unless authorized to the con-

[14] 60 Stat. 23 (1946); 15 U.S.C. 1021 (1970).

[15] Industries investing funds in securing committed gas supplies from independent producers under initiatives necessarily required to be taken forthwith to cope with the exigencies of limited gas supplies are entitled to Congressional sanction of the emergency actions undertaken by industrial users in reliance upon the validity of our interpretation of the Natural Gas Act.

trary pursuant to paragraph (f) of this section, the volume which is transported shall be the lesser of existing contract quantities, or existing requirements, for high priority uses described in paragraph (a) of this section; *provided further,* That the gas which is transported shall not be used directly or indirectly to supply uses other than the high priority uses specified in paragraph (a) of this section.

(f) In those cases in which arrangements cannot be made to vary the volumes of gas transported as the level of curtailment of gas used for the high priority purposes specified in paragraph (a) of this section fluctuates, it will be our policy to issue transportation certificates upon the condition that the non-resale industrial or commercial consumer agree to reduce the volumes he would receive under the curtailment plan of his existing natural gas supplier(s) for the high priority uses specified in paragraph (a) of this section to the extent that the volumes of gas transported under the transportation certificate exceeds the volumes of curtailment experienced by that customer in the eligible Priority 2 or 3 categories.

(g) All applications for a transportation certificate must be accompanied by the following information in addition to any other information submitted in support of the application:

(1) Pipelines transporting gas pursuant to this policy must:

(i) Indicate volumes to be transported on a peak day, average day and annual basis;

(ii) Indicate the pipeline capacity available to perform the transport service on a peak day, average day and annual basis;

(iii) Indicate the impact of the proposed transport on the pipeline's ability to provide systemwide deliveries for Priority 1 requirements;

(iv) Provide a copy of the proposed transportation agreement, indicating the proposed transportation rate together with a breakdown and justification of the proposed rate level. Include therein, a comparison of existing transportation rates for comparable services;

(v) Provide a detailed explanation as to why the subject natural gas supply was not secured as part of the pipeline's system gas supply;

(vi) Provide an analysis as to how the gas transported will modify curtailments during the period of the proposed transport to the direct industrial consumer and/or the distributor customers involved in the transaction;

(vii) Indicate the distributor's capacity to perform the transport service on a peak-day, average-day, and annual basis through the distribution system to the non-resale high priority industrial or commercial customer whose gas is being transported pursuant to this policy statement.

(2) Non-resale industrial and commercial consumers whose gas is transported pursuant to this policy must:

(i) Indicate volumes of natural gas to be purchased under the proposed transport on a peak day and average day for each month of the proposed transport period;

(ii) Indicate the proposed end-use of such consumption by end-use priorities contained in § 2.78(a) for each month;

(iii) Indicate the total end-use requirements for natural gas at the plant location which the transport gas will be used;

(iv) Indicate the availablity of other sources of natural gas at this location. Specify daily contract volumes, type of contract and anticipated availability of natural gas from each source for the transport period and the end-use thereof;

(v) Provide a copy of the gas purchase contract with the producer underlying the proposed transport;

(vi) Provide a detailed description of the nature of the emergency necessitating authorization of the proposed transportation including but not limited to the curtailment anticipated with respect to each priority of end-use at the plant.

(3) The information required by paragraph (g)(2)(i–vi) of this section may be supplied by the applicant for a transportation certificate through submission of an appropriate affidavit from the non-resale industrial and commercial consumer whose gas is transported pursuant to this policy.

(h) It will be our policy to attach as a condition to any transportation certificate we issue the following conditions:

(1) For each certificated transportation arrangement the transporting natural gas company shall submit a monthly report to the Commission indicating the name of the producer, the point of delivery from the producer, the volumes transported, the point of delivery to the distributor and/or non-resale industrial or commercial consumer, the name of the distributor and/or ultimate non-resale industrial or commercial consumer.

(2) Each non-resale industrial or commercial consumer must provide the transporting natural gas company with a monthly report which shall be transmitted by the natural gas company to the Commission as an attachment to the report described in paragraph (h)(1) of this section. The report required by this subsection must contain the amount of natural gas consumed during the month covered by the report, the end-use of such consumption according to the end-use priorities contained in § 2.78, the amount of natural gas consumed from other sources during the month, the end-use of the gas from those other sources together with a list of those other sources.

(i) Any transportation certificate we issue pursuant to this statement of policy will be limited to a maximum term of two years which will cover two successive heating seasons.

(j) Nothing in this § 2.79 is intended to amend, modify, or in any way change any existing rule or regulation.

(B) The amendment provided for herein shall be effective as of the date of issuance of this order.

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

Commissioner Springer, dissenting, filed a separate statement.[10]

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[10] Filed as part of the original document.

APPENDIX A.—*Projected priority 2 and 3 requirements and curtailments April 1975 through March 1976*

Pipeline company	Total system requirements (1,000 M ft³)	Priority 2			Priority 3 [1]			Priority 2 and 3		
		Requirements (1,000 M ft³)	Percent of total requirements (3)÷(2)	Curtailment (1,000 M ft³)	Requirements (1,000 M ft³)	Percent of total requirements (6)÷(2)	Curtailment (1,000 M ft³)	Requirements (1,000 M ft³)	Percent of total requirements	Curtailment (1,000 M ft³) (5)+(8)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
Texas Eastern Transmission Corp.[2]	919,292	314,699	34.2	131,818	7,290	0.8	7,290	321,989	35.0	139,108
Panhandle Eastern Pipe Line Co.[3]	799,912	236,687	29.6	39,787	26,379	3.3	16,034	263,066	12.9	55,771
Transcontinental Gas Pipe Line Corp.[4]	1,038,871	194,864	18.8	71,682	8,426	0.8	8,426	203,290	19.6	80,108
Columbia Gas Transmission Corp.[5]	1,435,714	373,422	26.0	173,673	1,854	0.1	1,854	375,276	26.1	175,617
Total	4,193,789	1,119,672	26.7	417,000	43,949	1.0	33,604	1,163,621	27.7	450,604

[1] Estimated priority 3 use which would otherwise have been considered in priority 2 had the gas been purchased on a firm basis.
[2] Serves Alabama, Arkansas, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, New Jersey, New York, Ohio, Pennsylvania, and Tennessee.
[3] Serves Illinois, Indiana, Kansas, Michigan, Missouri, Ohio, Oklahoma, Texas, and Ontario Province, Canada.
[4] Serves Alabama, District of Columbia, Georgia, Maryland, Mississippi, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, and Virginia.
[5] Serves Kentucky, Maryland, New Jersey, New York, Ohio, Pennsylvania, Virginia, and West Virginia.

Source: FPC form 16 and evidence in existing curtailment proceedings.

APPENDIX B

Agway, Inc.
American Ocean Tile Company, Inc.
American Textile Manufacturers Institute, Inc.
The Anaconda Company
Anheuser-Busch, Inc.
Armco Steel Corporation
The Babcock & Wilcox Company
Berry Energy Consultants & Managers, Inc.
Senator Joseph R. Biden
Keith C. Brown, Associate Professor of Economics, Purdue University
Raul H. Castro, Governor of Arizona
CF Industries, Inc.
CF&I Steel Corporation
Chevron Chemical Company
Chicago Bridge & Iron Company
Cooperative Federee de Quebec
Corning Glass Works
James Edwards (Governor of South Carolina)
E. I. du Pont de Nemours & Company
Woodrow R. Eshenaur
Farmers Chemical Association, Inc.
Farmers Petroleum Cooperative, Inc. and Farm Bureau Services, Inc.
FOX, Inc.
Felmont Oil Corporation and Agway, Inc.
The Fertilizer Institute
Ford Motor Company
FS Services, Inc.
Gardinier, Inc.
The Gem City Engineering Co. (James R. Bramlage)
General Motors Corporation and NABISCO, Incorporated
Georgia Pacific Corporation
Glen-Gery Corporation
Gold Kist, Inc.
Grocery Manufacturers of America, Inc.
GTE Sylvania Incorporated
Thomas J. Haas
Hoeganaes Corporation
Holland Manufacturing Company
Indiana Farm Bureau Cooperative Association, Inc.
Intermountain Farmers Association
Jones & Laughlin Steel Corporation
Joint Energy Task Force of the Mohawk Valley Association for Progress and the Greater Rome Area Chamber of Commerce
Joint Energy Task Force of the Manufacturers Association of Syracuse and the Greater Syracuse Chamber of Commerce
Thomas H. Jenkins
Kraftco Corporation
Land O Lakes, Inc.
Robert Le May Associates-Consultants
Marvin Mandel (Governor of Maryland)
Maryland Group of Industrial Consumers of Natural Gas
Monsanto Company
National Distillers and Chemical Corporation
Eric Noble
Ohio Farm Bureau Federation, Inc.
The Ohio Farmers Grain and Supply Association
Ohio Manufacturers' Association
Owens-Corning Fiberglas Corporation
Owens-Illinois, Inc.
Phoenix Steel Corporation
The Pilgrim Glass Corporation
Pittsburgh Tube Company
PPG Industries, Inc.
The Refractories Institute
Reynolds Metal Company
James A. Rhodes (Governor of Ohio)
Southern States Cooperative, Inc.
Standard Steel
Stauffer Chemical Company
Tennessee Farmers Cooperative
Terra Chemicals International, Inc. and Farmland Industries, Inc.
Sherman W. Tribbitt (Governor of Delaware)
United States Gypsum Company
United States Steel Corporation
Western Farmers Association
Westinghouse Electric Corporation
Rep. Gus Yatron
Kansas, State Corporation Commission of the State of
North Carolina Utilities Commission
Office of Emergency Energy Assistance (Wisconsin)
South Carolina Public Service Commission
Shelby, North Carolina, City of
South Carolina, Energy Management Office of the State of
Spartanburg, South Carolina, State Development Board of
Virginia, Commonwealth of
Wisconsin, Public Service Commission of
Cities Service Oil Company
Mobile Oil Corporation
Phillips Petroleum Company
Shell Oil Company
Southland Royalty Company
Sun Oil Company (Delaware)
Tenneco Oil Company
Union Drilling, Inc.
Union Texas Petroleum, a Division of Allied Chemical Corporation
The Dayton Power and Light Company
Delmarva Power & Light Company
Eastern Shore Natural Gas Company
El Paso Natural Gas Company
Elizabethtown Gas Company
Las Cruces, The City of
The City of Long Beach (California) and the City of Long Beach Gas Department
Memphis Light, Gas and Water Division
Niagara-Mohawk Power Corporation
Northern Natural Gas Company
Penn Fuel Gas, Inc.
Southern California Edison Company
Transcontinental Gas Pipe Line Corporation
United Gas Pipe Line Company
Algonquin Gas Transmission Company
Arizona Public Service Company
Associated Gas Distributors
Columbia Gas System Companies
Louisiana Power & Light Company
Missouri Power & Light Company
Panhandle Eastern Pipe Line Company and Trunkline Gas Company
Public Service Company of Colorado
San Diego Gas & Electric Company
Tennessee Gas Pipeline Company, a Division of Tenneco Inc.
Arkansas Louisiana Gas Company
Cascade Natural Gas Corporation
Cincinnati Gas & Electric Company, et al.
Fort Pierce Utility Authority of the City of Ft. Pierce (et al.) (Florida Cities)
Indiana Gas Company, Inc.
Michigan Consolidated Gas Company
Michigan Gas Utilities Company
Michigan Wisconsin Pipe Line Company
Mid Louisiana Gas Company
Montana-Dakota Utilities Co.
Natural Gas Pipeline Company of America
Northern Illinois Gas Company
Pacific Gas and Electric Company
The Peoples Gas Light and Coke Company
Southern California Gas Company
Southern Union Gas Company
Tennessee Natural Gas Lines, Inc.
Wisconsin Gas Company
James Abourezk (D., S. Dak.), George McGovern (D., S. Dak.) and Representatives Joseph Addabbo (D., N.Y.), Anthony Moffett (D., Conn.), John Moss (D., Calif.), John Conyers (D., Mich.), Robert Drinan (D., Mass.) and Michael Harrington (D., Mass.)
The People of the State of California and the Public Utilities Commission of the State of California
Circle Pines, Minnesota, City of
Coastal Farms, Inc.
Consumer Federation of America and The American Public Gas Association
Consumers Union
Illinois Commerce Commission
Kanco Tech, Inc.
Louisiana, State of
Michigan Public Service Commission
South Dakota Public Utilities Commission
Wyoming Public Service Commission
Rep. John E. Moss, Chairman, Oversight and Investigations Subcommittee, House of Representatives, Congress of the United States
Baltimore Gas and Electric Company
The Brooklyn Union Gas Company
New Jersey: Governor Brendan Byrne, The New Jersey Board of Public Utility Commissioners and The State of New Jersey Public Service Commission of the State of New York
Public Utilities Commission of Ohio
Tennessee Public Service Commission
Laclede Gas Company
Julian M. Carroll (Governor of Kentucky)

[FR Doc.75-23691 Filed 9-8-75;8:45 am]

[Docket No. R-393; Opinion No. 742]

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

Small Producer Regulation

AUGUST 28, 1975.

The Commission, on September 9, 1974, issued a Notice of Proposed Rulemaking in this proceeding (39 FR 33241, September 16, 1974) proposing to establish a just and reasonable rate differential for sales made by small producers pursuant to the blanket certificate procedure set forth in Order No. 428, 45 FPC 454, above the base rate (exclusive of provisions for production, severance, or similar tax reimbursement, gathering allowances, or quality adjustments) established for large producers in a Commission order of general applicability. The Commission explained in that Notice the cost and non-cost considerations which in its tentative view supported the establishment of a differential for small producers.

Sixty-six initial comments and ten reply comments were received from sixty-eight companies, individuals, associations, and other groups. Large producers filed sixteen comments and two reply comments; small producers and producer associations filed twenty-seven comments and three reply comments; interstate pipelines filed twelve comments and one reply comment; gas distributors filed four comments and two reply comments; two consumer groups each filed an initial comment; and, federal officeholders filed five comments and two reply comments.

Certain Members of Congress requested the opportunity to cross-examine all witnesses upon which the Commission may rely in this case with respect to small producer costs.[1] In Opinion No. 699 issued June 21, 1974, in Docket No. R-389-B, we discussed at length the use of

[1] Senator Abourezk, Representatives Addabbo, Ashley, Brown, Jr., Conyers, Jr., Dellums, Drinan, Harrington, Hechler, Holtzman, Kastenmeier, Lent, Moakley, Stark, Jr., Stokes, Sullivan, and Tiernan.

rule-making procedures in rate cases and the lack of need for a formal hearing with oral cross examination there. We adopt that discussion here, and based thereon, we deny the request for cross-examination.

The Public Service Commission of the State of New York (PSCNY) suggested that, in lieu of a percentage differential, we should establish a specific rate differential in cents per Mcf for small producers. PSCNY questions the need for giving small producers a multiple of the base rate to the extent the base rate includes non-cost allowances for incentive or revenues for reinvestment. While non-cost factors, of course, are taken into consideration in determining the base rate in area or national rate cases, they are not always severable from cost factors. As the Commission indicated in Opinion No. 595, 45 FPC 674, 705, "we have not attempted the quantification of any non-cost factors, but rather have attempted to define cost in economic terms to include such considerations as the incentive necessary to elicit additional supplies of natural gas, competitive consequences upon the industry and the need for adequate capital to finance further exploration and development." [2] Moreover, contingent escalations, a non-cost incentive utilized in some area rate cases, are of little importance now in the light of our subsequent determination in Opinion No. 699, as amended, to establish a national new gas ceiling, in lieu of the various area ceilings previously in effect. One of the important advantages of the percentage approach is that it can be applied to each rate case of general applicability decided by the Commission in the past as well as in the future. While the percentage we determine here will not be necessarily a perpetually applicable determination, we do not intend to review it as often as the nationwide rate redeterminations. We conclude, therefore, that the percentage approach is more appropriate.

We pointed out in the September 9 notice the difficulties involved in quantifying the differential in small producer and large producer costs. The difficulties are still apparent.

The single most significant element in new gas costing is the productivity of successful wells in Mcf of reserves added per foot drilled. The productivity factor for small producers is probably lower than that for the larger producers. Small producers have relatively fewer offshore interests and the available evidence suggests that average offshore productivity is significantly higher than average onshore productivity. Further, in the onshore areas, small producers frequently operate properties on farm-out arrangements with the large producers. It is inevitable that the farmed-out properties are more marginal than average. Finally, small producers ordinarily do not have the resources to finance the deeper and much more expensive wells from which the larger remaining undiscovered reservoirs are to be found. The level of the productivity differential for small producers, however, is not quantified in the record.

Various studies also suggest that small producers are involved principally in exploratory, wildcat drilling and that a majority of the exploratory wells are drilled by small producers.[3] The ratio of allocated dry hole footage to successful gas well footage for the industry as a whole is approximately 1:1. That ratio is implicit in the dry hole allowance in the new gas costing methodology (Opinion 699). It is clear that the ratio is higher for the segment of the industry whose activity is weighted toward exploratory drilling. That fact could affect the small producer cost in two respects. First, it renders the small producer business more risky, a matter that will be considered in reference to the rate of return allowance. Second, the higher dry hole ratio could lead to an upward revision in the dry hole allowance. On the other hand, the dry hole drilling costs per foot are significantly greater for the deeper wells and for the offshore. The small producers do little drilling offshore and the average producer well onshore is probably drilled to a depth less than the industry average. Thus, the impact of a higher ratio of dry holes may be partially or wholly offset by a lesser average cost per foot. The record does not provide the basis for conclusive judgment.

Other factors suggest a higher rate for small producers. The large companies produce most of the condensate, a fact that suggests that the net liquid credit for small producers should be less. The prominence of the farm-out arrangements in the small producer segment of the industry and the concomitant overriding royalty would support a higher royalty allowance for small producers. The small producers do not have the capital to finance the purchase and warehousing of large quantities of tubular goods and, consequently, must often pay higher prices for these items. Small producers that do not operate as drillers often must pay premium rates to the drilling contractor. But again, these increased cost elements are not quantified in the record and may be offset in whole or part by the fact that small producers incur less than average direct lease acquisition and other exploratory costs.

Exploratory and wildcat drilling is inherently more risky than developmental drilling. The small producers, consequently, have a higher risk factor than the large producers. The significance of that risk is enhanced by the limited risk-spreading capability and a relatively weaker credit standing of smaller enterprise. Risk assessment is a key factor in establishing a rate of return for regulated enterprise and we find that the small producers are entitled to a higher rate of return allowance than that applicable to the industry as a whole. The rate of return allowance in Opinion No. 699 was premised upon an assumed capital structure of 76% common equity and 24% long-term debt. The long-term debt was assigned a cost of 6.25% and the equity was allowed 17.73%. Most small producers are probably nearer to 100% equity financed and any supplemental debt financing undoubtedly is principally short-term and carries a substantially highest cost than 6.25%. While generally it is assumed that the equity investor's risk declines as the equity ratio is increased, the effect has a marginal range within which to operate, given the already high ratio assumed for the industry as a whole, and the effect is more than outweighed by the increased risk of the small producer ventures. We find that the combined risk increase, higher equity financing, and greater debt cost for small producers justifies an allowance for overall rate of return higher than the 15% that was found appropriate for the nationwide rate in Opinion No. 699.

We find also that a higher rate of return for small producers is justified as a means of encouraging new entrants in the industry. The number of producers in the oil and gas industry has declined dramatically in the past twenty years.[4] The resultant decline in exploratory capacity can be ill afforded concurrently with declining reserve additions.

An increased rate of return for small producers is amply justified; the level, however, is largely a matter of judgment. We find that at least a 20% rate of return is necessary to respond to the justifications.

Application of the Opinion No. 699–H DCF analysis with a 20% rate of return results in an increase of the high range rate of 51.46¢ to 67.67¢,[5] a 31.5% increase. Since producer ratemaking does not yield precise absolutes, an increment of 30% of the nationwide or other base rate would provide a proper allowance for small producers.

We find that the record thus far compiled does not provide an adequate statistical basis from which to quantify variances of the direct costs of small producers from the average direct costs for the industry that formed the basis for the Opinion No. 699 nationwide rate. While this proceeding will be closed with the issuance of this Order, the Commission will monitor any additional small producer cost data that may become available in the future. In the meantime, however, we find from the record evidence and applied judgment that the increased rate of return allowance for small producers is justified and that, therefore, the just and reasonable differential for small producers should be 130 percent.

In determining the just and reasonable rate for small producers, the 130% differential determined herein should be multiplied by the applicable base rate ceiling (e.g., flowing or new gas ceiling

[2] See also *Permian Area Rate Case*, 390 U.S. at 815.

[3] See Comments, Office of Governor, State of Texas.

[4] The number of operating producers in the oil and gas industry has declined from approximately 12,000 in 1958 to about 5,600 in 1972, according to the Census of Mineral Industries.

[5] See Appendix A.

depending on sale involved) established by the Commission in an order of general applicability (e.g., an area or national rate order). The resulting rate would then be subject to gathering charges, quality adjustments, tax reimbursement, Btu adjustments, and any other adjustments, to the extent applicable to the sale and permitted or required under the particular order of general applicability involved. The total rate thus reached as a result of the 130% differential and the various adjustments thereto would be the just and reasonable rate for the small producer sale.

The 130% differential does not apply, as requested by TIPRO, to the minimum rate levels which have been established in certain area rate cases. We are not concerned here with contracts where the small producer is limited to a price below that authorized by this order as just and reasonable. Our purpose is to establish a just and reasonable rate ceiling, not a floor, for small producers.

The Commission finds that an area rate clause in a small producer contract does provide sufficient contractual authority for a small producer to collect a rate determined in accordance with the provisions of this order. We shall also amend § 157.40(e) relating to the use of indefinite pricing provisions in small producer contracts so as to permit small producers to collect the just and reasonable rate determined here pursuant to such provisions. As we did in Order No. 455, 48 FPC 218, we shall provide that escalation clauses in existing contracts of those producers not holding small producer certificates shall not be triggered as a result of the action taken here with respect to small producer sales.

We agree with Tennessee that the price standards referred to in the September 9 Notice, footnote 19, for determining whether a rate in excess of the rate established here is just and reasonable and, thus, includable in a pipeline's cost of service should be included in the regulations. This order will so provide. Such standards will apply to existing as well as new contracts involving small producers.

United Gas Pipe Line Company (United) contends that where a small producer is collecting a rate under an existing contract in excess of the just and reasonable rate, the small producer should be required under Section 5 of the Natural Gas Act to reduce its rate. Otherwise, United argues, the pipeline would be penalized ad infinitum for paying an above-ceiling rate. El Paso, on the other hand, contends that pipeline purchasers should not be required to absorb purchased gas costs with respect to above-ceiling purchases from small producers under existing contracts because the rules have changed since the issuance of Order No. 428. As we indicated in the September 9 Notice, we do not intend to require small producers to make refunds of above-ceiling rates for sales made pursuant to temporary or permanent certificates under Order No. 428.[6] The Section 5 question, however, will be decided either in each individual pipeline case or in the rulemaking proceeding in Docket No. RM76–5, relating to our proposal to require small producers prospectively to reduce their rates to the applicable just and reasonable ceiling established in this proceeding. The arguments advanced by El Paso should be taken into consideration in pipeline rate cases in determining whether to allow a pipeline to recover above-ceiling rates paid to small producers under existing contracts.

We reject the suggestion advanced by Pacific Gas Transmission Company that affiliates of pipelines be treated as small producers where applicable. The rationale underlying the treatment of small producers has no applicability to pipeline affiliates. See Order No. 308, 34 FPC 1202, 1203. Nor is there adequate merit to the suggestion of Mapco and Tricentrol that the 10 million Mcf cutoff between large and small producers be increased. We believe the 10 million Mcf cutoff figure is the most appropriate limitation. See Order No. 308, 34 FPC at 1202.

We also reject the contention of Bruce Anderson, et al., that pipelines should be permitted to pay small producers (and include such payments in their cost of service rates) not only the just and reasonable rate determined herein, but also the rates as high as those authorized under Order Nos. 431 (limited-term certificate) and 455 (optional procedure). Rate determinations made under Order Nos. 431 and 455 are applicable only to the specific cases under consideration, and, thus, would have no general applicability to small producers. If small producers wish to seek treatment under those orders, they must apply therefor.

In view of the Court's ruling in *F.P.C. v. Texaco, Inc., et al.*, 417 U.S. 380 (1974), that it is proper to establish "one level of just and reasonable rates for small producers and another for large producers", there is no need to discuss the general allegations of undue discrimination advanced by certain large producers. The risk and operating differentials of small producers support the classification. They also claim, however, that our proposal will create royalty, joint leasing and state tax problems. But, these problems presumably have been in existence for some time inasmuch as producers for years have been selling gas from the same stream at different prices. The effect, if any, of our action here on these problems is highly speculative at this juncture and depends on a variety of factors. In any event, this is not the appropriate case to resolve such matters. However, a producer may seek appropriate relief from this Commission if it is faced with a specific problem in this regard.

We do not believe, as some large producers have asserted, that small producers will acquire an unfair advantage with respect to the acquisition of leases because they may receive a higher rate for the sale of their gas. In light of the inherent advantages a large producer has over a small producer,[7] it is doubtful whether, except in isolated situations, this alleged advantage would make any significant difference in the acquisition of leases.

United and PSCNY have pointed out, quite properly, that § 157.40(f) relating to filings by large producers with respect to the resale of gas purchased from small producers should be modified in accordance with *F.P.C. v. Texaco, Inc., supra*, and we shall so modify that section. In judging whether to suspend such a large producer filing, we will be guided by our determination here as to the just and reasonable rate for a small producer sale and the size of the differential between the purchase price from the small producer and the resale price by the large producer. If a proposed rate is suspended because the small producer price exceeds the just and reasonable rate established in this case, then the same standards will apply in determining whether to allow a large producer to recover such costs as apply to similar pipeline purchases. And, if a proposed rate is suspended because of the differential between the purchase and resale price, we will determine the just and reasonable differential.

Contrary to Phillips' contention, the record in this case does not provide in our view an adequate basis for making a *Sierra* finding[8] which would authorize a processor who is an intermediate purchaser from a small producer to collect for the resale of such gas a rate in excess of its resale contract rate at a level that would permit the processor to recover the price paid to the small producer (up to the just and reasonable rate determined here) plus the customary differential between its purchase price and its resale price.[9]

We agree, however, with Gulf that where a processor has an area rate clause in its resale contract, such a clause provides sufficient contractual authority for the processor to collect for such resale the rate charged by the small producer as long as such rate does not exceed the just and reasonable rate authorized herein for small producers. But there is no basis in this record for allowing under such an area rate clause, as Skelly contends, a processor to file for the normal contract price differential between the purchase and resale price. The Commission lacks knowledge of what the normal differential is, let alone whether that differential is just and reasonable. However, if a producer has a contractual right to make a filing, we will at that time decide whether to accept or suspend the filing, and if it is suspended because of the differential between the purchase and resale price, we will then determine whether the differential is just and reasonable.

Phillips urges us to amend our regulations so as to allow the large producer

[6] See *F.P.C. v. Texaco, Inc., et al.*, 417 U.S. 380 (1974).

[7] *Permian Basin Area Rate Cases*, 390 U.S. 747, 784–87.

[8] *F.P.C. v. Sierra Pacific Power Co.*, 350 U.S. 348.

[9] Our refusal to make such a general finding does not preclude a large producer from seeking individual relief under *Sierra* if it can show entitlement thereto.

who seeks to purchase gas from a small producer to commence deliveries immediately and then advise us of such action. In support thereof, Phillips claims that while a pipeline may negotiate a purchase contract with a small producer and accept deliveries immediately under budget type arrangements, a large producer before it can accept deliveries must (1) negotiate a new resale contract with its pipeline purchaser, (2) file the new contract, together with a certificate application to resell such gas, and (3) await Commission action with respect to such application.

In Order No. 428–B, 46 FPC 47, 48, we eased the requirements relating to certificate applications so that a large producer could commence its sale immediately upon the filing of a certificate application when reselling gas purchased from a small producer.[10] Consequently, contrary to Phillips' third point, there is no need for a large producer to await Commission action. Moreover, even under Phillips' proposal, a large producer would still have to negotiate a new resale contract. There, thus, is no merit to its first point. The only point of any substance to which Phillips has alluded is that a large producer is required to file its resale contract and certificate application. Such a requirement, we think, is plainly reasonable. We, therefore, decline to amend the regulations in the manner requested by Phillips.

We also decline to increase the interests of large producers which may be covered by a small producer certificate under § 157.40(a)(3) from 12½ percent to 50 percent, as requested by Cabot. Adequate justification has not been shown for taking such action.

The Commission finds:

(1) The notice and opportunity to participate in this rulemaking proceeding through the submission, in writing, of data, views, comments, and suggestions are in accordance with all procedural requirements therefor as prescribed in Section 553, Title 5 of the United States Code.

(2) The action taken herein is necessary and appropriate for the administration of the Natural Gas Act.

(3) Since the additional amendments to Section 157.40 of the Commission's Regulations Under the Natural Gas Act prescribed herein are consistent with the prime purpose of the proposed rulemaking, further notice thereof is unnecessary.

(4) In view of the purpose, intent, and effect of the amendments herein ordered, good cause exists for making the amendments effective upon issuance of this order.

The Commission, acting pursuant to the provisions of the Natural Gas Act, as amended, particularly Sections 4, 5, 7, and 16 (52 Stat. 822, 823, 824, 825, and 830; 56 Stat. 83, 84; 61 Stat. 459; 76 Stat. 72; 15 U.S.C. 717c, 717d, 717f, and 717o), *orders:*

(A) Section 157.40 in Part 157, Subchapter E, of Chapter I, Title 18 of the Code of Federal Regulations is amended by revising paragraphs (c), (e), and (f), and by adding paragraph (i) to read as follows:

§ 157.40 Exemption of small producers from certain filing requirements.

* * * * *

(c) *Rate and Certificate Regulation under blanket certificate.* Small producers certificated hereunder shall be authorized to make small producer sales nationwide pursuant to existing and future contracts at the price specified in each such contract. If the contractually authorized rate does not exceed 130 percent of the Commission-determined base ceiling rate applicable to a comparable large producer sale, subject to any adjustments permitted or required under the particular order of general applicability involved, the rate may be charged and received by the small producer and paid by the purchaser, as the lawful, just and reasonable rate approved by the Commission pursuant to sections 4, 5, and 7 of the Act. However, no small producer shall be relieved from compliance with section 7(b) of the Natural Gas Act with respect to any small producer sale regulated hereunder. Rate regulation as prescribed herein shall not apply to any jurisdictional sales made by a small producer where the gas reserves relating thereto were acquired by the purchase of developed reserves in place from a large producer. Nothing done hereunder shall be recognized by the Commission as triggering any escalation clause in an existing contract involving a producer not covered by a small producer certificate, except as provided in paragraph (f) of this section.

* * * * *

(e) *Limitation on contractual provisions.* No Small Producer granted exemption under subparagraph (c) above shall charge or collect any rate for a small producer sale of natural gas in excess of the just and reasonable rate prescribed in that paragraph, where the contractual right to such rate is based upon any contractual provision which would not be permitted by paragraphs (a), (b), (b)(1), and (c) of § 154.93. For the purpose of this limitation, it shall make no difference whether the contract was executed prior to or subsequent to April 3, 1962.

(f) *Filings by large producers with respect to related resales.* A large producer may file for the price specified in its related contract for the resale of any natural gas sold to it by a small producer pursuant to the exemption authorized hereunder. In determining whether to accept or suspend such a filing, we shall be guided by the just and reasonable rate for small producers established in paragraph (c) of this section and the size of the differential between the purchase and resale price. In the event the proposed rate is suspended because of the rate level paid to a small producer, the same standards set forth in paragraph (i) of this section with respect to pipeline purchases shall apply to the purchase by the large producer. A large producer under an area rate clause in its resale contract may file for the rate paid by it for gas purchased from a small producer as long as the rate does not exceed the just and reasonable rate prescribed in paragraph (c) of this section.

* * * * *

(i) *Pipeline purchases.* If a pipeline company purchases gas from a producer who is selling such gas pursuant to a small producer certificate at a rate in excess of the just and reasonable rate established in paragraph (c) of this section, then the pipeline purchaser must show that the rate paid to the small producer is just and reasonable before it may include any amount in excess of the just and reasonable rate in paragraph (c) of this section in its cost of service. In determining whether the small producer's rate is just and reasonable in such a situation, the Commission will consider all relevant factors including (1) producer's cost, (2) the pipeline's need for gas, (3) the availability of other gas supplies, (4) the amount of gas dedicated under the contract, (5) the rates of other recent small producer sales previously approved for flow through and (6) comparison with appropriate market prices.

(B) The amendments adopted herein shall be effective upon issuance of this order.

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

Chairman Nassikas, dissenting, filed a separate statement.[11]

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[11] Filed as part of the original document.

APPENDIX A.—*Computation of return on investment and royalty*

[Computations for trended data at 20 percent rate of return]

Component	Year	Value	Tax credit	Net investment (value less tax credit)	Present value (time=0.5) [1]
Other exploration	−3	2.80	1.2770	1.523	2.6317
Exploration overhead	−3	0.83	0.3739	0.446	0.7707
Lease acquisition	−2	4.28	[2]	4.28	6.1632
Dry holes	−1	3.72	1.786	1.934	2.3213
Successful well and recompletions	−1	6.35	2.134	4.216	5.0592
Other production facilities	−1	1.39	0	1.39	1.6680
Lease acquisition tax credit	−1		1.540	−1.540	−1.8480
Total		19.36	7.1109		16.7661

[1] Net investment times applicable compound discount factor at 20 percent (time=0.5).
[2] The lease acquisition tax credit is taken in year −1.

NOTE.—All calculations in this appendix are based on methodology in Commission opinion No. 699–H, issued Dec. 4, 1974, app. C, sheets 6 and 7.

[10] See § 157.40(h).

COMPUTATION OF RETURN ON INVESTMENT AND ROYALTY

(COMPUTATIONS FOR TRENDED DATA AT 20 PERCENT RATE OF RETURN)

Computation of net cash flow:

Price	x
Less royalty	$-0.16x$
Less operating expense	−3.10
Less interest on working capital	−1.67
Less regulatory expense	−.20
Less tax liability to offset tax credit	−7.1109
Plus net liquid credit	+3.89
Total	$.84x-8.1909$

NOTES.—At the midpoint of the 1st production year the present value of the net cash flow plus the present value of the 1¢/M ft³ annual escalation must equal the present value of the net investment.

From opinion No. 699 (app. H, case II and III):

$$16.7661=((0.84x-8.1909)\times(1/18)\times 5.774635)^{1}+((0.84/18)\times 24.816566)^{2}$$
$$x=67.67¢/M\ ft^3.$$

[FR Doc.75-23692 Filed 9-8-75;8:45 am]

Title 21—Food and Drugs

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

[Docket No. 75N-0138; DESI 8924]

PART 452—MACROLIDE ANTIBIOTIC DRUGS

Erythromycin-Neomycin Sulfate Ointment; Confirmation of Effective Date of Order Revoking Certification Provision

An order (DESI 8924, Docket No. FDC-D-709 (now Docket No. 75N-0138); NDA 8-924) was published in the FEDERAL REGISTER of October 3, 1974 (39 FR 35648), revoking § 452.510b *Erythromycin-neomycin sulfate ointment* (21 CFR 452.510-b). The drug product has been used to treat local infections. The opportunity was given to any person adversely affected by the order to file objections to it and request a hearing.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050-1051 as amended, 59 Stat. 463 as amended (21 U.S.C. 352, 357)) and under authority delegated to the Commissioner (21 CFR 2.120), notice is given that no objections were filed to the subject order. Accordingly, the amendment promulgated thereby became effective November 12, 1974.

Dated: September 2, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-23840 Filed 9-8-75;8:45 am]

[FRL 427-3; FAP5H5091/T4]

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEED ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

N'-(2,4-dimethylphenyl-N-[[(2,4 - dimethylphenyl)imino] methyl]-N-methylmethanimidamide

On June 17, 1975, notice was given (40 FR 25624) that the Upjohn Co., Kalamazoo MI 49001 had filed a pesticide petition (FAP 5H5091) with the Environmental Protection Agency (EPA). This petition proposed establishment of a feed additive tolerance for residues of the insecticide N' - (2,4-dimethylphenyl) -N-[[(2,4 - dimethylphenyl) imino] methyl]-N-methylmethanimidamide and its metabolites N' - (2,4 - dimethylphenyl) -N-methylmethanimidamide and N-(2,4-dimethylphenyl) formamide in or on citrus pulp at 3 parts per million resulting from application of the fungicide to growing grapefruit, lemons, oranges, and tangerines in accordance with an experimental use permit issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

The original petition included the citrus fruit tangelos, but in accordance with 40 CFR 180.1(h), this commodity is included under the general raw agricultural commodity category tangerines.

The data submitted in the petition and other relevant material have been evaluated. Residues of the insecticide will result in citrus fruit from uses as provided for by the experimental use permit issued under FIFRA, and therefore, a tolerance is being established to coincide with this use and to protect the public health. (A related document concerning the establishment of temporary tolerances for residues of the insecticide in or on the raw agricultural commodities listed above as well as the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep, and in milk, also appears in today's FEDERAL REGISTER).

Any person adversely affected by this regulation may, on or before October 6, 1975, file written objections with the Hearing Clerk, Environmental Protection Agency, 401 M St. SW., East Tower, Room 1019, Washington, D.C. 20460. Such objections should be submitted in quintuplicate and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective September 9, 1975, Part 561, Subpart A, is amended by adding § 561.195 to read as follows.

Dated: September 2, 1975.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

(Section 409(c) (1) & (4) of the Federal Food, Drug and Cosmetic Act [21 U.S.C. 348(c) (1) & (4) transferred to the Administrator EPA in Reorganization Plan No. 3 (35 FR 15623))

Part 561 is amended by adding the new § 561.195 as follows.

§ 561.195 N'-(2,4 - dimethylphenyl)-N-[[(2,4 - dimethylphenyl)imino] methyl]-N-methylmethanimidamide.

A temporary tolerance is established for residues of the insecticide N'-(2,4-dimethylphenyl) -N-[[(2,4-dimethylphenyl) imino]methyl] - N - methylanimidamide and its metabolites N'-(2,4-dimethylphenyl) - N - methylmethanimidamide and N-(2,4-dimethylphenyl) formamide in citrus pulp at 3 parts per million resulting from the application of the insecticide to grapefruits, lemons, oranges, and tangerines. Such residues may be present therein only as a result of application of insecticide in an experimental use program which expires September 2, 1976. Residues not in excess of this tolerance remaining after expiration of this experimental use program will not be considered actionable if the pesticide is legally applied during the term and in accordance with the provisions of the experimental use permit/feed additive tolerance.

[FR Doc.75-23815 Filed 9-8-75;8:45 am]

[FRL 427-6; FAP5H5086/T3]

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

O-Ethyl S,S-Diphenyl Phosphorodithioate

On June 12, 1975, notice was given (40 FR 25081) that Chemagro Agricultural Div., Mobay Chemical Corp., PO Box 4913, Kansas City MO 64120, had filed a pesticide petition (FAP 5H5086) with the Environmental Protection Agency (EPA). This petition proposed establishment of a feed additive tolerance for residues of the fungicide *O*-ethyl *S,S*-diphenyl phosphorodithioate in or on rice hulls at 0.3 part per million resulting from the application of the fungicide to growing rice in accordance with an experimental use permit issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

[1] Calculation of present worth for net cash flow over next 17 years—formula [2] p. 3 of app. H, opinion No. 699, expressed at 20 percent.

$$\sum_{0}^{17}\left(\frac{1}{1.20}\right)^{t}=\frac{1.20-\left(\frac{1}{1.20}\right)^{17}}{0.20}=5.774635$$

[2] See the following table:

Year (a)	Discount factor at 20 percent (b)	Discounted net cash flow (a)×(b)
1	0.833333	0.833333
2	.694444	1.388888
3	.578704	1.736112
4	.482253	1.929012
5	.401878	2.009390
6	.334898	2.009388
7	.279082	1.953574
8	.232568	1.860544
9	.193807	1.744263
10	.161505	1.615050
11	.134588	1.480468
12	.112157	1.345884
13	.093464	1.215032
14	.077886	1.090404
15	.064905	.973575
16	.054088	.865408
17	.045073	.766241
Total		24.816566

The data submitted in the petition and other relevant material have been evaluated, and it has been concluded that the tolerance will protect the public health and should therefore be established as set forth below. (A related document concerning the establishment of a temporary tolerance for rice grain also appears in today's FEDERAL REGISTER.)

Any person adversely affected by this regulation may on or before October 9, 1975, file written objections with the Hearing Clerk, Environmental Protection Agency, 401 M St., SW., East Tower, Room 1019, Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on the date of signature Part 561 is amended by adding § 561.231 to read as follows.

Dated: September 2, 1975.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

(Section 409(c) (1) & (4) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 348 (c) (1) & (4)] transferred to the Administrator EPA in Reorganization Plan No. 3 (35 FR 15623))

Part 561 is amended by adding § 561.231 to read as follows.

§ 561.231 O-ethyl S,S-diphenyl phosphorodithioate.

A tolerance of 0.3 part per million is established for *O*-ethyl *S,S*-diphenyl phosphorodithioate in or on rice hulls. Such residues may be present therein only as a result of application of the fungicide in an experimental use program which expires July 24, 1976. Residues not in excess of this tolerance remaining in or on rice hulls after expiration of this experimental use program will not be considered actionable if the pesticide is legally applied during the term and in accordance with the provisions of the experimental use permit/feed additive tolerance.

[FR Doc.75-23818 Filed 9-8-75;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 75-4; Notice 4]

PART 658—NATIONAL MAXIMUM SPEED LIMIT; MAXIMUM VEHICLE SIZE AND WEIGHT

Certification of Speed Limit Enforcement

This notice amends 23 CFR Part 658 by adding section 658.7, relating to State certification of the national maximum speed limit pursuant to section 107 of the Federal-Aid Highway Amendments of 1974, Pub. L. 93-643, 88 Stat. 2281, (23 U.S.C. 141). The amendment was proposed by notices of March 6, 1975 (40 F.R. 10481) and June 9, 1975 (40 F.R. 24532).

After review of the comments to the June 9 notice, it has been decided to issue section 658.7 in the form proposed in that notice. Although several of the comments contained useful remarks, as more fully discussed hereafter, none was found to require substantive changes in the proposal.

Most of the comments focused on subsections (c) and (d) of the proposal. With regard to subsection (c)(1), the Nebraska Department of Roads pointed out that the former notice had referred to the "approximate" road mileage having the 55 mph limit, but that the June 9 notice had omitted "approximate." The Department of Roads stated that if precise mileage were to be required, the measurement procedure would be impractical due to the need to measure the length of each reduced speed zone. The Federal agencies agree that such exacting measurement would be burdensome and do not intend the States to take such pains in their measurement. It is expected, however, that the tabulations will be as close to the true total as feasible. The same applies for all the informational requirements of section 658.7.

In a related comment on subsection (c), the West Virginia Department of Highways asked whether unposted roads would have to be included in the total mileage if their geometry does not "allow" speeds as high as 55 mph. The reference in subsection (c)(1) to roads with posted or "allowable" speeds of 55 mph refers to legal allowability, not to speed restrictions due to road geometry. The mountainous roads cited by West Virginia should therefore be included in the (c)(1) total. However, the State would be free to indicate what part of its (c)(1) mileage consists of roads that are not capable of being traveled at 55 mph. West Virginia also asked whether turnpikes and other toll roads should be included for purposes of road mileage calculation. Such highways must be included in all the informational requirements of this section.

Even though the requirement to submit the number of warnings issued has been removed, several States indicated their desire to submit this information in support of their enforcement efforts. Additional information, beyond the certification requirements, may be submitted if States desire to do so.

In commenting on subsection (c)(4), the Colorado Department of Highways suggested that the "citations issued by State agencies" should be the citations issued on the State roads whose mileage was submitted pursuant to subsection (c)(1). This is a correct reading of (c)(4). Colorado also stated that submission of data for the period going back to September 30, 1974, would be difficult because the procedures of 23 CFR Part 658 would not have been followed for most of that period. The Federal agencies are aware of this difficulty and are not requiring the data collected for the period before issuance of this notice to conform to section 658.7. States that have data available, however, are urged to submit information for the entire 12-month period. The information for the year prior to the year upon which certification is made might also be submitted, if available, for comparative purposes. The same holds true for the informational requirements in subsection (d).

Several comments noted the statement in the preamble to the June 9 notice that the Federal agencies were preparing statistical guides for the States to use in developing their speed monitoring programs. It is recognized that insufficient time is available for the States to develop and implement a statistically valid speed monitoring procedure and to report the results as part of the January 1, 1976, certification. Data obtained via less sophisticated procedures will suffice for the certification due January 1, 1976. However, subsequent certifications should be based upon the results of fully implemented, statistically valid speed monitoring procedure. The Federal Highway Administration will issue a Procedural Guide for Speed Monitoring. The Procedural Guide will contain criteria that States should follow when monitoring speeds. Additionally, the Procedural Guide will contain a statistical sampling procedure that should produce statistically valid data. At the States' option, alternative statistical sampling procedures could be employed, provided that they yield results having the same level of statistical reliability. Because the Procedural Guide is not yet issued and will not have its full effect until after January 1, 1976, no reason appears for postponing the effective date of section 658.7 to allow for State assimilation of the Federal statistical guidance.

The Nebraska Department of Roads asked whether subsections (d)(1) and (d)(2) would require reports for *each* month of the 12-month period ending on September 30 before the date of certification. The subsections do not require such monthly reports. Nebraska also questioned whether under its current system of March–May and September–October monitoring periods, the certification due by January 1 could include data from the most recent October or whether the State would have to reach back to the data of the previous October. The year based on September 30 was devised for the convenience of the States, to allow them time to finish their data evaluation comfortably before the certification date. If Nebraska wishes to continue its present system, it may do so by including its most recent October data each year. However, in the first certification year, the State should also submit its data from the preceding October so that its data will be on the same footing as other States.

With respect to subsection (d)(2), the Colorado Department of Highways suggested that a "factor of difficulty" be allowed in evaluating State certifications, to allow for those States whose formerly high limits would tend to produce higher speeds with the 55 mph limit. Although such factors have a bearing on motorists'

observance of the speed limit, the U.S. Department of Transportation does not consider it appropriate to build such factors into the regulation itself and therefore declines to amend (d)(2) as requested. The suggestion from Massachusetts on (d)(2), to the effect that the "pace" should be ascertained as well as the other elements of the speed profile, may prove to have merit and will be considered as a possibility for future rulemaking.

In consideration of the foregoing, Part 658 in Title 23, Code of Federal Regulations, is amended by the addition of section 658.7, as follows:

§ 658.7 Certification of speed limit enforcement.

In order to obtain approval of Federal-aid projects under 23 U.S.C. 106, the Governor of each State, or an official designated by the Governor, shall certify to the Federal Highway Administration before January 1 of each year that the State is enforcing the national maximum speed limit of 55 miles per hour. The certification shall consist of the following elements:

(a) A statement signed by the Governor, or by an official designated by the Governor, certifying that the State is enforcing the national maximum speed limit.

(b) Copies of any State laws, regulations, or administrative orders relating to enforcement of the 55 mph speed limit, which were adopted after the date of the statement required by § 658.6, and which have not been included in earlier certifications under this section.

(c) Information relating to enforcement, as follows:

(1) The number of miles of State highways having posted or allowable speeds of 55 mph.

(2) The approximate portion of the mileage listed in paragraph (1) of this section on which the State has patrol responsibility, including portions on which the State shares responsibility with local law enforcement agencies.

(3) The State administrative orders or instructions regarding enforcement agency policy on enforcement of the 55 mph speed limit.

(4) The number of citations issued by State agencies for violation of the 55 mph speed limit during each month of the 12-month period ending on the September 30 before the date by which certification is required.

(d) Information relating to observance of the speed limit by motorists on the State highway system, as follows:

(1) A description of the State program for monitoring speeds for the 12-month period ending on September 30 before the date by which certification is required, including the number of stations for each type of highway, the basis for determining the number and location of stations, the frequency and duration of operations, and the total sample size and basis for sample selection.

(2) The summary statistics derived from the data obtained from the monitoring program, classified according to highway type (Interstate rural, Interstate urban, other multi-lane divided rural and urban, major nondivided rural, etc.), indicating the average speed, the median speed, the 85th percentile speed, and the percent of motorists exceeding 55, 60, and 65 mph for the 12-month period ending on September 30 before the date by which certification is required.

Effective date: September 9, 1975. Because of the short time remaining in the initial data collection cycle under 658.7 and the need to have a basic amount of data in support of the certification due January 1, 1976, the Administrators find good cause to establish an immediate effective date.

(Secs. 106, 107, 114, Pub. L. 93-643, 80 Stat. 2281; 23 U.S.C. 127, 141, 154; 23 U.S.C. 315; delegations at 49 CFR 1.48 and 1.50.)

Issued on September 4, 1975.

JAMES B. GREGORY,
National Highway Traffic Safety Administrator.

NORBERT T. TIEMANN,
Federal Highway Administrator.

[FR Doc.75-23988 Filed 9-8-75;8:45 am]

Title 30—Mineral Resources

CHAPTER I—MINING ENFORCEMENT AND SAFETY ADMINISTRATION, DEPARTMENT OF THE INTERIOR

PART 77—MANDATORY SAFETY STANDARDS, SURFACE COAL MINES AND SURFACE WORK AREAS OF UNDERGROUND COAL MINES

Refuse Piles and Impounding Structures

Under the authority contained in Section 101(a) of the Federal Coal Mine Health and Safety Act of 1969, as amended (83 Stat. 745; 30 USC 811(a)), there was published in the FEDERAL REGISTER for January 16, 1974 (39 FR 2004) a notice of proposed rulemaking which set forth proposed requirements for the construction of refuse piles and extinguishment of fires; reporting pertinent information on refuse piles; certifying stability; abandonment; and identification of refuse piles. The proposal also set forth requirements for developing and approval of plans for construction of impounding structures; notification of potentially hazardous conditions; and identification of impounding structures.

Written objections were timely filed with the Mining Enforcement and Safety Administration stating the grounds for objections and requesting a public hearing on the proposed amendments. In accordance with Section 101(f) of the Act, a notice of objections filed and hearing requested was published in the FEDERAL REGISTER for May 14, 1974 (39 FR 17234).

Following this notice, there was published in the FEDERAL REGISTER for June 7, 1974 (39 FR 20213), a notice of public hearing to be held for the purpose of receiving relevant evidence on issues raised in the written comments. The public hearing was held on July 23, 1974, in the House Chamber, State Capitol Building, Charleston, West Virginia. Information was received from representatives of mine operators, labor, State and Federal agencies, environmentalists and the general public. The record was held open until August 29, 1974, to permit submission of additional data and information.

Findings of fact based on relevant evidence submitted in written comments, statements and data received in response to the proposed rulemaking and the public hearing were made public on October 25, 1974 and were published in the FEDERAL REGISTER for November 1, 1974 (39 FR 38660).

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior prepared a final environmental impact statement on the proposed regulations. A notice of availability of the final environmental impact statement was published in the FEDERAL REGISTER for June 23, 1975 (30 FR 26286).

All comments, suggestions, data, information, and objections received in response to the notice of proposed rulemaking and the public hearing have been fully and carefully considered. Modifications of the proposed standards have been made which are described below in the findings of fact.

The final rules have been rearranged in order to facilitate their use, and a "Definitions" section has been added as § 77.217 to clarify and define terms and phrases used in the regulations.

Under the final regulations, refuse piles and impounding structures that can be identified with an operator will be categorized as active until they are abandoned according to an approved abandonment plan. Once abandoned according to the approved plan there will be no need for certifications of stability every 3 years, and this requirement in the proposed regulations has been dropped.

The certifications for active refuse piles (§ 77.215-3) and impounding structures (§ 77.216-4) have been revised so that registered engineers will be able to certify that the structures are designed and constructed according to current prudent engineering practices. These certifications will give an assurance of the stability of the structure. By requiring that the certifications be accompanied by supporting documentation, MESA will have the ability to run a double check on the certification.

The final regulations will provide the operator with flexibility in constructing refuse piles and impounding structures which will present no hazard to coal miners in their work. At the same time MESA will have the flexibility to examine each situation and treat it on an individual basis. For example, under § 77.215(h), if the operator wants to construct a refuse pile with a slope steeper than 27° or with compacted layers thicker than 2 feet, he will be permitted to do so if he can show that the structure will have a safety factor greater than 1.5. The goal of the regulations is to improve the stability of refuse piles, and MESA believes that no acceptable method for achieving that goal should be discouraged.

The final regulations differ from the proposed regulations by requiring the

performance of several new duties. Section 77.216(e) requires that fires in impounding structures be extinguished. Omission of this requirement in the proposed regulations was an oversight, and it is common engineering knowledge that fires in impounding structures present an extremely dangerous condition. A further addition is the requirement in §§ 77.215(j) and 77.216(e) that fire extinguishing operations on refuse piles and impounding structures be conducted in accordance with an approved plan. This new requirement is justified by the hazardous nature of the extinguishing operation and the necessity to ensure that all miners employed in extinguishing operations are fully acquainted with the procedures to be used. Section 77.215(i) requires that foundations for refuse piles be cleared of vegetation and undesirable material. If left in place, such material can cause fires and create unstable conditions in the refuse pile. Another new requirement (§ 77.215–2(a)) is that MESA be informed of the location of all new refuse piles. This requirement will facilitate MESA's inspection responsibilities.

All aspects of the proposed regulations were fully discussed in the written comments and at the public hearing, and the final regulations are the product of full and careful consideration of the record.

Part 77, Title 30 Code of Federal Regulations, is amended and revised as set forth below.

Effective date. These revisions and amendments shall be effective on November 1, 1975.

It is hereby certified that the economic and inflationary impacts of these regulations have been carefully evaluated in accordance with OMB Circular A–107.

Dated: August 26, 1975.

JACK W. CARLSON,
Assistant Secretary of the Interior.

Part 77, Subchapter O, Chapter I, Title 30 Code of Federal Regulations is amended as follows:

1. Section 77.215 is amended by adding new paragraphs (h), (i) and (j), and by adding new §§ 77.215–1 through 77.215–4 as follows:

§ 77.215 Refuse piles; construction requirements.

* * * * * *

(h) After October 31, 1975 new refuse piles and additions to existing refuse piles, shall be constructed in compacted layers not exceeding 2 feet in thickness and shall not have any slope exceeding 2 horizontal to 1 vertical (approximately 27°) except that the District Manager may approve construction of a refuse pile in compacted layers exceeding 2 feet in thickness and with slopes exceeding 27° where engineering data substantiates that a minimum safety factor of 1.5 for the refuse pile will be attained.

(i) Foundations for new refuse piles and additions to existing refuse piles shall be cleared of all vegetation and undesirable material that according to current, prudent engineering practices would adversely affect the stability of the refuse pile.

(j) All fires in refuse piles shall be extinguished, and the method used shall be in accordance with a plan approved by the District Manager. The plan shall contain as a minimum, provisions to ensure that only those persons authorized by the operator, and who have an understanding of the procedure to be used, shall be involved in the extinguishing operation.

§ 77.215–1 Refuse piles; identification.

A permanent identification marker, at least six feet high and showing the refuse pile identification number as assigned by the District Manager, the name associated with the refuse pile and the name of the person owning, operating or controlling the refuse pile, shall be located on or immediately adjacent to each refuse pile within the time specified in paragraphs (a) or (b) of this section as applicable.

(a) For existing refuse piles, markers shall be placed before May 1, 1976.

(b) For new or proposed refuse piles, markers shall be placed within 30 days from acknowledgement of the proposed location of a new refuse pile.

§ 77.215–2 Refuse piles; reporting requirements.

(a) The proposed location of a new refuse pile shall be reported to and acknowledged in writing by the District Manager prior to the beginning of any work associated with the construction of the refuse pile.

(b) Before May 1, 1976, for existing refuse piles, or within 180 days from the date of acknowledgement of the proposed location of a new refuse pile, the person owning, operating or controlling a refuse pile shall submit to the District Manager a report in triplicate which contains the following:

(1) The name and address of the person owning, operating or controlling the refuse pile; the name associated with the refuse pile; the identification number of the refuse pile as assigned by the District Manager; and the identification number of the mine or preparation plant as assigned by MESA.

(2) The location of the refuse pile indicated on the most recent USGS 7½ minute or 15 minute topographic quadrangle map, or a topographic map of equivalent scale if a USGS map is not available.

(3) A statement of the construction history of the refuse pile, and a statement indicating whether the refuse pile has been abandoned in accordance with a plan approved by the District Manager.

(4) A topographic map showing at a scale not to exceed 1 inch=400 feet, the present and proposed maximum extent of the refuse pile and the area 500 feet around the proposed maximum perimeter.

(5) A statement of whether or not the refuse pile is burning.

(6) A description of measures taken to prevent water from being impounded by the refuse pile or contained within the refuse pile.

(7) At a scale not to exceed 1 inch=100 feet, cross sections of the length and width of the refuse pile at sufficient intervals to show the approximate original ground surface, the present configuration and the proposed maximum extent of the refuse pile, and mean sea level elevations at significant points.

(8) Any other information pertaining to the stability of the pile which may be required by the District Manager.

(c) The information required by paragraphs (b)(4) through (b)(8) of this section shall be reported every twelfth month from the date of original submission for those refuse piles which the District Manager has determined can present a hazard and which have not been abandoned in accordance with a plan approved by the District Manager.

§ 77.215–3 Refuse piles: certification.

(a) Within 180 days following written notification by the District Manager that a refuse pile can present a hazard, the person owning, operating, or controlling the refuse pile shall submit to the District Manager a certification by a registered engineer that the refuse pile is constructed or has been modified in accordance with current, prudent engineering practices to minimize the probability of impounding water and failure of such magnitude as to endanger the lives of miners.

(b) After the initial certification required by this section, certifications shall be submitted every twelfth month from the date of the initial certification for all refuse piles which have not been abandoned in accordance with a plan approved by the District Manager.

(c) Certifications required by paragraphs (a) and (b) of this section shall include all information considered in making the certification.

§ 77.215–4 Refuse piles; abandonment.

When a refuse pile is to be abandoned, the District Manager shall be notified in writing, and if he determines it can present a hazard, the refuse pile shall be abandoned in accordance with a plan submitted by the operator and approved by the District Manager. The plan shall include a schedule for its implementation and describe provisions to prevent burning and future impoundment of water, and provide for major slope stability.

2. Section 77.216 is revised, and new §§ 77.216–1 through 77.216–5 are added as follows:

§ 77.216 Water, sediment, or slurry impoundments and impounding structures; general.

(a) Plans for the design, construction, and maintenance of structures which impound water, sediment, or slurry shall be required if such an existing or proposed impounding structure can:

(1) Impound water, sediment, or slurry to an elevation of five feet or more above the upstream toe of the structure and can have a storage volume of 20 acre-feet or more; or

(2) Impound water, sediment, or slurry to an elevation of 20 feet or more

above the upstream toe of the structure; or

(3) As determined by the District Manager, present a hazard to coal miners.

(b) Plans for the design and construction of all new water, sediment, or slurry impoundments and impounding structures which meet the requirements of paragraph (a) of this section shall be submitted in triplicate to and be approved by the District Manager prior to the beginning of any work associated with construction of the impounding structure.

(c) Before May 1, 1976, a plan for the continued use of an existing water, sediment, or slurry impoundment and impounding structure which meets the requirements of paragraph (a) of this section shall be submitted in triplicate to the District Manager for approval.

(d) The design, construction, and maintenance of all water, sediment, or slurry impoundments and impounding structures which meet the requirements of paragraph (a) of this section shall be implemented in accordance with the plan approved by the District Manager.

(e) All fires in impounding structures shall be extinguished, and the method used shall be in accordance with a plan approved by the District Manager. The plan shall contain as a minimum, provisions to ensure that only those persons authorized by the operator, and who have an understanding of the procedures to be used, shall be involved in the extinguishing operation.

§ 77.216–1 Water, sediment or slurry impoundments and impounding structures; identification.

A permanent identification marker, at least six feet high and showing the identification number of the impounding structure as assigned by the District Manager, the name associated with the impounding structure and name of the person owning, operating, or controlling the structure, shall be located on or immediately adjacent to each water, sediment or slurry impounding structure within the time specified in paragraphs (a) or (b) of this section as applicable.

(a) For existing water, sediment or slurry impounding structures, markers shall be placed before May 1, 1976.

(b) For new or proposed water, sediment, or slurry impounding structures, markers shall be placed within 30 days from the start of construction.

§ 77.216–2 Water, sediment, or slurry impoundments and impounding structures; minimum plan requirements; changes or modifications; certification.

(a) The plan specified in § 77.216, shall contain as a minimum the following information:

(1) The name and address of the persons owning, operating or controlling the impoundment or impounding structure; the name associated with the impoundment or impounding structure; the identification number of the impounding structure as assigned by the District Manager; and the identification number of the mine or preparation plant as assigned by MESA.

(2) The location of the structure indicated on the most recent USGS 7½ minute or 15 minute topographic quadrangle map, or a topographic map of equivalent scale if a USGS map is not available.

(3) A statement of the purpose for which the structure is or will be used.

(4) The name and size in acres of the watershed affecting the impoundment.

(5) A description of the physical and engineering properties of the foundation materials on which the structure is or will be constructed.

(6) A statement of the type, size, range, and physical and engineering properties of the materials used, or to be used, in constructing each zone or stage of the impounding structure; the method of site preparation and construction of each zone; the approximate dates of construction of the structure and each successive stage; and for existing structures, such history of construction as may be available, and any record or knowledge of structural instability.

(7) At a scale not to exceed 1 inch= 100 feet, detailed dimensional drawings of the impounding structure including a plan view and cross sections of the length and width of the impounding structure, showing all zones, foundation improvements, drainage provisions, spillways, diversion ditches, outlets, instrument locations, and slope protection, in addition to the measurement of the minimum vertical distance between the crest of the impounding structure and the reservoir surface at present and under design storm conditions, sediment or slurry level, water level and other information pertinent to the impoundment itself, including any identifiable natural or manmade features which could affect operation of the impoundment.

(8) A description of the type and purpose of existing or proposed instrumentation.

(9) Graphs showing area-capacity curves.

(10) A statement of the runoff attributable to the probable maximum precipitation of 6-hour duration and the calculations used in determining such runoff.

(11) A statement of the runoff attributable to the storm for which the structure is designed and the calculations used in determining such runoff.

(12) A description of the spillway and diversion design features and capacities and calculations used in their determination.

(13) The computed minimum factor of safety range for the slope stability of the impounding structure including methods and calculations used to determine each factor of safety.

(14) The locations of surface and underground coal mine workings including the depth and extent of such workings within the area 500 feet around the perimeter, shown at a scale not to exceed one inch=500 feet.

(15) Provisions for construction surveillance, maintenance, and repair of the impounding structure.

(16) General provisions for abandonment.

(17) A certification by a registered engineer that the design of the impounding structure is in accordance with current, prudent engineering practices for the maximum volume of water, sediment, or slurry which can be impounded therein and for the passage of runoff from the designed storm which exceeds the capacity of the impoundment; or, in lieu of the certification, a report indicating what additional investigations, analyses, or improvement work are necessary before such a certification can be made, including what provisions have been made to carry out such work in addition to a schedule for completion of such work.

(18) Such other information pertaining to the stability of the impoundment and impounding structure which may be required by the District Manager.

(b) Any changes or modifications to plans for water, sediment, or slurry impoundments or impounding structures shall be approved by the District Manager prior to the initiation of such changes or modifications.

§ 77.216–3 Water, sediment, or slurry impoundments and impounding structures; inspection requirements; correction of hazards; program requirements.

(a) All water, sediment, or slurry impoundments which meet the requirements of § 77.216(a) shall be examined by a qualified person designated by the person owning, operating or controlling the impounding structure at intervals not exceeding seven days for appearances of structural weakness and other hazardous conditions. All instruments shall be monitored at intervals not exceeding seven days by a qualified person designated by the person owning, operating, or controlling the impounding structure.

(b) When a potentially hazardous condition develops, the person owning, operating or controlling the impounding structure shall immediately:

(1) Take action to eliminate the potentially hazardous condition;

(2) Notify the District Manager;

(3) Notify and prepare to evacuate, if necessary, all coal miners from coal mine property which may be affected by the potentially hazardous conditions; and

(4) Direct a qualified person to monitor all instruments and examine the structure at least once every eight hours, or more often as required by an authorized representative of the Secretary.

(c) After each examination and instrumentation monitoring referred to in paragarphs (a) and (b) of this section, each qualified person who conducted all or any part of the examination or instrumentation monitoring shall promptly record the results of such examination or instrumentation monitoring in a book which shall be available at the mine for inspection by an authorized representative of the Secretary, and such qualified person shall also promptly report the results of the examination or monitoring to one of the persons specified in paragraph (d) of this section.

(d) All examination and instrumentation monitoring reports recorded in accordance with paragraph (c) of this section shall include a report of the action taken to abate hazardous conditions and shall be promptly signed or countersigned by at least one of the following persons:

(1) The mine foreman;

(2) The assistant superintendent of the mine;

(3) The superintendent of the mine;

(4) The person designated by the operator as responsible for health and safety at the mine.

(e) Before May 1, 1976, the person owning, operating, or controlling a water, sediment, or slurry impoundment which meets the requirements of § 77.216(a) shall adopt a program for carrying out the requirements of paragraphs (a) and (b) of this section. The program shall be submitted for approval to the District Manager. The program shall include as a minimum:

(1) A schedule and procedures for examining the impoundment and impounding structure by a designated qualified person;

(2) A schedule and procedures for monitoring any required or approved instrumentation by a designated qualified person;

(3) Procedures for evaluating hazardous conditions;

(4) Procedures for eliminating hazardous conditions;

(5) Procedures for notifying the District Manager;

(6) Procedures for evacuating coal miners from coal mine property which may be affected by the hazardous condition.

(f) Before making any changes or modifications in the program approved in accordance with paragraph (e) of this section, the person owning, operating, or controlling the impoundment shall obtain approval of such changes or modifications from the District Manager.

(g) The qualified person or persons referred to in paragraphs (a), (b)(4), (c), (e)(1), and (e)(2) of this section shall be trained to recognize specific signs of structural instability and other hazardous conditions by visual observation and, if applicable, to monitor instrumentation.

§ 77.216–4 Water, sediment or slurry impoundments and impounding structures; reporting requirements; certification.

Every twelfth month following the submission of information specified in § 77.216–2(a) the person owning, operating, or controlling a water, sediment, or slurry impoundment and impounding structure that has not been abandoned in accordance with an approved plan, shall submit to the District Manager a report describing any changes in the geometry of the impounding structure; instrumentation; average and maximum depths and elevations of the impounded water, sediment, or slurry; storage capacity of the impounding structure; the volume of water, sediment, or slurry impounded; and any other aspect of the impounding structure affecting its stability which has occurred during such reporting period. The report shall also contain a certification by a registered engineer that all work was performed in accordance with the approved plan.

§ 77.216–5 Water, sediment or slurry impoundments and impounding structures; abandonment.

Prior to abandonment of any water, sediment, or slurry impoundment and impounding structure which meets the requirements of § 77.216(a), the person owning, operating, or controlling such an impoundment and impounding structure shall submit to and obtain approval of the District Manager a plan for abandonment based on current, prudent engineering practices which shall contain provisions to preclude the probability of future impoundment of water, sediment, or slurry, provide for major slope stability, and include a schedule for the plan's implementation.

3. A new § 77.217 is added as follows:

§ 77.217 Definitions.

For the purpose of §§ 77.214 through 77.216–5, the term:

(a) "Abandoned" as applied to any refuse pile or impoundment and impounding structure means that work on such pile or structure has been completed in accordance with a plan for abandonment approved by the District Manager.

(b) "Area-capacity curves" means graphic curves which readily show the reservoir water surface area, in acres, at different elevations from the bottom of the reservoir to the maximum water surface, and the capacity or volume, in acre-feet, of the water contained in the reservoir at various elevations.

(c) "Impounding structure" means a structure which is used to impound water, sediment, or slurry, or any combination of such materials.

(d) "Probable maximum precipitation" means the value for a particular area which represents an envelopment of depth-duration-area rainfall relations for all storm types affecting that area adjusted meteorologically to maximum conditions.

(e) "Refuse pile" means a deposit of coal mine waste which may contain a mixture of coal, shale, claystone, siltstone, sandstone, limestone, and related materials that are excavated during mining operations or separated from mined coal and disposed of on the surface as waste byproducts of either coal mining or preparation operations. "Refuse pile" does not mean temporary spoil piles of removed overburden material associated with surface mining operations.

(f) "Safety factor" means the ratio of the forces tending to resist the failure of a structure to the forces tending to cause such failure as determined by accepted engineering practice.

(Secs. 101, 508, Pub. L. 91–173, 83 Stat. 745, 803 (30 U.S.C. 811, 957))

[FR Doc.75–23862 Filed 9–8–75;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 303–4]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Nebraska: Approval of Plan Revisions

On May 31, 1972 (37 FR 10842), pursuant to Section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved, with specific exceptions, the State of Nebraska plan for implementation of the National Ambient Air Quality Standards (NAAQS). On July 8, 1974 (39 FR 24921), EPA announced that the State of Nebraska proposed to revise its implementation plan by adopting on February 22, 1974, a number of amendments to the Nebraska Air Pollution Control Regulations. EPA received only one comment on the proposed revisions, which comment is discussed below. The significant revisions are discussed in the following paragraphs.

1. The applicability of State emission limitations has been expanded to include the entire State. Previously, the State limitations were applicable only in Douglas, Lancaster and Sarpy Counties. However, EPA had found that these limitations were inadequate to provide for attainment and maintenance of the NAAQS in the Lincoln-Beatrice-Fairbury Intrastate Air Quality Control Region (AQCR). To correct this inadequacy, EPA had promulgated a regulation limiting emissions of particulate matter in Jefferson, Gage and Thayer Counties located in the Lincoln-Beatrice-Fairbury Intrastate Region. The amendments the State has adopted and proposed as a part of the SIP will correct this deficiency.

2. The State procedures for preconstruction review of new sources have been expanded to include a determination of compliance with all State emission standards for stationary sources, to include indirect sources, and to provide a public comment period in the review process. The State procedures for preconstruction review of new and modified direct and indirect sources are now acceptable. It should be noted that the Federal indirect source regulation promulgated in 1974 for Nebraska and most other States (40 CFR 52.22(b)) requires review of parking facilities with 1000 spaces or more in all Standard Metropolitan Statistical Areas (SMSA's), while the Nebraska regulation at that time, today is less restrictive. The Administrator is taking no action to disapprove the Nebraska regulation in this regard, however, since the Federal regulation has been indefinitely suspended pending Congressional consideration of amendments to the Clean Air Act relating to indirect sources. See 40 FR 28065, July 3, 1975. If EPA reinstates the Federal regulation at some time in the future, it may be necessary to require an amendment to the Nebraska regulations at that time.

It should also be noted that today's approval of the Nebraska indirect source regulation is in no way intended to

compromise the validity of EPA's indefinite suspension of the parking-related aspects of its own indirect source regulation, 40 CFR 52.22(b), announced on July 3, 1975 (40 FR 28064). As stated in that announcement, the suspension related to the Federal review regulation only; the Administrator continues to encourage the States to develop their own indirect source regulations and to submit them to EPA for approval.

3. A new provision (Rule 5(e)) has been added to the procedure for disapproving a construction permit application for a new or modified stationary source. A construction permit will not be issued if the proposed source will emit one ton per hour or more of particulate matter or sulfur dioxide if it is located within 20 miles of another source which emits one ton per hour or more of the same pollutant. This rule was added as a control strategy measure to prevent significant deterioration of air quality in areas where air quality is better than required by the NAAQS.

EPA is approving Rule 5(e) as a plan revision, since it evaluates stationary sources with criteria stricter than the national ambient standards. By virtue of Section 116 of the Clean Air Act, EPA has no authority to disapprove a plan measure on the grounds that it is more stringent than necessary.

While Rule 5(e) is being approved, it is not sufficiently identical to the Federal non-significant deterioration regulation (40 CFR 52.21) to serve as a replacement for that regulation in the Nebraska plan. EPA is therefore taking no action to revoke 40 CFR 52.1436, which incorporates 40 CFR 52.21 into the Nebraska plan.

4. A new sulfur oxides emission standard (2.5 pounds per million BTU heat input) has been added for fuel-burning equipment. The sulfur oxides emission regulation remains the same for all other equipment.

5. A "final date for compliance" has been added to the list of incremental dates required for a compliance schedule and the provision that a source must be notified to report its compliance status to the State has been deleted. A source must have been in conformance with an applicable regulation within 180 days from the day these amendments became enforceable by the Nebraska Department of Environmental Control if the source has not applied for and received a variance. For State purposes, the amendment became effective on February 26, 1974.

The Nebraska SIP compliance schedule regulation (§ 52.1425) is deleted.

6. Section 52.1431 has been revised below to correct the attainment date for particulate matter for the Metropolitan Sioux City Interstate AQCR. An attainment date should not have been specified because air quality levels were already below the NAAQS and the AQCR was classified Priority III for particulate matter.

7. The National Emission Standards for Hazardous Air Pollutants, published April 6, 1974 (38 FR 8820), have been adopted by the State.

It was incorrectly stated in the EPA proposal that a visible emission regulation for diesel-powered motor vehicles had been added. This regulation was originally proposed; however, it was withdrawn prior to adoption by the Nebraska Environmental Control Council and no action is taken in this regard.

During the public comment period, concern was expressed that Rule 1, which established an attainment date for secondary ambient air quality standards in Lancaster County was unrealistic because of problems attributed to fugitive emissions from unpaved streets. The attainment date of July 31, 1975, coincides with the date specified in 40 CFR 52.1431 which was promulgated on May 31, 1972. The Clean Air Act, Section 110, allows each State to specify its own attainment dates for secondary standards. By virtue of Section 116 of the Act, the Administrator does not have the authority to disapprove plan provisions on the ground that they are more stringent than what EPA requires. Therefore, Rule 1 must be approved by the Administrator according to the Clean Air Act.

These changes constitute a proposed revision to the State of Nebraska implementation plan, pursuant to § 51.8 of this chapter. The Administrator's decision to approve or disapprove revisions to a plan is based on whether they meet the requirements of Section 110(a)(2)(A)–(H) of the Clean Air Act and 40 CFR Part 51 "Requirements for Preparation, Adoption and Submittal of State Implementation Plans."

After careful review of all the changes contained in the proposed revision, the Administrator has determined that the revision meets the requirements of Section 110(a)(2)(A)–(H) of the Clean Air Act and 40 CFR Part 51. Accordingly, this SIP revision is hereby approved and made a part of the SIP. This approval will become effective October 9, 1975. (42 U.S.C. 1857c–5)

Dated: September 2, 1975.

RUSSELL E. TRAIN,
Administrator.

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

Subpart CC—Nebraska

1. Section 52.1420, paragraph (c) is amended by inserting the date, February 27, 1974, in chronological order in paragraph (c)(1).

2. Section 52.1425 is revoked.

3. Section 52.1428 is revoked.

4. In Section 52.1431, the attainment date table is amended as follows:

Replacing the letter "b", which indicates that ambient air quality levels were in excess of the secondary standards for particulate matter in the Metropolitan Sioux City Interstate Region, with the letter "c", and replacing the letter "a", which designates the date for attainment of the national standards for particulate matter in the Metropolitan Sioux City Interstate Region, with letter "c".

5. Section 52.1432 is revoked.

[FR Doc.75-23812 Filed 9-8-75;8:45 am]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

North Carolina: Approval of Compliance Schedules

Section 110 of the Clean Air Act and the implementing regulations of 40 CFR Part 51 require each State to submit a plan which provides for the attainment and maintenance of the national ambient air quality standards throughout the State. Each such plan is to contain legally enforceable compliance schedules setting forth the dates by which all sources must be in compliance with any applicable requirements of the plan.

On November 7 and 27, 1974, pursuant to these requirements, the State of North Carolina submitted for the Environmental Protection Agency's approval revisions in the compliance schedule portion of its plan. The compliance schedules submitted by North Carolina were reviewed by the Agency to verify adherence to the requirements of 40 CFR Part 51 regarding public hearings, plan revisions, and compliance schedules as well as consistency with the control strategies of the State's implementation plan. The schedules which met these criteria were published in the FEDERAL REGISTER as proposed rulemaking on May 12, 1975 (40 FR 20643). Copies of the schedules were made available for public inspection and all interested parties were invited to submit written comments on them. No comments were received from the general public or from the affected sources, however, and the schedules printed below are identical to those offered for comment in the proposal notice.

The schedules below are printed in two groups. The first group is composed of new schedules and certain schedules which were proposed previously in the FEDERAL REGISTER, but were then renegotiated by the State before the Agency could act on them. Composing the second group are schedules which have been renegotiated by the State since the Administrator's original approval of them on June 20, 1973 (38 FR 16144). Existing lines of 40 CFR 52.1774(a) are here revised to reflect these extensions in the deadline for final compliance.

All of the schedules establish dates by which individual air pollution sources must attain compliance with the emission limitations of the State implementation plan. These dates are given in the succeeding tables under the heading "Final Compliance Date." In many cases the schedules include incremental steps toward compliance, with specific dates set for achieving those steps. While the tables below do not list these interim dates, the actual schedules do. The entry "Immediately" under the heading "Effective Date" means that the schedule becomes Federally enforceable immediately upon its approval by the Administrator.

Copies of the schedules and the North Carolina plan are available for public inspection at the following locations:

Air Programs Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region IV, 1421 Peachtree Street, NE., Atlanta, Georgia 30309.
Air Quality Section, Division of Environmental Management, Department of Natural and Economic Resources, 226 West Jones Street, Raleigh, North Carolina 27611.
Freedom of Information Center, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

An evaluation of any of the schedules can be obtained by consulting personnel of the Agency's Region IV Air Programs Branch at the Atlanta address given above (telephone: 404/526–3043).

The Administrator has determined that approval of these schedules will not hinder the attainment and maintenance of the national ambient air quality standards in North Carolina. Accordingly, they are hereby approved.

This action is effective immediately. The Administrator finds that good cause exists for making this approval action immediately effective since these schedules are already in effect under North Carolina law and the Agency's action imposes no additional regulatory burden on affected facilities.

(Sec. 110(a) of the Clean Air Act (42 U.S.C. 1857c-5(a)).)

Dated: September 2, 1975.

JOHN QUARLES,
Acting Administrator.

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

Subpart H—North Carolina

§ 52.1770 [Amended]

1. Section 52.1770, *Identification of plan*, is amended by inserting the dates November 7 and 27 [1974] in proper chronological order in paragraph (c).

2. Section 52.1774 is amended by inserting new lines in the tables of paragraph (a) as follows:

§ 52.1774 Compliance schedules.

(a) The compliance schedules for the sources identified below are approved as meeting the requirements of § 51.6 and § 51.51 of this chapter. All regulations cited are air pollution control regulations of the State.

* * * * *

NORTH CAROLINA

Source	Location	Permit No.	Regulation involved	Date of adoption	Effective date	Final compliance date
ALEXANDER COUNTY						
Worth Spinning Co., Cotton picker collection system.	Stoney Point.	02-224-2-1575.	IV-2.30	Nov. 18, 1974	Immediately	Feb. 15, 1975
Lewittes Furniture Enterprises, Woodwaste collection system.	Taylorsville.	02-194-8-3174.	IV-2.00	Dec. 17, 1973	do	Aug. 31, 1974
AVERY COUNTY						
Loven Ready Mix Co., process operations.	Pineola	T-2479	IV-2.30, II-2.2.	Oct. 10, 1974	Immediately	Oct. 30, 1974
ALAMANCE COUNTY						
Glen Raven Mills, finishing division.	Glen Raven.	T-2229	II-2.2, II-5.2, IV-2.30, IV-2.60.	Mar. 15, 1974	Immediately	Aug. 31, 1974
ASHE COUNTY						
Thomasville Furniture Industry, Inc., chair plant.	West Jefferson.	T-2254	II-2.2, II-5.2, IV-1.10, IV-2.40, IV-2.30, IV-2.60.	Sept. 9, 1974	Immediately	Mar. 31, 1975
ANSON COUNTY						
Burlington Industries, Kenville, Inc.	Lilesville	T-2317	II-2.2, IV-2.30.	Sept. 9, 1974	Immediately	June 1, 1975
BURKE COUNTY						
Great Lakes Carbon Corp.	Morganton	12-146-12-3173.	II-2.00	Nov. 18, 1974	Immediately	Oct. 1, 1974
Building No. 6, pitch impregnation process.	do	12-212-12-3174.	II-2.00	Nov. 18, 1974	do	Dec. 31, 1974
Baking furnace exhaust stacks.	do	12-112-6-3073.	II-2.00	Nov. 18, 1974	do	Dec. 1, 1974
Henredon Furniture, Industry plant No. 2, wood dust collection system.	do	12-216-10-174.	IV-2.50	Nov. 18, 1974	do	Jan. 1, 1975
Southern Devices, Inc., wood dust emissions.	do	12-223-6-1475.	IV-2.00	Nov. 18, 1974	do	June 14, 1975
Knob Creek, wood dust system.	do	12-180-12-3174.	IV-2.00	Nov. 18, 1974	do	Mar. 15, 1975
Drexel Heritage Furnishings: Plant No. 1, woodwaste collection system.	Drexel	12-158-1-175.	IV-2.00	Nov. 18, 1974	do	June 30, 1975

Source	Location	Permit No.	Regulation involved	Date of adoption	Effective date	Final compliance date
Plants Nos. 3 and 5, woodwaste collection system.	do	12-156-12-174.	IV-2.00	Dec. 17, 1973	do	Dec. 1, 1974
Plant No. 6, woodwaste collection system.	do	12-155-1-175.	IV-2.00	Nov. 18, 1974	do	June 30, 1975
Plant No. 43, woodwaste collection system.	Hildebran	12-161-1-175.	IV-2.00	Nov. 18, 1974	do	June 30, 1975
Plant No. 60, woodwaste collection system.	Morganton	12-159-1-175.	IV-2.00	Nov. 18, 1974	do	June 30, 1975
Great Lakes Carbon Corp.: Bldg. No. 2, process operations.	do	12-198-8-174.	IV-2.30	Dec. 17, 1973	do	Aug. 1, 1974
Buildings Nos. 4 and 5, open furnace tops.	do	12-201-12-2474.	IV-2.30, II-2-2.2.	Dec. 17, 1973	do	Dec. 24, 1974
Building No. 10, salvage and renovation of resistor and insulation materials.	do	12-199-10-3074.	IV-2.30, II-2-2.2.	Dec. 17, 1973	do	Oct. 30, 1974
Building No. 10, salvage and renovation of resistor insulation materials.	do	12-200-8-3074.	IV-2.30, II-2-2.2.	Nov. 18, 1974	do	Dec. 31, 1974
Building No. 10, salvage and renovation of used resistor material.	do	12-202-3-3174.	IV-2.30, II-2-2.2.	Dec. 17, 1973	do	Mar. 31, 1974
Highlander, Ltd., tenter frame finishing process.	do	12-173-3-174.	IV-2.00	Dec. 17, 1973	do	Apr. 1, 1974
Knob Creek of Morganton, woodwaste collection system.	do	12-180-12-3174.	IV-2.00	Nov. 18, 1974	do	Mar. 15, 1975
Southern Devices, Inc., clay blender dust collection system.	do	12-149-2-174.	IV-2.30	Dec. 17, 1973	do	Feb. 1, 1974
Wamsutta Knitting Mills Finishing Plant, heat setting equipment.	do	12-150-12-3173.	IV-2.30	Dec. 17, 1973	do	Apr. 1, 1974
		BEAUFORT COUNTY				
Blount Midyette Co., Inc., process operations.	Washington	T-2525	IV-2.30	Sept. 9, 1974	Immediately	June 1, 1975
Cargill, Inc	Belhaven	T-2392	IV-2.30	Dec. 12, 1974	do	June 1, 1975
		CATAWBA COUNTY				
Drexel Heritage Furnishings, Plant No. 7, woodwaste collection system.	Drexel	12-226-6-30-75.	IV-2.00	Nov. 18, 1974	Immediately	June 30, 1975
Shuford Mills, Inc., Tape Division, hydrocarbon emissions.	Hickory	18-208-11-174.	IV-2.60	Nov. 18, 1974	do	Apr. 1, 1975
Fairgrove Furniture Co., wood dust collection system.	do	18-210-8-174.	IV-2.00	Nov. 18, 1974	do	Aug. 1, 1974
Cegen Furniture, Inc., wood-fired boiler.	do	18-211-6-3074.	IV-2.00	Nov. 18, 1974	do	June 30, 1974
Ethan Allen, Inc., Plant No. 1, wood dust collection system.	Maiden	18-214-12-174.	IV-2.00	Nov. 18, 1974	do	Nov. 18, 1974
General Electric Co., Hickory Plant, paint spray booth exhausts hydrocarbon.	Hickory	18-218-12-3174.	IV-2.60	Nov. 18, 1974	do	Dec. 31, 1974
Century Furniture Co., case goods division, wood dust collection system.	do	18-220-1-175.	IV-2.00	Nov. 18, 1974	do	Jan. 1, 1975
Stezer's Frame Co., Brurd's, Inc., wood dust exhaust system.	Newton	18-222-12-174.	IV-2.00	Nov. 18, 1974	do	Dec. 1, 1974
The Major's Shop, Inc., wood dust collection system.	Hickory	18-225-5-175.	IV-2.00	Nov. 18, 1974	do	May 1, 1975
Custom Craft Furniture, Inc., wood dust system.	do	18-195-6-1574.	IV-2.00	Nov. 18, 9174	do	Dec. 31, 1974
Stream Line Tools, Inc., wood dust system.	Conover	18-205-5-1574.	IV-2.00	Nov. 18, 1974	do	Aug. 1, 1974
Clayton-Marcus Co., Plant No. 1, wood dust collection system.	Hickory	02-217-9-1574.	IV-2.00	Nov. 18, 1974	do	Sept. 15, 1974
Carolina Tables, Inc., wood dust collection system.	do	18-189-4-174.	IV-2.00	Nov. 18, 1974	do	Nov. 1, 1974
Custom-Craft Furniture, Inc., woodwaste collection system.	do	18-195-6-1574.	IV-2.00	Dec. 17, 1973	do	June 15, 1974
Drexel Heritage Furnishings: Plant No. 40, wood dust collection system.	do	18-162-6-174	IV-2.00	Nov. 18, 1974	do	Dec. 31, 1974
Plant No. 44, wood waste collection system.	do	18-154-6-174.	IV-2.00	Dec. 17, 1973	do	June 1, 1974
Plant No. 44, boilers	do	18-177-2-1574	IV-1.20, II-2.2.	Dec. 17, 1973	do	Feb. 15, 1975
Plant No. 45, wood waste collection system.	Longnier	18-160-1-175.	IV-2.00	Nov. 18, 1974	do	June 30, 1975
Granline Corp., wood dust collection system.	Hickory	18-167-11-3064	IV-2.00	Dec. 17, 1973	do	Nov. 30, 1974
Hickory Chair Co., wood dust collection system.	do	18-181-6-174.	IV-2.00	Dec. 17, 1973	do	June 1, 1974
Hickory Manufacturing Co., 2 boilers burning wood waste.	do	18-171-1-174.	IV-1.20	Dec. 17, 1973	do	Jan. 1, 1974
Hickory Manufacturing Co., wood dust collection system.	do	18-183-10-174	IV-2.00	Nov. 18, 1974	do	June 1, 1975
Maxwell Royal Chair Co., boilers.	do	18-151-10-1573	IV-1.20, II-2.2.	Dec. 17, 1973	do	Jan. 4, 1974

Source	Location	Permit No.	Regulation involved	Date of adoption	Effective date	Final compliance date
Southern Furniture Co., wood dust collection system.	Conover	18-191-7-174	IV-2.00	Dec. 17, 1973	do	July 1, 1974
			CHATHAM COUNTY			
C. C. Routh Mills, Inc., process operations.	Bonlee	T-2494	IV-2.30, II-2.2.	Oct. 10, 1974	Immediately	Jan. 30, 1975
Central Carolina Farmers, Inc., process operations.	Pittsboro	T-2496	IV-2.30, II-2.2.	Oct. 10, 1974	do	June 31, 1975
Do	Siler City	T-2499	IV-2.30, II-2.2.	Oct. 10, 1974	do	May 31, 1975
Selig Manufacturing, Inc., process operations and fuel combustion.	do	T-2482	II-2.2, IV-1.10, IV-2.40.	Oct 10, 1974	do	Feb. 15, 1975
			CHOWAN COUNTY			
C. A. Perry & Sons, Inc., process operations.	Hobbsville	T-2516	IV-2.30	Oct. 10, 1974	Immediately	May 15, 1975
Chowan Feed and Supply, process operations.	Edenton	T-2529	IV-2.30	Oct. 10, 1974	do	May 1, 1975
Chowan Storage Co., Inc., process operations.	do	T-2528	IV-2.30	Oct. 10, 1974	do	May 1, 1975
Home Feed and Fertilizer Co., Inc., process operations.	do	T-2523	IV-2.30	Oct. 10, 1974	do	May 1, 1975
Leary Brothers Storage Co., process operations.	do	T-2527	IV-2.30	Oct. 10, 1974	do	May 1, 1975
Valhalla Produce Co., process operations.	do	T-2510	IV-2.30	Oct. 10, 1974	do	May 15, 1975
Rose Brothers Paving, Inc	do	T-2206	II-2.2, II-5.2, IV-2.40, IV-2.60, IV-1.40.	Sept. 9, 1974	do	Dec. 31, 1974
			CALDWELL COUNTY			
Bernhardt Furniture Industry, Plant No. 1, wood dust emissions.	Lenoir	14-215-12-3174.	IV-2.00	Nov. 18, 1974	Immediately	Dec. 31, 1974
Granite Chair Co., wood dust collection system.	Hudson	14-221-12-174.	IV-2.00	Nov. 18, 1974	do	Dec. 1, 1974
Singer Furniture Division, Plants Nos. 1, 5, 6, and 7, woodwaste collection system.	Lenoir	14-100-1-1073; 14-102-1-1073; 14-104-1-1073; 14-103-1-1073.	IV-2.00	Nov. 18, 1974	do	June 30, 1975
Carolina Tire & Appliance Co., Inc., exhaust system from buffing of automobile tire casings.	do	14-219-11-174.	II-2.2, II-2.36.	Nov. 18, 1974	do	Nov. 1, 1974
Bernhardt Furniture Industry: Plant No. 1, wood dust collection system.	do	14-185-1-175	IV-2.00	Dec. 17, 1973	do	Jan. 1, 1975
Plant No. 2, wood dust collection system.	do	14-186-1-175	IV-2.00	Nov. 18, 1974	do	Feb. 28, 1975
Plant No. 3, wood dust collection system.	do	14-187-1-175	IV-2.00	Dec. 17, 1973	do	Jan. 1, 1975
Plant No. 7, wood dust collection system.	do	14-188-1-175	IV-2.00	Dec. 17, 1973	do	Jan. 1, 1975
Brandon Furniture Co., wood dust collection system.	Granite Falls.	14-178-2-174	IV-2.00	Dec. 17, 1973	do	Feb. 1, 1974
Caldwell Furniture Division of Thomasville Industries, hydrocarbons emissions from finishing.	Lenoir	14-131-1-174	IV-2.60	Dec. 17, 1973	do	Jan. 1, 1974
Caldwell Furniture Division of Thomasville Industries, wood dust collection system.	do	14-176-6-3074.	IV-2.00	Dec. 17, 1973	do	June 30, 1974
Davis Wood Products, Inc., Plant No. 4, wood dust collection system.	Hudson	14-137-9-173	IV-2.00	Nov. 5, 1974	do	Nov. 18, 1974
Fairfield Chair Co.: Plant No. 1, wood dust collection system.	Lenoir	14-192-1-175	IV-2.00	Dec. 17, 1973	do	Jan. 1, 1975
Plant No. 2, wood dust collection system.	do	14-193-4-174	IV-2.00	Dec. 17, 1973	do	Apr. 1, 1974
Hammary Furniture: Plant No. 1, wood dust collection system.	do	14-141-9-3074.	IV-2.00	Dec. 17, 1973	do	Sept. 30, 1974
Plant No. 2, wood dust collection system.	Granite Falls.	14-143-9-3074.	IV-2.00	Dec. 17, 1973	do	Sept. 30, 1974

Source	Location	Permit No.	Regulation involved	Date of adoption	Effective date	Final compliance date
Kincaid Furniture Co., Inc., dust collection system.	Hudson	14-129-6-2873	IV-2.00	Dec. 17, 1973	do	Mar. 1, 1974
Kohler & Campbell, Inc., wood dust collection system.	Granite	14-196-5-174	IV-2.00	Dec. 17, 1973	do	May 1, 1974
Lenoir Coatings & Resins—Division of Whittaker Corp.:	Lenoir	14-168-4-174	IV-2.00	Dec. 17, 1973	do	Apr. 1, 1974
Dust emissions	do	14-170-4-174	IV-2.60	Dec. 17, 1973	do	Apr. 1, 1974
Hydrocarbon emissions	do	14-204-7-3174	IV-2.00	Dec. 17, 1973	do	July 31, 1974
Triplett Carving Co., wood dust collection system.						
CABARRUS COUNTY						
Mineral Research & Development Corp., process operations.	Harrisburg	T-2472	II-5.2	Oct. 10, 1974	Immediately	Jan. 30, 1975
Kerr Industries, Inc	Concord	T-2323	II-2.2, IV-2.30.	Sept. 9, 1974	do	Jan. 31, 1975
Main plant:						
(a) Tenter frames 3, 4, 5		T-2337	II-2.20, IV-2.30.	Sept. 9, 1974	do	Feb. 28, 1975
(b) Thermal ovens 1, 3			II-2.2, IV-2.30.	Sept 9, 1974	do	Mar. 31, 1975
(c) Boilers 1, 2			II-2.2, IV-1.10.	Sept. 9, 1974	do	June 1, 1975
CLEVELAND COUNTY						
McCarty & Sons, process operations.	Fallston	T-2477	II-2.2, IV-2.30.	Oct. 10, 1974	Immediately	June 30, 1975
Wilson & Cornwell Gin Co., Inc., process operations.	Shelby	T-2478	II-2.2, IV-2.30.	Oct. 10, 1974	do	June 30, 1975
COLUMBUS COUNTY						
Berry Veneer and Plywood, fuel combustion.	Chadbourne.	T-1692	II-2.2, IV-1.10, IV-2.40.	May 16, 1972	Immediately	Sept. 1, 1973
CRAVEN COUNTY						
Harlowe Community Center, fuel combustion.	Harlowe	T-2520	II-2.2, IV-1.10.	Oct. 10, 1974	Immediately	May 31, 1975
CUMBERLAND COUNTY						
Thomason Industry, Inc., process operations.	Fayetteville.	T-2506	II-2.2, IV-1.10.	Oct. 10, 1974	Immediately	May 30, 1975
Foxfi Lively Knits, process operations.	do	T-2382	II-2.2	Sept. 6, 1973	do	Mar. 31, 1975
CURRITUCK COUNTY						
Currituck Grain, Inc., process operations.	Moyock	T-2514	IV-2.30	Oct. 10, 1974	Immediately	June 1, 1975
DAVIDSON COUNTY						
Arcadia School, fuel combustion.	Lexington	T-2281	II-2.2, IV-2.40, IV-1.10.	Oct. 10, 1974	Immediately	June 1, 1975
Burlington Industries, Inc., process operations.	Denton	T-2399	II-2.2, IV-1.10.	Oct. 10, 1974	do	June 1, 1975
Indiana Moulding & Frame Co., process operations, fuel combustion.	Lexington	T-2406	II-2.2, IV-1.10.	Oct. 10, 1974	do	Jan. 1, 1975
Link-Taylor Corp., process operations.	do	T-2453	II-2.2, IV-1.10.	Oct. 10, 1975	do	June 1, 1975
Carolina Panel Co., Inc	do	T-2326	II-2.2, IV-1.10.	Mar. 15, 1974	do	Sept. 1, 1974
DUPLIN COUNTY						
A&B Milling Co., process operations.	Warsaw	T-2504	II-2.2, IV-2.30.	Oct. 10, 1974	Immediately	June 1, 1975
Beulaville Milling Co., process operations.	Beulaville.	T-2505	II-2.2, IV-2.30.	Oct. 10, 1974	do	June 1, 1975
DURHAM COUNTY						
Liggett & Myers, Inc., process operations.	Durham	T-2500	IV-1.10	Oct. 10, 1974	Immediately	May 31, 1975
Wade Daniel Cabinet Shop, process operation	do	T-2492	II-2.2, IV-2.30.	Oct. 10, 1974	do	Feb. 28, 1975
FORSYTH COUNTY						
Adams-Millis Fabrics, Inc., (2) artos tenter frames for drying and heat setting.	Winston-Salem.	T-096-2	II-2.0	Aug. 28, 1974	Immediately	Dec. 15, 1974
Hanes Dye and Finishing Co.:						
Boilers	do	T-042-7	II-2.0	Aug. 6, 1974	do	Feb. 1, 1975
Processing equipment		T-052-4	II-2.0	Aug. 6, 1974	do	Oct. 1, 1974
Sheppard Veneer Co., Fitzgibbons fire tube boiler.	do	T-100-2	II-2.0, IV-1.20.	June 21, 1974	do	Dec. 31, 1974
GATES COUNTY						
Wright Milling Co., process operations.	Hobbsville	T-2513	IV-2.30	Oct. 10, 1974	Immediately	May 15, 1975

Source	Location	Permit No.	Regulation involved	Date of adoption	Effective date	Final compliance date
			GRANVILLE COUNTY			
Central Carolina Farmers, Inc., process operations.	Oxford	T-2497	II-2.2, IV-2.30.	Oct. 10, 1974	Immediately	May 31, 1975
			HALIFAX COUNTY			
Beasley Lumber Products, fuel combustion.	Scotland Neck	T-2493	II-2.2, IV-2.40, IV-1.10.	Oct. 10, 1974	Immediately	Dec. 31, 1974
Federal Paper Board Co., Inc., fuel combustion.	Roanoke Rapids.	T-2489	II-2.2, IV-2.40, IV-1.10.	Oct. 10, 1974	do	June 1, 1975
J. S. Turner & Sons, Inc., fuel combustion.	Weldon	T-2488	II-2.2, IV-2.40, IV-1.10.	Oct. 10, 1974	do	June 30, 1975
Rose's Store No. 16, fuel combustion.	Enfield	T-2487	II-2.2, IV-2.40, IV-1.10.	Oct. 10, 1974	do	May 31, 1975
Weldon Veneer Co., Inc., fuel combustion.	Weldon	T-2491	II-2.2, IV-2.40, IV-1.10.	Oct. 10, 1974	do	June 1, 1975
J. P. Stevens: Rosemary plant	Roanoke Rapids.	T-783	II-2.2, IV-1.1, IV-2.4.	Sept. 6, 1973	do	June 1, 1975
Roanoke No. 1	do	T-781	II-2.2, IV-1.10, IV-2.40.	Sept. 6, 1973	do	June 1, 1974
			HENDERSON COUNTY			
Cranston Print Works Co., process operations.	Fletcher	T-2475	II-2.2, II-5.2, IV-2.30.	Oct. 10, 1974	Immediately	May 31, 1975
			HERTFORD COUNTY			
Chowan Milling Co., Inc., process operations.	Como	T-2518	IV-2.30	Oct. 10, 1974	Immediately	June 1, 1975
G. V. Wise Products, process operations.	Murfreesboro.	T-2524	IV-2.30	Oct. 10, 1974	do	June 1, 1975
			HOKE COUNTY			
Upchurch Milling & Storage, process operations.	Raeford	T-2232	IV-2.30	Sept. 6, 1973	Immediately	June 30, 1974
			IREDELL COUNTY			
Melville Textile Works, Inc., process operations.	Statesville	T-2466	II-2.2, IV-2.30.	Oct. 10, 1974	Immediately	June 1, 1975
Thonet Industries, Inc., fuel combustion.	do	T-2467	II-2.2, IV-1.10.	Oct. 10, 1974	do	June 1, 1975
A. L. Shaver & Sons, Inc	do	T-2340	II-2.2	Dec. 12, 1974	do	June 1, 1975
Gilliam Furniture, Inc	do	T-2341	II-2.2, IV-1.10, IV-2.40.	Sept. 9, 1974	do	Oct. 31, 1974
			JONES COUNTY			
Maysville Milling Co., Inc., process operations.	Maysville	T-2530	IV-2.30	Oct. 10, 1974	Immediately	June 1, 1975
			LEE COUNTY			
Singer Furniture Co., process operations.	Sanford	T-2483	II-2.2, IV-2.30.	Oct. 10, 1974	Immediately	Mar. 1, 1975
Steven Milling Co., Inc., process operations.	Broadway	T-2501	II-2.2, IV-2.30.	Oct. 10, 1974	do	June 1, 1975
			LENOIR COUNTY			
Carolina-Dixie Grain Co., process operations.	Kinston	T-2519	IV-2.30	Oct. 10, 1974	Immediately	June 1, 1975
Deep Run Milling Co., process operations.	Deep Run	T-2512	IV-2.30	Oct. 10, 1974	do	June 15, 1975
Johnson Grain, Inc., process operations.	Kinston	T-2521	IV-2.30	Oct. 10, 1974	do	May 31, 1975
Leco Feed Mills, process operations.	do	T-2526	IV-2.30	Oct. 10, 1974	do	May 15, 1975
Neuse Milling Co., Inc., process operations.	do	T-2517	IV-2.30	Oct. 10, 1974	do	June 1, 1975
Texfi Knit-One, process operations.	do	T-2199	IV-2.60	June 27, 1973	do	Mar. 1, 1975
Cargill, Inc	do	T-2390	IV-2.30	Sept. 6, 1973	do	June 1, 1975
E. I. duPont de Nemours, process operations.	do	T-2211	IV-2.60	June 27, 1973	do	June 1, 1975

Source	Location	Permit No.	Regulation involved	Date of adoption	Effective date	Final compliance date
			LINCOLN COUNTY			
N.C. Spinning Mills, Inc., process operations.	Lincolnton	T-2468	II-2.2, IV-2.30.	Oct. 10, 1974	Immediately	June 1, 1975
			MONTGOMERY COUNTY			
Alliance Furniture Division of Troy Lumber Co., fuel combustion.	Biscoe	T-2508	II-2.2, IV-1.10.	Oct. 10, 1974	Immediately	May 1, 1975
Taylor Homes Division of Troy Lumber Co., fuel combustion.	Troy	T-2507	II-2.2, IV-1.10.	Oct. 10, 1974	do	May 1, 1975
			NEW HANOVER COUNTY			
MoBill Textiles, Inc., process operations.	Wilmington	T-2509	II-2.2	Oct. 10, 1974	Immediately	Mar. 1, 1975
Singer Co., process operations.	do	T-2203	IV-2.60	June 27, 1973	do	June 1, 1975
Shell Oil, process operations	do	T-2201	IV-2.60	July 31, 1973	do	June 1, 1975
			NORTHAMPTON COUNTY			
Georgia Pacific, process bag house.	Conway	T-1427	II-2.20	Sept. 6, 1973	Immediately	Nov. 1, 1973
			PASQUOTANK COUNTY			
Elizabeth City State University, fuel combustion.	Elizabeth City.	T-2205	II-2.2, IV-1.10, IV-2.40.	Dec. 12, 1974	Immediately	Dec. 31, 1974
College of the Albermarle, fuel combustion.	do	T-2200	II-2.2, IV-1.10, IV-2.40.	Dec. 6, 1973	do	May 31, 1975
			PERSON COUNTY			
Central Carolina Farmers, Inc., process operations.	Roxboro	T-2496	II-2.2, IV-2.30.	Oct. 10, 1974	Immediately	May 31, 1975
RPC Division, Midland Ross Corp., process operations.	do	T-2486	II-2.2, IV-2.60, IV-2.30.	Oct. 10, 1974	do	Dec. 31, 1974
Roxboro Concrete Services, process operations.	do	T-2241	II-2.2, IV-2.30.	Oct. 10, 1974	do	Dec. 31, 1974
			PITT COUNTY			
FCX Feed Mill, process operations.	Farmville	T-2511	IV-2.30	Oct. 10, 1974	Immediately	June 1, 1975
King Brothers Farm Center, Inc., process operations.	Ayden	T-2515	IV-2.30	Oct. 10, 1974	do	June 30, 1975
Cox Trailers, Inc	Grifton	T-2212	IV-2.60	Sept. 9, 1974	do	Dec. 31, 1974
			ROBESON COUNTY			
Texfi Single Knits	Lumberton	T-2383	II-2.2	Sept. 6, 1973	Immediately	Mar. 31, 1975
			ROCKINGHAM COUNTY			
Stoneville Furniture Co., process operations.	Stoneville	T-2464	II-2.2, IV-2.30.	Oct. 10, 1974	Immediately	June 1, 1975
			RUTHERFORD COUNTY			
N.C. Display Fixture Co., Inc., process operations.	Forest City	T-2476	II-2.2, IV-2.30.	Oct. 10, 1974	Immediately	Apr. 1, 1975
Rutherford County Board of Commissioners, fuel combustion.	Rutherfordton.	T-2394	II-2.2, IV-2.40, IV-1.10.	Oct. 10, 1974	do	June 1, 1975
			SAMPSON COUNTY			
Butler & Crumpler Milling Co., process operations.	Roseboro	T-2502	II-2.2, IV-2.30.	Oct. 10, 1974	Immediately	Apr. 1, 1975
Garland Farm Supply, process operations.	Garland	T-2503	II-2.2, IV-2.30.	Oct. 10, 1974	do	Apr. 1, 1975
Coharie Mill & Supply Co	Clinton	T-2375	IV-2.30	Sept. 9, 1974	do	June 1, 1975
H. J. Underwood Co	do	T-2377	IV-2.30	Sept. 9, 1974	do	Apr. 1, 1975
			STANLY COUNTY			
E. J. Snyder & Co., Inc., process operations.	Albemarle	T-2470	II-2.2, IV-2.30.	Oct. 10, 1974	Immediately	June 1, 1975
Page Church Furniture Co., Inc., fuel combustion.	do	T-2469	II-2.2, IV-1.10.	Oct. 10, 1974	do	June 30, 1975
Smith Novelty Co., Inc., unapproved incinerator.	do	T-2471	II-2.2, IV-1.30.	Oct. 10, 1974	do	Mar. 1, 1975
			STOKES COUNTY			
R. J. Reynolds, fuel combustion process operations.	Walnut Cove.	T-2389	II-2.2, IV-2.30, IV-1.10.	Sept. 6, 1973	Immediately	June 1, 1975

Source	Location	Permit No.	Regulation involved	Date of adoption	Effective date	Final compliance date
			SURRY COUNTY			
Elkin Furniture Co., process operations.	Elkin	T-2457	II-2.2, IV-2.30.	Oct. 10, 1974	Immediately	June 30, 1975
Mount Airy Table Co., Inc., process operations.	Mount Airy.	T-2463	II-2.2, IV-2.30.	Oct. 10, 1974	do	May 15, 1975
National Furniture Co., Inc., process operations.	do	T-2465	II-2.2, IV-2.30.	Oct. 10, 1974	do	May 15, 1975
			TYRRELL COUNTY			
Butler Land & Timber Co., woodwaste open burning.	Columbia	T-1772		Sept. 6, 1973	Immediately	Sept. 30, 1973
			UNION COUNTY			
FCX, Inc., process operations.	Marshville	T-2473	II-2.2, IV-2.30.	Oct. 10, 1974	Immediately	May 1, 1975
Monroe Combining Corp., process operations.	Monroe	T-2474	II-2.2, IV-2.30.	Oct. 10, 1974	do	July 1, 1975
			VANCE COUNTY			
Dixie Milling Co., process operations.	Henderson	T-2495	II-2.2, IV-2.30.	Oct. 10, 1974	Immediately	Jan. 31, 1975
			WAKE COUNTY			
Adams Concrete Products Co., process operations.	Raleigh	T-2484	II-2.2, IV-2.30.	Oct. 10, 1974	Immediately	June 1, 1975
Carolina Plywood Co., Inc., process operations.	Apex	T-2485	II-2.2, IV-2.30.	Oct. 10, 1974	do	Jan. 30, 1975
Baby Diaper Service, fuel combustion.	Raleigh	T-2205	II-2.2, IV-1.10, IV-2.40.	Sept. 6, 1973	do	Aug. 31, 1974
Carolina Power & Light Co., fuel combustion.	do	T-2246	II-2.2, IV-1.10, IV-2.40.	Sept. 6, 1973	do	Nov. 1, 1974
			WATAUGA COUNTY			
Loven Ready Mix Co., process operations.	Boone	T-2480	II-2.2, IV-2.30.	Oct. 10, 1974	Immediately	Dec. 30, 1974
			WAYNE COUNTY			
Dewey Brothers, Inc., conical burner.	Goldsboro	T-1583	II-2.20, IV-2.00.	Sept. 9, 1974	Immediately	Dec. 31, 1974
Peacock & Rose, process operations.	Fremont	T-2522	IV-2.30	Oct. 10, 1974	do	June 1, 1975
			WILKES COUNTY			
J. F. Enterprises, process operations.	Wilkesboro	T-2269	II-2.2, II-5.2, IV-2.30.	Sept. 6, 1973	Immediately	May 1, 1974
Hammary Furniture, process operations.	North Wilkesboro.	T-2276	II-2.2, II-5.2, IV-2.60, IV-2.30.	Sept. 6, 1973	do	Dec. 1, 1973
			WILSON COUNTY			
Cargill, Inc., process operations.	Wilson	T-2490	II-2.2, II-5.2, IV-2.30.	Oct. 10, 1974	Immediately	May 31, 1975
Lucama Grain Co., Inc., process operations.	Lucama	T-2481	II-2.2, IV-2.30.	Oct. 10, 1974	do	Dec. 31, 1974
			YADKIN COUNTY			
Carl Rose & Sons Ready Mix, process operations.	Jonesville	T-2414	II-2.2, IV-2.30.	Oct. 10, 1974	Immediately	June 1, 1975

§ 52.1774 [Amended]

3. Section 52.1774 is revised by changing the final compliance dates specified in the tables of paragraph (a) for certain schedules approved on June 20, 1973 (38 FR 16144). As revised, the affected lines of § 52.1774(a) read as follows:

Source	Location	Permit No.	Regulation involved	Date of adoption	Effective date	Final compliance date
			ASHE COUNTY			
Weaver Manufacturing Co.	West Jefferson.	T-2163	II-2.2, IV-2.30.	Oct. 9, 1974	Immediately	May 1, 1975
			CABARRUS COUNTY			
Cabarrus Memorial Hospital.	Concord	T-1975	II-1.3	Oct. 9, 1974	Immediately	Dec. 31, 1974
			CHEROKEE COUNTY			
Fitco, Inc.	Murphy	T-2165	II-2.2, IV-1.10.	Oct. 9, 1974	Immediately	July 15, 1974

Source	Location	Permit No.	Regulation involved	Date of adoption	Effective date	Final compliance date
			CURRITUCK COUNTY			
J. J. Flora & Co., Inc.	Moycock	T-2070	II-2.2, IV-2.30.	Oct. 9, 1974	Immediately	June 1, 1975
			HALIFAX COUNTY			
Columbia Peanut Co.	Enfield	T-1855	II-1.3	Mar. 15, 1974	Immediately	July 1, 1974
			HENDERSON COUNTY			
Basics Ceramics	Henderson-ville.	T-2161	II-2.2, IV-2.30.	Oct. 9, 1974	Immediately	Feb. 1, 1975
			LINCOLN COUNTY			
Burris Industries	Lincolnton	T-2148	II-2.2, IV-1.10.	Oct. 9, 1974	Immediately	July 15, 1974
			MADISON COUNTY			
Mars Hills College	Mars Hill	T-1175	II-1.3, II-2.2, IV-1.10.	Oct. 9, 1974	Immediately	May 31, 1975
			MOORE COUNTY			
Moore Memorial Hospital, Inc.	Pinehurst	T-1966	II-1.3	Mar. 15, 1974	Immediately	May 1, 1974
			NASH COUNTY			
H. F. Ward Metal Salvage	Nashville	T-788	II-1.3	Sept. 30, 1974	Immediately	Oct. 9, 1974
			NEW HANOVER COUNTY			
Curbett Lumber Co.	Wilmington	T-2084	II-2.2	Sept. 9, 1974	Immediately	Dec. 31, 1974
			PITT COUNTY			
East Carolina University	Greenville	T-669	II-2.2, IV-1.10.	Oct. 9, 1974	Immediately	Apr. 3, 1975
			RICHMOND COUNTY			
Standard Foundry & Manufacturing Co.	Rocking-ham.	T-1841	II-2.2, II-5.2, IV-2.20, IV-2.30, IV-2.40.	Oct. 9, 1974	Immediately	Apr. 30, 1975
			ROCKINGHAM COUNTY			
Golden Belt Manufacturing Co.	Reidsville	T-1960	IV-2.60	Mar. 15, 1974	Immediately	Mar. 1, 1975
			SAMPSON COUNTY			
C. A. Brown Lumber Co.	Ivanhoe	T-2113	II-2.2, IV-1.10.	Mar. 15, 1974	Immediately	Apr. 30, 1975
			RUTHERFORD COUNTY			
Parton Lumber Co., Inc.	Ruther-fordton.	T-2024	II-2.2, IV-1.10, IV-2.40.	Mar. 15, 1975	Immediately	Apr. 30, 1974
			WATAUGA COUNTY			
Town of Boone	Boone	T-2026	II-2.2, IV-1.10, IV-2.40.	Mar. 15, 1974	Immediately	Sept. 1, 1974
Lee Barnett Chevrolet-Oldsmobile.	do	T-2029	II-2.2, IV-1.10, IV-2.40.	Mar. 15, 1974	do	July 1, 1974
			WILKES COUNTY			
American Drew, Inc., American No. 1 Plant.	North Wilkes-boro.	T-1851	II-2.2, II-5.2, IV-2.30.	Mar. 15, 1974	Immediately	Mar. 30, 1975
Lineberry Foundry & Machine Co., Inc.	do	T-1909	II-2.2, II-5.2, IV-2.20, IV-2.30.	Dec. 12, 1974	do	May 1, 1975

[FR Doc.75-23814 Filed 9-8-75;8:45 am]

[FRL 427-2]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval of Revision to the Philadelphia Portion of the Pennsylvania Implementation Plan

On May 28, 1974, the Commonwealth of Pennsylvania submitted to the Administrator proposed revisions to the City of Philadelphia's portion of the Pennsylvania State Implementation Plan. The revisions consist of amendments to the following regulations.

Regulation I—General Provisions.
Regulation II—Air Contaminant and Particulate Matter Emissions.
Regulation X—Complex Source Review.
Regulation XI—Control of Emissions from Incinerators.

Regulation I is amended by retitling Section II, "Source Registration and Emission Reporting," and by adding detailed requirements for registration of emission sources and reporting of emissions. The provisions for source registration are essentially a consolidation of existing permit and license requirements and additional relevant portions of the implementation plan pertaining thereto. In Regulation II, Section IV.1.d. is amended by changing the reference to incinerator regulations from those adopted May 16, 1969, to the new Regulation XI.

Regulation X, "Complex Source Review," amends the previous Regulation X, "Construction Review," in its entirety. The new regulation was designed to be more comprehensive in order to conform with Federal requirements. The definition of "complex sources" in this amendment refers to all potential installations that may affect the achievement and maintenance of air quality standards. Section IIB contains several exclusions that exempted smaller facilities not likely to have a significant impact on air quality. Section III of Regulation X includes review procedures and conditions of approval, and requires the submission of an impact statement with any request for approval to construct a complex source.

Regulation XI, Control of Emissions for Incinerators, replaces those regulations relating to control of incinerators, which had become effective on May 19, 1969. The major provisions of the new regulations are the retention of the ban on new refuse incinerators and the lowering of the allowable particulate emission limit in accordance with Federal standards. Two additional provisions contained in Section III of Regulation XI include prohibition of any emission exceeding 60 percent opacity and prohibition of fly ash emission.

On September 20, 1974 (39 FR 33808), the Administrator acknowledged receipt of this proposal, and provided for a 30-day public comment period, which ended on October 20, 1974. No comments were received. Based on the Administrator's evaluation, it is the Administrator's judgment that the amendments to Regulations I and II are approved as revisions to the Pennsylvania State Implementation Plan, effective immediately. The amendments serve to clarify the existing provisions and hence, improve the effectiveness of the regulations. The Administrator also approves, excepting the odor provisions on which EPA is taking no action, effective immediately, the new Regulation XI, based on the fact that the amendment clarifies the scope and applicability of the present regulation controlling incinerators, provides a more stringent emission limitation for existing sources, and adds an emission limitation to new incinerators. The amendments approved by this revision shall not be construed as repealing or modifying the powers of the Administrator with respect to enforcement of violations of pre-existing incinerator regulations that were a part of the implementation plan at the time the violations occurred.

On the other hand, the Administrator will not take any approval/disapproval action on the amendment to Regulation X at this time. On December 5, 1974, the Administrator informed the Commonwealth of Pennsylvania that the aforementioned amendment would be unacceptable for the Administrator's approval. The specific objections included:

(1) Lack of basis and clarity for determining which facilities would be subject to review.

(2) Lack of justification for determining which facilities would be exempt from review.

(3) Lack of clarity in determining the "person responsible" for submitting an application of approval.

(4) Lack of adequate provisions to notify other local air pollution agencies and EPA about receipt of permit applications.

(5) Lack of adequate provisions to have the information submitted by the applicant, as well as the reviewing agency's analysis of air quality impact, available for public comment.

On January 15, 1975, the Commonwealth of Pennsylvania requested that the amendments to Regulation X be withdrawn from further consideration as a proposed revision to the Pennsylvania Implementation Plan. The Commonwealth agreed with the objections set forth by the Administrator. The Administrator concurs with this request, and hereby withdraws this amendment from further consideration as a plan revision.

Copies of these revisions are available for public inspection during normal business hours at the offices of EPA, Region III, Curtis Building, Second Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania, 19106; at the Freedom of Information Center, U.S. EPA, 401 M Street, SW., Washington, D.C., 20460; and at the office of Philadelphia Air Management Services, 4320 Wissahickon Avenue, Philadelphia, Pennsylvania, 19129.

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

Dated: September 2, 1975.

JOHN QUARLES,
Acting Administrator.

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

Subpart NN—Pennsylvania

In § 52.2020, paragraph (c)(2) is revised to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(2) May 5, 1972 and May 28, 1974.

[FR Doc.75-23824 Filed 9-8-75;8:45 am]

PART 162—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT

Pesticides in the United States; Registration Procedures

Notice is hereby given that, pursuant to the authority of sections 3 and 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended by the Federal Environmental Pesticide Control Act of 1972 (Pub. L. 92-516, 86 Stat. 973), the Administrator of the Environmental Protection Agency is amending 40 CFR Part 162 by establishing these §§ 162.41 through 162.51 pertaining to the procedures for the registration, reregistration and classification of pesticides. The Guidelines are set forth below.

On July 3, 1975, the Environmental Protection Agency published in the FEDERAL REGISTER (40 FR 28242) final regulations for the registration, reregistration and classification of pesticides pursuant to Sections 3, 6, 19, 21 and 25 of the FIFRA. The regulations are effective August 4, 1975.

On June 25, 1975 the Environmental Protection Agency published in the FEDERAL REGISTER (40 FR 26802) proposed Guidelines and an Appendices thereto for registering pesticides pursuant to Sections 3 and 25(a) of the FIFRA. The sections that follow hereafter pertaining to registration procedures were reserved in that June 25th document. The purpose of these sections is to advise all applicants for registration and reregistration, of the procedures for registration which pertain to their product and thereby expedite the registration process. The various forms for registration mentioned in this document are available from the Forms Clerk, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. The forms necessary for reregistration will be sent to the registrant when his application for reregistration is called in.

In order to facilitate the use of the Guidelines and Appendices these documents, once final, including subsequent amendments, will be published in a looseleaf format which will be available on a subscription basis from the Government Printing Office, Washington, D.C. 20402. When the Guidelines document published for public comment on June 25, 1975 (40 FR 26802) is made available on the subscription basis, these registration procedures will be included therein.

The Administrator has determined that there are compelling public interest reasons for these guidelines to be made effective at this time without notice and opportunity for comment by the public. These regulations contain rules of Agency procedure and therefore fall outside Administrative Procedure Act requirement that they first be published as a proposal. Section 5 U.S.C. 553(b) provides that all regulations governing procedure or practice may be published without the requirement of notice and opportunity for public comment These guidelines impose no new substantive requirements for registration. They merely specify which forms shall be completed for each of the various registration actions and explain the procedures the Agency will use in review of applications for registration and the procedures the Agency expects the applicant for registration to follow in preparing and submitting his application for registration, so that registration reviews can be more expeditiously processed. Moreover, in accordance with section 5 U.S.C. 553(d), these procedures shall take effect upon publication (September 9, 1975) rather than 30 days thereafter. Firstly, as discussed above, the Administrator has determined that they are nonsubstantive rules and secondly, the Administrator finds such "good cause" as is required by paragraph (3) of section 5 U.S.C. 553(d) to make these regulations effective immediately. Any delay in the effectiveness of these procedures may interfere with the orderly registration and reregistration of pesticide products.

Dated: September 2, 1975.

RUSSELL E. TRAIN,
Administrator.

Part 162 of 40 CFR is amended by adding §§ 162.41 through 162.51 to read as follows:

GUIDELINES FOR REGISTERING PESTICIDES, REGISTRATION PROCEDURES

AUTHORITY: Sections 3 and 25(a), Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. 136 et seq.).

GUIDELINES FOR REGISTERING PESTICIDES; REGISTRATION PROCEDURES

§ 162.41 General information.

These registration procedures are a non-substantive guide to the applicant and registrant and provide instruction regarding application for registration. The citations in brackets refer to appropriate Sections of either the registration, reregistration and classification regulations, 40 CFR 162.1-162.23, or the Guidelines for registering pesticides, 40 CFR

162.40–162.96. For a full understanding of registration, reregistration and classification activities, these documents should all be read together.

(a) Any person who wishes to register a pesticide product must submit the appropriate application forms and other information specified here to the following address:

Registration Division (WH–567), Office of Pesticide Programs, Environmental Protection Agency, Washington, D.C. 20460.

(b) Each applicant will be assigned a number which designates his company. This company number is assigned permanently and should be referenced in all correspondence relating to the company. (This number is not to be confused with the establishment number).

(c) Any applicant not residing in the United States must appoint an authorized agent in the U.S. to act on his behalf in all registration matters. Any other applicant who wishes may also appoint such an agent. To designate an agent, a notarized letter of appointment, signed by an authorized representative of the company stating the agent's name and address, must be submitted to the division. (§ 162.6(a)(2); § 162.6(a)(3)).

(d) Only one address of record can be maintained for each registrant, except that different divisions or other entities of the same company may, upon request, be assigned different company numbers. In the case of a foreign applicant, all correspondence will be directed to his U.S. agent. (§ 162.6(a)(3); § 162.6(a)(4)).

(e) An application for registration is either an application for new registration (§ 162.6(b)(2)), amended registration (§ 162.6(b)(3)), supplemental registration (§ 162.6(b)(4)), or reregistration (§ 162.6(b)(5)). A product currently registered under state pesticide registration laws must also be registered in accordance with § 162.17, unless it is registered pursuant to section 24(c) of the Act and the regulations thereunder.

(f) A separate registration application must be made for each pesticide product. A registration shall pertain to only one formulation and variations in the formulation of a pesticide product will require separate registrations except as provided by § 162.6(b)(1) of the regulations. This exception includes (1) certain applications for amended registration which request marketing of a single product under multiple brand names and (2) certain fertilizer—pesticide combinations, paint—pesticide mixtures and other pigment—pesticide mixtures (See § 162.21(a)).

§ 162.42 Registration forms.

The following discussion briefly describes the purpose and use of each of the various registration forms and the procedures which are particularly important. The detailed procedure attached to each is discussed after the explanation of the forms.

(a) *Application for new registration* (§ 162.6(b)(2)) (EPA Form 8570–1). (1) An application for new registration is required for registration of all products not previously registered by the Agency.

(2)(i) Form (A) is the basic form used to apply for registration of a new pesticide product. It also will be used for full registration of intrastate products and reregistration.

(ii) Form (A) is for the initial submission for a new product only. Any subsequent submissions prior to registration should be made on EPA Form 8570–12, Resubmission of a Pesticide Product Application.

(b) *Application for amended registration* (§ 162.6(b)(3)) (EPA Form 8570–11). (1) An application for amended registration is required, if:

(i) Changes are proposed in the labeling of the product, including but not limited to a change in the product name, deletion of label text or the addition of new uses, provided such changes would not require a change in any use classification of the pesticide;

(ii) Minor changes are proposed in the composition of the pesticide which would not require any changes in the label directions, required warning or caution statements or the use classification of the pesticide; or

(iii) Additional brand names are requested.

(2)(i) Form (B) is used to amend the existing registration of a product, including the labeling, packaging, name, or inert ingredients. The form gives examples of types of revisions and provides space for a brief description of the revision or any additional explanation deemed necessary by the registrant. All changes in a registered product, including labeling, require Registration Division approval before marketing or shipment.

(ii) Form (B) should be used for registered products only. Resubmissions of an application which has been found deficient (§ 162.6(a)(5)) or been denied (§ 162.7(e)), should be made on EPA Form 8570–12.

(c) *Application for renewal registration* [Reserved]

(d) *Resubmission application* (EPA Form 8570–12).

(1) Form (C) should be used to transmit all resubmissions (except distributor brands) in response to an EPA determination that the application for registration is deficient (§ 162.6(a)(5)) or that the application is denied (§ 162.7(e)), whether registered or unregistered products are involved and regardless of the type of submission which preceded it. The registrant should note carefully the spaces for the type of original submission and the date of the Registration Division's correspondence to the registrant.

(2) A resubmission must be limited to corrections or responses required by the notice of deficiency or denial. A resubmission form may not be used to initiate new labeling claims; applications which do so will be returned unprocessed to the applicant.

(e) *Confidential statement of formula* (EPA form 8570–4). (1) Form (E) is the basic form which describes the chemistry of a pesticide product. It must be filled out completely, with particular reference to the name and address of the producer and the correct common or chemical name for each component. The form is required with each application for new registration, reregistration, registration renewal, and any amendment which relates to the product chemistry, for example, an inert ingredient change or a change in basic supplier.

(2) For each active ingredient, the applicant must specify the EPA Registration Number of the product containing the active ingredient, if applicable. If he does not manufacture the active ingredient himself, he must attach a letter from his supplier authorizing the Registration Division to refer to the confidential formula information in the supplier's registration record. The authorization letter should include the supplier's registration number or file symbol, if known. The applicant should not request his supplier to submit a Confidential Statement of Formula for his product.

(f) *Label technical data sheet* (EPA Form 8570–10). Form (F) must be submitted with all applications for new registration, reregistration, and with any other application which requires a change in information previously submitted on the form. The purpose of Form (F) is to allow the Agency to compile a profile of registered products including site, pest, mode of action, user type and formulation.

(g) *Application for supplemental registration of distributor products* (§ 162.6(b)(4)) (EPA Form 8570–5). (1) Supplemental registration permits a distributor of a registered product to market that pesticide product under the distributor's brand name. The conditions for such a registration are outlined in § 162.6(b)(4).

(2) Form (H) must be submitted by a registrant to permit a distributor to market a registered product under the distributor's own brand name. There are two changes from previous policy in the use of this form which the registrant should note: (i) Both the primary registrant and the distributor must request supplemental distributor registration; and (ii) a separate form must be used for each distributor product proposed.

(h) *Application for reregistration* (§ 162.6(b)(5)). (1) Pesticide products previously registered by the Agency are required to be reregistered and classified by October 21, 1976.

(2) The applicant for reregistration shall submit Form (A) to initiate his reregistration application. This is the same form used for new registration of a pesticide product. The registrant will be notified pursuant to § 162.43(f) regarding when to submit the application. Registrants should not submit an application for reregistration until notified to do so by the Agency.

(i) *Application for intrastate products* [§ 162.17]. (1) Pesticide products currently registered under state pesticide registration laws must be registered under the provisions of 40 CFR § 162.17, subpart A, unless registered pursuant to section 24(c) of the Act and the regulations thereunder.

(2) The applicant for federal registration of an intrastate product shall submit Form 8570–8 within 60 days of the effective date of § 162.17 to notify the Agency of his intent to submit a full application for registration. The applicant will be notified in accordance with §§ 162.17 and 162.43(g) when to submit a full application for registration. At such time, the applicant shall use Form (A). This is the same form used for new registration of a pesticide product.

§ 162.43 Preparation of application packages.

Applications for registration must be submitted as a complete package, as specified below. Incomplete applications will be returned unprocessed. The applicant is responsible for the accuracy and completeness of all information submitted in connection with the application (§ 162.6(a)(5)).

(a) *New registrations* (§ 162.6(b)(2)). Every application for a new product registration must include the following:

(1) Application for New Pesticide Product Registration (EPA Form 8570–1).

(2) Confidential Statement of Formula (EPA Form 8570–4).

(3) Authorization letters from suppliers regarding active ingredients, unless the applicant is the primary manufacturer.

(4) Label Technical Data Sheet (EPA Form 8570–10).

(5) Two loose copies of draft labeling.

(6) Two copies of any data submitted in support of the application.

Samples of the pesticide product or its packaging should not be submitted unless the Agency specifically requests them.

(b) *Amended registrations* (§ 162.6(b)(3)). Every application for an amended product registration must include the following:

(1) Application for Amended Pesticide Product Registration (EPA Form 8570–11).

(2) Label Technical Data Sheet (EPA Form 8570–10), when changes would require revision of the information previously submitted on the form.

(3) Confidential Statement of Formula (EPA Form 8570–4), when necessary because of changes in the chemistry of the product.

(4) Two loose copies of draft labeling.

(5) Two copies of any data submitted in support of the application.

Samples of the pesticide product or its packaging should not be submitted unless the Agency specifically requests them.

(c) *Renewal registrations* [Reserved].

(d) *Resubmission upon notice of a deficiency in the application* (§ 162.6 (a)(5)) *or notice of intent to deny the application* (§ 162.7 (e)). (1) If an application for new, amended or renewal registration or reregistration is found deficient, the notice to the applicant will specify the deficiencies in the data or labeling and the materials that must be submitted to make the application acceptable.

(2) Corrections to the application should be transmitted on EPA Form 8570–12, Resubmission of Pesticide Product Application. Resubmissions should respond specifically to the deficiencies specified in the Registration Division's previous notice. Submissions of final printed labeling may be transmitted to the Agency on this same form, 8570–12. The following items must be included with a resubmission:

(i) Resubmission of a Pesticide Product Application (EPA Form 8570–12).

(ii) Label Technical Data Sheet (EPA Form 8570–10), if any information previously submitted on the form is changed.

(iii) Confidential Statement of Formula (EPA Form 8570–4), if any information previously submitted is changed.

(iv) Two loose copies of draft labeling, or, if requested by the previous correspondence, five copies of final printed labeling.

(v) Two copies of any data submitted in support of the application.

(e) *Supplemental registration of distributor products* (§ 162.6(b)(4)). (1) One copy of EPA Form 8570–5, Application for Supplemental Registration of Distributor Products, must be submitted for each distributor brand registration requested. Supplemental registration of a distributor product requires the concurrence and signature of both the primary registrant and the distributor. A registrant for supplemental registration should only submit Form 8570–5 and should not submit either primary registrant labeling or distributor labeling. Submitting several applications for supplemental registration of the same basic product simultaneously will facilitate processing.

(2) A potential distributor who does not have a company number assigned should write to the Registration Division on letterhead stationery requesting a company number. This letter may accompany the application for supplemental registration of the distributor product brand. Distributor applications that do not specify the distributor company number or that do not include a request for such a number on the distributor's letterhead will be returned to the primary registrant.

(3) Conditions for acceptance of distributor products are outlined on the form and in 40 CFR 162.6(b)(4). If the information on the form is correct and if the proposed distributor product name is not misleading, copies of the form will be returned to the registrant and the distributor with approval. If the application is disapproved, the copies returned will state the reasons for denial.

(f) *Reregistration.* (1) Applications for reregistration of products previously registered by this Agency should only be submitted when solicited by EPA. Solicitation of applications for reregistration will be grouped in products similar to each other in chemistry and broad use pattern, hereinafter referred to as a batch.

(i) Before soliciting applications for the reregistration of products in a batch, the Agency will preliminarily review the registration to determine the following:

(A) The sufficiency of data previously submitted or otherwise available to the Administrator to satisfy the requirements of § 162.8(c) of the regulations. The review will determine whether:

(*1*) All applicable requirements of § 168.8(c) are met. In this case the products in the batch are candidates for full reregistration and classification, subject to solicitation, submission, review and approval of applications.

(*2*) Certain requirements of § 162.8 (c) are not met, and the necessary studies cannot reasonably be expected to be completed before October 21, 1976. In this case, provided that the criteria for risk set forth in § 162.11(a)(3) are not met or exceeded, and provided that all other applicable requirements of the Act and these regulations are satisfied, the Administrator may in his discretion after soliciting the applications for reregistration of the affected products, classify and reregister the products for a reasonable period of time pending completion of the required testing (§ 162.6 (b)(5)(ii)). Such reregistrations will be for a fixed term of less than five years, reasonable to allow development, submission, and review of required data, and will not be subject to renewal. Registrants of products included in such batches will be notified of the unsatisfied requirements for long term data, so that the necessary studies can be initiated; registrants of similar products are encouraged to cooperate in the development of needed data, to minimize duplication of effort and expedite the reregistration review.

(*3*) Certain requirements of § 162.8(c) are not met, and the necessary studies are of short duration and can be expected to be completed before October 21, 1976. In this case the registrants of affected products will be notified as early as possible of the gaps in supporting data, so that they may be satisfied prior to solicitation and submission of the application for reregistration. Except when otherwise specified in the notification, studies performed with the active ingredient will be acceptable; registrants of similar products are encouraged to cooperate in the development of needed data, to minimize duplication of effort and expedite the reregistration review.

(B) Whether the products in the batch are to be candidates for restricted use, based on the criteria of § 162.11(c)(2) of the regulations, with qualification as appropriate on the basis of concentration, dosage rates, broad use pattern, physical form of the pesticide, or other relevant factors.

(C) The required precautionary and other standard label statements in accord with the provisions of § 162.10 of the regulations. When such statements are conditionally required, the appropriate conditions will be explicitly stated. To improve consistency among similar products and to minimize the likelihood of rejection of proposed labeling, the wording of these statements will be prescribed.

(ii) The results of this preliminary batch review will be compiled into a reregistration and classification guidance

package. The guidance package will be sent to all registrants of products in the batch and will solicit applications for reregistration. This package will include the following materials:

(A) Application forms.

(B) General instructions for completing the forms and applying for reregistration.

(C) Specific procedural instructions for the batch, including the time for response. Registrations of products for which applications for reregistration are not received by the date specified will be cancelled.

(D) The results of the preliminary classification review, with a discussion of actions, if any, which could be taken by the applicant for reregistration to make a product which is a candidate for restricted use acceptable for general classification.

(E) Guidelines and examples for applying the label format standards of § 162.10 of these regulations.

(F) Prescribed wording for required precautionary and other standard label statements.

(G) Any other specific requirements applicable to the batch.

(2) *Contents of application for reregistration.* The required contents of an application for reregistration will vary somewhat from one batch to another, and will be described in detail in the guidance package accompanying the solicitation of application. In general, the requirements are as follows:

(i) The name and address of the applicant and any other person whose name will appear on the labeling;

(ii) The name and EPA registration number of the product;

(iii) A set of completed application forms, including the Application for New Registration, the Confidential Statement of Formula, and the Label Technical Data Sheet;

(iv) The classification(s) requested for the use(s) for which reregistration is requested, pursuant to § 162.11(c);

(A) If the classification requested differs from that indicated by the results of the preliminary batch classification review included in the guidance package, a rationale for the requested classification must be included, based upon § 162.11(c). If, for example, in order to make acceptable for general use a product identified in the preliminary batch classification review as a candidate for restricted use, the applicant proposes deletion of uses from the label directions, these proposed deletions should be explicitly stated.

(B) If reregistration of a single product bearing directions for both general and restricted uses is sought, and if as provided in § 162.10(j) of the regulations the applicant requests reregistration as two products with distinct registration numbers, one bearing only general use directions and the other bearing directions for restricted use (with or without additional directions for general use), separate applications are required. These separate applications, however, should be submitted concurrently, and both applications will be considered as applications for reregistration, subject to the procedural requirements of this section and the data requirements of § 162.8(c).

(v) A number of copies as specified in the guidance package of draft and/or final printed labeling for the pesticide product. All labeling submitted must be in conformance with the requirements of § 162.10.

(A) The Administrator may in his discretion allow for an expedited review of certain applications when the applicant certifies that no claims are proposed additional to those previously accepted, that no changes are proposed in the chemical formulation of the product, and that all labeling requirements, as prescribed in the guidance package, have been satisfied. In this case the applicant may submit copies of final printed labeling with his initial application for reregistration. Those batches for which this option is available will be identified in the guidance package, and specific instructions will be included.

(B) When draft labeling is submitted with the initial application, final printed labeling need not be submitted until draft labeling has been provisionally accepted. When this course is followed, expedited review will be granted to the final labeling when the applicant certifies compliance with the terms of provisional acceptance.

(vi) Supporting data as necessary to support the application consistent with the data requirements of § 162.8(c), the procedural requirements of § 162.9, and the instructions in the guidance package.

(3) *Suspension of five-year renewals during the period of reregistration.* For the duration of the period of reregistration, the five-year renewal requirement has been suspended. No product registration will lapse prior to October 21, 1976 because of the expiration of the five-year period for registration.

(4) *Amendments prior to October 21, 1976.* Applications for amended registration of products subject to reregistration by October 21, 1976 will normally be processed independently of reregistration. Amended registration approved prior to reregistration of the affected product will not constitute full reregistration and classification, and will be effective only for the period between approval of the amendment and reregistration of the product. Labeling revised for purposes of the amendment is likely to require further revision in accord with the provisions of the reregistration guidance package prior to approval of reregistration. Applications for amended registration may be submitted concurrently with the application for reregistration. If the nature of the proposed amendment is such that concurrent review would not unnecessarily delay reregistration, the two applications will be reviewed together. In other cases, for example, when significant new claims are proposed, consideration of the amendment will be deferred until after the reregistration review is completed.

(5) *Reregistration of distributor products.* Separate reregistration of distributor products approved as supplemental registrations prior to the effective date of the regulations (August 4, 1975) is not required prior to October 21, 1976 when reregistration is approved for a primary product, supplemental registration of distributor products previously approved under that primary registration will be considered to be reregistered under the same terms as the primary product, subject to the conditions for supplemental registration contained in § 162.6(b)(4).

(g) *Intrastate products* (§ 162.17).

(1) Within 60 days of the effective date of § 162.17, each registrant of a product registered solely under state law must submit a notice of application for federal registration on EPA Form 8570–8. Pending solicitation of a full application for federal registration and the final registration decision either approving or denying the registration application, the state registrant may continue to sell and distribute the product subject to the requirements of § 162.17(f).

(2) Applications for federal registration of products previously registered solely under state pesticide registration laws will be solicited in batches of products similar to each other in chemistry and broad use pattern, just as applications for reregistration. Before soliciting the applications for federal registration of these products, the Administrator will make similar findings as discussed immediately above for solicitation of applications for reregistration, provided that since these products have not previously been registered by the EPA, these products will have to satisfy the data requirements for new registration. (§ 162.8(b)). However, the requirement of § 162.8(b)(2) for efficacy data may be waived on the basis of scientific data or findings and recommendations of a state or federal agency authorized by law to conduct pesticide research, pest control activities or programs for the protection of environmental quality or natural resources. (§ 162.17(a)).

§ 162.44 Labeling [§§ 162.10, 162.71–.76]

(a) As a general rule, labeling initially submitted with the application should be in draft form. Final printed labeling need not be submitted until the proposed labeling has been conditionally accepted by the Registration Division. If an applicant chooses, however, he may submit final printed labeling with his initial application. If such labeling is unacceptable, the applicant bears full responsibility for providing correct labeling.

(b) Draft labeling may be either typewritten label text on 8½ by 11 inch paper or a mock-up of the label prepared so that it can be stored in 8½ by 11 inch files. Significantly smaller labeling should be mounted on 8½ by 11 inch paper.

(c) Final printed labels should also be prepared for storage in 8½ by 11 inch files by mounting or by photoreduction, where reduction would not significantly impair readability. When screen printing is used to print labeling directly on the container, do not submit the container; copies may be obtained

by taping a piece of paper on the container as it goes through the printing process. Photocopies of embossed labeling should be submitted. Paste-on labeling should be submitted as is, unless it requires photoreduction or mounting.

§ 162.45 Supporting data [§ 162.8].

(a) *Format.* (1) Two full sets of all data submitted are required, and must be bound separately. A bound volume of data should contain all individual studies of a single data type, such as environmental chemistry data or toxicology data or efficacy data. For a list of data types see the face of the Application for New Registration (EPA Form 8570–1). On the cover of each volume of data should be the product name, EPA Registration Number or File Symbol (if known), the type of data contained in the volume, and the date of the submission. In the front of each volume should be included in this order:

(i) A full table of contents;

(ii) A copy of the application form;

(iii) A copy of the labeling;

(iv) A tabular summary of the data contained in the volume, on forms provided by the Agency where appropriate.

(2) When large amounts of data are contained in one volume, it may be necessary to subsection by tabbing groups of data; for example, efficacy data by crop or geographical location, or human safety data by type of study. The material must be page numbered. The preferred pagination is a dual numbering system, with a capital Roman numeral to indicate the volume number and Arabic numerals assigned consecutively within the volume to indicate page numbers.

(3) Section 10 of FIFRA, as amended, provides that an applicant may clearly mark any data considered confidential and submit it separately. This data may be separately identified by using different colored paper or by stamping each page Confidential.

(b) *Compensation for use of previously submitted data in suport of registration* (§162.9) [Reserved].

(c) *Waiver of a data requirement* (§§ 162.8(a)(3), 162.17(a))—(1) *Standard.* The Regulations and Registration Guidelines set forth the data requirements for registration of a pesticide. The Agency recognizes that the indicated data requirements may not have taken account all relevant factors for all pesticides. Therefore, a data requirement may be waived if it established that the composition, degradability, proposed patterns of use and such other chemical or physical properties of a specific pesticide or product relating to an evaluation of the effects on man or the environment are fundamentally different from the factors considered by the Agency in the establishment of the data requirement of the Registration Guidelines.

(i) *New registration.* The applicant may submit written argument that a data requirement should be waived pursuant to the above standard. The Administrator will consider the argument submitted by the applicant and such other information as may be available to him, and make a written finding with respect to whether the properties of the specific pesticide or product are fundamentally different from the factors considered by the Agency in establishing the data requirement of the Registration Guidelines. If the Administrator so determines, he may waive a data requirement of the Registration Guidelines when he determines that the data so required is not necessary in order for him to determine whether such specific pesticide product will generally cause unreasonable adverse effects on man or the environment. In the case of the approval of any application in which the Administrator has determined to waive a data requirement specified in the Registration Guidelines, the notice of approval issued pursuant to § 162.7(d)(2) shall list any data requirement which has been waived and briefly state the basis for such waiver.

(ii) *Reregistration.* The registrant may submit written argument that a data requirement should be waived or the Administrator may initiate the waiver of a data requirement in the solicitation of an application for reregistration, pursuant to the above standard. If the applicant submits argument that a data requirement should be waived, the Administrator will consider the argument submitted and proceed in accordance with the procedures discussed above for waiver of a data requirement for new registration. If the Administrator waives a data requirement in the solicitation of an application for reregistration, the notice of solicitation shall list any data requirement which has been waived and briefly state the basis for such waiver.

(iii) *Intrastate products.* The applicant may submit written argument that a data requirement should be waived or the Administrator may initiate the waiver of a data requirement in his notice to the applicant to submit a full application for federal registration, pursuant to the above standard. If the applicant submits argument that a data requirement should be waived, the Administrator will consider the argument submitted and proceed in accordance with the procedures discussed above for waiver of a data requirement for new registration. If the Administrator waives a data requirement in the solicitation of an application for full federal registration, the notice of solicitation shall list any data requirement which has been waived and briefly state the basis for such waiver.

(d) *Rebuttable presumption against registration.* (1) A rebuttable presumption against registration or continued registration arises if a pesticide meets or exceeds the criteria for risk of § 162.11(a)(3). Upon so determining, the Administrator shall issue notice by certified mail to the applicant or registrant stating that he may submit evidence in rebuttal of the presumption. (§ 162.11(a)(1)). The applicant or registrant has 45 days to submit such evidence; however, for good cause shown, the Administrator may grant an additional 60 days for submittal of such evidence.

(2) The presumption against registration is rebutted by showing that the risk from use of pesticide is not as great as indicated by the criteria which gave rise to the rebuttable presumption. (§ 162.11(a)(4)). If after review of the evidence submitted in rebuttal, the Administrator determines that the presumption against registration has been rebutted and if the application for registration is otherwise in compliance with the Act, the regulations and these guidelines, the pesticide will be registered. (§ 162.11(a)(5)(i)). In the case of an application for registration for which notice of approval is required to be published pursuant to § 162.7(d)(2), such notice shall state that the Administrator has determined that the presumption has been rebutted and refer to the appropriate clause of § 162.11(a)(4)(i)–(ii) upon which he bases his determination.

(3) If the Administrator determines that the applicant or registrant has failed to rebut the presumption against registration, then for the uses of the pesticide subject to the presumption and not rebutted he shall issue either a (i) notice of intent to deny the registration, pursuant to section 3(c)(6) of the Act, (ii) notice of intent to cancel the registration, pursuant to section 6(b)(1) of the Act or (iii) notice of intent to hold a hearing to determine whether the registration should be cancelled or denied. (§ 162.11(a)(5)(ii)). This notice will be issued within 180 days from the date the initial notice was sent to the applicant or registrant informing him that he may submit evidence in rebuttal of the presumption.

(4) When the applicant or registrant submits evidence in rebuttal of the presumption against registration, he may also submit evidence as to whether the economic, social, and environmental benefits of the use(s) of the pesticide subject to the presumption outweigh the risks of use. The Administrator may, in his discretion, in determining which of the several hearing procedures to convene, take into account staff recommendations resulting from preliminary analysis, if any, concerning a balancing of risks against benefits from use of the pesticide. (§ 162.11(a)(5)(iii)). Any such preliminary analysis will be completed within 150 days from the date the notice was sent to the applicant or registrant informing him that he may submit evidence in rebuttal of the presumption.

(5) If based on such analysis the staff recommendation is that benefits appear to outweigh risks, the Administrator may, in his discretion, issue notice of intent to hold a hearing to determine whether the registration should be cancelled or denied rather than a notice of intent to deny or cancel the registration. If the recommendation is that benefits do not appear to outweigh the risks, the Administrator shall issue a notice of intent to deny or cancel the registration. (§ 162.11(a)(5)(iii)).

(6) Section 162.11(a)(6) sets forth additional grounds for issuance of a notice of intent to deny or cancel a registration or to hold a hearing to determine whether the registration should be cancelled or denied.

(7) A final order concerning denial or cancellation of a registration is made after a balancing of all factors concerning the risks and benefits of use of the pesticide in accordance with the burdens of proof contained at § 162.11(b).

§ 162.46 Registration review.

(a) *Product manager system.* (1) The Registration Division has adopted a Product Manager system for more expeditious review of pesticide product applications. Under this system, each product is assigned to a single team headed by a Product Manager. New products are assigned to a Product Manager team as they are received. Assignment is generally by active ingredient and use: for example, one Product Manager handles all quaternary ammonium disinfectants; another, all chlorinated hydrocarbons; and a third, most fumigant-type products. With minor exceptions, the team to which the product is assigned handles all registration or other actions relating to the product, including registration, amendments to registration, resubmissions, renewals, petitions for tolerance, and, if necessary, cancellations or suspensions. Exceptions include enforcement case reviews, distributor brand applications, and experimental use permits; even in these cases, the Product Manager is kept informed of actions affecting his product. The Product Manager is the control point for information concerning a particular product and all questions or problems pertaining to an application should be directed to him.

(2) The acknowledgement copy of the application which is returned to the applicant will have the Product Manager's name and telephone number. The applicant should retain these, since both the Application for Amended Registration (EPA Form 8570–11) and the Resubmission of a Pesticide Product Application (EPA Form 8570–12) request that the name of the appropriate Product Manager be included on the form.

(b) *Notice of application* (§ 162.6(b)(6)). The Administrator will publish in the FEDERAL REGISTER notice of receipt of an application for new or amended registration if the pesticide formulation contains any active ingredient not registered at the time of the application or if a changed use pattern is proposed. Section 162.6(b)(6) lists the contents of this notice. The notice will provide a period of 30 days within which any interested party may submit comment regarding the registration of the pesticide for the indicated uses.

(c) *Acknowledgement of application* (§ 162.7(b)). (1) Applications may be mailed or delivered personally to the Registration Division. An application for registration will be acknowledged as soon as possible after receipt by returning the "Acknowledgement" copy of the form. The applicant should keep the triplicate copy of the form for his own records.

(2) The acknowledgement copy will contain the date of receipt of the application, the Product Manager's name and the telephone number, the anticipated time for completion of the review, and, in the case of a new product, will assign the product a "File Symbol."

(3) A File Symbol is a reference code composed of the applicant's company number, followed by a dash and a letter or series of letters designating the individual product, for example, 9151–AER. All correspondence relating to the product must reference the File Symbol (or, if registered, the Registration Number).

(d) *Completeness check* (§ 162.6(a)(5)). (1) The application then undergoes a preliminary review to assure that all required materials and information are present and correct. A review is also made of the chemistry of the product.

(2) If deficiencies are found which preclude further review of the application, or if it is incomplete in any respect, the applicant will be notified as soon as possible by the Product Manager, either by telephone if the deficiencies are minor and can be corrected easily, or by letter if extensive revision is necessary. In extreme cases, the entire application may be returned to the applicant.

(e) *Scientific review.* Complete applications, together with accompanying labels and data, are routed to the designated Product Manager and review to determine if the pesticide and product labeling meet the requirements of the Act, the Regulations, and these Registration Guidelines. The review includes ascertaining (1) if the directed use of the product can reasonably be expected to result in any level of residues on food or feed; (2) if the directed application of the product is effective for the claims made and the directions for use are adequate and practical; and (3) if the proposed labeling bears necessary precautionary statements which, if complied with, will be adequate to prevent unreasonable injury to man, beneficial animals and the environment. (§ 162.7(d)).

§ 162.47 Disposition of applications.

(a) *Notice of deficiency* (§ 162.6(a)(5)). (1) If the application is deficient, the Product Manager will notify the applicant, by letter, of the deficiencies in data or labeling. The applicant will be afforded an opportunity to correct the deficiencies or submit additional information to complete the review. All responses to such letters should be made on EPA Form 8570–12, Resubmission of a Pesticide Product Application.

(2) If the corrections or information are not submitted within a reasonable time, the applicant will be requested to withdraw the application or the application will be denied.

(b) *Denial of registration* (§ 162.7(e)). (1) The Administrator will deny an application for registration if the pesticide product fails to meet any of the requirements of § 162.7(d) or if there is insufficient data to make the required determinations.

(2) After making such a determination, the Administrator shall notify the applicant by certified letter setting forth the reasons and factual basis for the determination and the conditions, if any, which must be satisfied in order for the registration to be approved. The applicant has 30 days from receipt of this letter to take the specified corrective action or he may petition for withdrawal of his application. If the applicant fails to remedy the deficiency of his registration application, or if the Administrator denies any petition for withdrawal, a notice of denial of registration shall be published in the FEDERAL REGISTER. This notice shall set forth the information listed at § 162.7(e)(3) of the regulations. Within 30 days of this FEDERAL REGISTER notice, the applicant or any interested party with the written authorization of the applicant may request a hearing in accordance with § 162.7(e)(4).

(c) *Provisional acceptance.* (1) If the data and labeling are acceptable and in compliance with FIFRA, as amended, and 40 CFR 162, the applicant will be notified in a provisional acceptance letter (PA letter). (The criteria for approval are given in 40 CFR 162.7(d).) This letter will:

(i) Outline any required labeling changes.

(ii) Assign a Registration Number to the product.

(iii) Request five copies of final printed labeling which must incorporate the requested changes and must bear the assigned Registration Number. (See Labeling.)

(iv) Notify the applicant whose label does not include an Establishment Number that this number must be shown somewhere on the immediate container.

(2) All submissions of final printed labeling should be transmitted with EPA Form 8570–12, Resubmission of a Pesticide Application, and with the duplicate copy of the PA letter. The final printed labeling should be identical to the draft submitted, except for the changes specified in the PA letter.

(3) The provisional acceptance letter does not constitute registration. Only the issuance of a "Notice of Registration" affects registration.

(d) *Approval of registration* (§ 162.7(d)). (1) After receipt and review of acceptable final printed labeling, the Registration Division will approve the registration and inform the applicant by letter. A stamped copy of the approved printed labeling will be returned to the applicant with the letter of approval.

(2) The Administrator will publish in the FEDERAL REGISTER notice of approval of the registration for any pesticide product containing any active ingredient not registered at the time of the application or if a changed use pattern has been approved. (§ 162.7(d)(2)).

(3) Registration becomes effective on the date the "Notice of Registration" or letter of approval is issued. Prior shipment of the product is a violation of the FIFRA, as amended. Registration is effective for five years from the date of registration or subsequent renewal, unless the Administrator indicates that the registration is for a shorter term, the registrant voluntarily terminates the registration, or it is suspended or cancelled by the Agency.

§§ 162.48–162.51 [Reserved]

[FR Doc.75-23823 Filed 9-8-75;8:45 am]

Title 43—Public Lands: Interior

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5525; (ES-15284)]

GEORGIA

Boundary Modification: Oconee National Forest

By virtue of the authority vested in the President by section 24 of the Act of March 3, 1891, as amended, 16 U.S.C. 471 (1970), and the Act of June 4, 1897, 16 U.S.C. 473 (1970), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), and upon recommendation of the Secretary of Agriculture, it is ordered as follows:

The boundaries of the Oconee National Forest are hereby modified to conform to the following descriptions:

UNIT No. 1

Beginning at a point where State Highway 16 crosses the Ocmulgee River:

Thence easterly along the south side of said highway approximately 7¼ miles to the Fellowship Church Road;
Thence southwesterly along the northwest side of said road approximately 1 mile to the Sawmill Road;
Thence southeasterly along the southwest side of said road approximately 1 mile to State Highway 83;
Thence southwesterly along the northwest side of said road approximately ¼ mile to the Georgia Pacific Road;
Thence southerly along the west side of said road approximately 2¼ miles to the Mine Road;
Thence easterly along the south side of said road approximately ½ mile to a point;
Thence northeasterly with a projection from the northwest line of Tract U-364 to said tract and clockwise along the lines of said tract to State Highway 11;
Thence southeasterly along the southwest side of said highway approximately 5 miles to the Fullerton Road;
Thence easterly along the south side of said road approximately 1 mile to the Goolsby Road;
Thence northeasterly along the southeast side of said road approximately 4 miles to the Jordan Road;
Thence easterly along the south side of said road approximately 1¾ miles to the Fullerton Road;
Thence northeasterly along the southeast side of said road approximately ¼ mile to State Highway 212;
Thence northwesterly along the northeast side of said highway approximately 1 mile to the Kitchens Road;
Thence northeasterly along the southeast side of said road approximately 2¼ miles to Tract U-463;
Thence clockwise along the line of said tract to the Tyler Road;
Thence northwesterly along the northeast side of said road approximately 2¼ miles to the Tyler Cutoff Road;
Thence northerly along the east side of said road a short distance to State Highway 16;
Thence easterly along the south side of said highway approximately 2 miles to the Jasper-Putnam County Line;
Thence northerly along the said county line approximately 3 miles to Tract U-133;
Thence clockwise along the lines of said tract to the Jasper-Putnam County Line;
Thence northerly along the said county line approximately 1½ miles to Tract U-57;
Thence clockwise along the lines of said tract to the old Eatonton-Monticello Road;
Thence easterly along the south side of said old road approximately 2 miles to Tract U-3;
Thence clockwise along the lines of said tract to the right bank of Little River;
Thence downstream along the meanders of the southside of said river to the old Presley Mill Road;
Thence northeasterly along the southeast side of said old road approximately ¾ mile to State Highway 300;
Thence northeasterly along the southeast side of said highway approximately 6½ miles to U.S. Highway 129;
Thence southerly along the west side of said highway approximately 5½ miles to Tract U-906a;
Thence clockwise along the lines of said tract to the Eatonton-Reid's Crossroads Road;
Thence westerly along the south side of said road and a county road approximately ½ mile to Tract U-906c;
Thence southwesterly along the southeast lines of said tract and Tracts U-1791 and U-68 to the left bank of Little River;
Thence downstream along the meanders of the east side of said river and Lake Sinclair to the Island Point Road;
Thence westerly along the north side of said highway approximately 1¼ miles to Tract 1891a;
Thence clockwise along the lines of said tract to the Island Point Road;
Thence westerly along the north side of said highway approximately 1¼ miles to Tract U-201;
Thence southeasterly along the northeast line of said tract, projecting along the said line to the Putnam-Baldwin County Line located in Lake Sinclair;
Thence upstream through Lake Sinclair and Cedar Creek along the Putnam-Baldwin County Line and the Putnam-Jones County Line to U.S. Highway 129;
Thence southerly along the west side of said highway approximately 3¼ miles to Tract U-305f;
Thence clockwise along the lines of said tract to U.S. Highway 129;
Thence southerly along the west side of said highway approximately 2 miles to Tract U-348;
Thence clockwise along the lines of said tract of U.S. Highway 129;
Thence southerly along the west side of said highway approximately 1 mile to a point due east of the most easterly corner of Tract U-347;
Thence due west to said corner of Tract U-347;
Thence clockwise along the lines of said tract and Tracts U-361, U-330, U-361, U-347, U-347a, and U-185 to the most westerly corner of Tract U-185;
Thence northeasterly along the northwest line of said tract, projecting along the said line to the Blountsville-Round Oak Road;
Thence westerly along the north side of said road, along the southwest lines of Tracts U-11a and U-117a, and along the said road again approximately 4¼ miles to Tract U-354f;
Thence clockwise along the lines of Tracts U-354f, U-167, U-117, U-167, and U-186a to State Highway 11;
Thence northerly along the east side of said highway approximately 1¼ miles to the Jones-Jasper County Line;
Thence westerly along the said county line approximately 1½ miles to a point;
Thence northwesterly with a projection from the northeast line of Piedmont National Wildlife Refuge Tract 227a to the most easterly corner of said tract;
Thence westerly along the north lines of Refuge Tracts 227a, 1261, 213, 1276, 158, 1261a, and 238 to the most northwesterly corner of Refuge Tract 238;
Thence westerly along the north side of an old road and along a line of National Forest Tract U-1401 approximately ½ mile to the most northerly corner of Refuge Tract 382c;
Thence westerly along the north lines of Refuge Tracts 282c, 1401 (containing approximately 220 acres) and 215a to the most westerly corner of Tract 215a;
Thence southwesterly with a projection from the northwest line of Piedmont National Wildlife Refuge Tract 215a to the left bank of the Ocmulgee River;
Thence upstream along the meanders of the east side of said river to the point of beginning, being located in Jasper, Putnam, and Jones Counties, Georgia;
Also, Tract U-154 in Jasper County, Tract U-354h and Tract U-172b in Jones County.

UNIT No. 2

Beginning at a point in the center of the Apalachee River where it runs into the Oconee River;
Thence upstream along the Apalachee River, following the Greene-Morgan County line to the most easterly corner of Tract R-179;
Thence clockwise along the lines of said tract to the center of the Apalachee River;
Thence upstream along the said river, following the Greene-Morgan County Line to the Greene-Oconee County Line;
Thence clockwise along the lines of Tract R-185 to the Greene-Oconee County Line;
Thence northeasterly along the said county line approximately ¼ mile to Tract R-168;
Thence clockwise along the lines of said tract to the Greene-Oconee County Line;
Thence northeasterly along the said county line approximately 4 miles to Tract R-178;
Thence clockwise along the lines of said tract to the Greene-Oconee County Line;
Thence northeasterly along the said county line approximately 1 mile to the center of the Oconee River;
Thence upstream along the said river, following the Greene-Oconee County Line and the Oconee-Oglethorpe County Line to a point where Tract R-174 departs from said river in a northeasterly direction;
Thence clockwise along the lines of said tract and Tracts R-171, R-172, R-176, R-172, and R-50-A to the Greene-Oglethorpe County Line;
Thence southeasterly along the said county line approximately 3½ miles to Tract R-160;
Thence clockwise along the lines of said tract to the Greene-Oglethorpe County Line;
Thence southeasterly along the said county line approximately 1½ miles to the Penfield-Maxeys Road;
Thence southerly along the west side of said road approximately 4½ miles to a point located south of Penfield on the north line of Tract R-93;
Thence clockwise along the lines of said tract and Tract R-119 to the Woodville-Shiloh Church Road;
Thence southwesterly along the northwest side of said road approximately 1½ miles to the Greensboro-Penfield Road;
Thence southerly along the west side of said road approximately ¾ mile to the John Cannon Road;
Thence southwesterly along the northwest side of said road approximately 2½ miles to State Highway 15;
Thence southwesterly across said highway and along the northwest side of the Lick Skillet Road and a county road approximately 2½ miles to U.S. Highway 278;
Thence westerly along the north side of said highway approximately ¾ mile to the Carey Station Road;
Thence southwesterly along the north side of said road approximately 1 mile to Tract R-120;

Thence clockwise along the lines of said tract to the point of beginning, being located in Greene, Morgan, Oconee, and Oglethorpe Counties, Georgia;
Also, Tract R–121 in Greene County.

KENT FRIZZELL,
Acting Secretary of the Interior.

SEPTEMBER 2, 1975.

[FR Doc.75–23853 Filed 9–8–75;8:45 am]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 100—GENERAL

PART 101—GRANTS TO LAND-GRANT COLLEGES AND UNIVERSITIES

Availability of Public Records; Fee Schedule

The 1974 amendments to the Freedom of Information Act, Pub. L. 93–502 (5 U.S.C. 552) require, in revised section 552(a)(4)(A), that each agency promulgate regulations, pursuant to notice and receipt of public comment, specifying a uniform schedule of fees applicable to all constituent units of such agency.

The Department of Health, Education, and Welfare, following the mandate of the 1974 amendments, reissued its fee schedule, after notice and opportunity for comment, in the FEDERAL REGISTER of May 1, 1975, 40 FR 18997, 45 CFR 5.60–5.61. The fee schedule of the Department must, under the Act, apply to all constituent units of the Department. Therefore, for the convenience of those who may request records from the Office of Education and refer to the Office of Education General Provisions Regulations, 45 CFR Parts 100–100c, the Department's fee schedule is reissued as the fee schedule of the Office of Education and is made a part of the Office of Education General provisions regulations.

At the same time, the former policy of the Office of Education on fees and the Office of Education former fee schedule under the Freedom of Information Act is revoked. In addition, the section on charges, 45 CFR 101.13, issued under former section 417 of the General Education Provisions Act, is also revoked. Thus, the entire Subpart B of Part 101 is deleted from the Code of Federal Regulations. The heading for Subpart A is also deleted, only one subpart remaining.

Since the Department's policy on fees and fee schedule were issued after public notice and opportunity for comment and since the changes made herein are merely to conform the regulations of the Office of Education to the Department's regulations issued under 1974 amendments to the Freedom of Information Act, notice and public procedure thereon are unnecessary under 5 U.S.C. 553(b). The changes herein are, therefore, made without a second period of public comment.

Therefore, the following amendments are made to Parts 100 and 101 of Subchapter I of Title 45, Code of Federal Regulations:

1. Part 100 is amended to add a new heading for Subpart A and a new Subpart B to read as follows:

Subpart A—General

* * * * *

Subpart B—Availability of Information to the Public

Sec.
100.5 Regulations of the Department.
100.6 Policy on fees.
100.7 Fee schedule.

Subpart B—Availability of Information to the Public

§ 100.5 Regulations of the Department.

The Department's regulations (45 CFR Part 5) on availability to the public of documents under the Public Information Act (5 U.S.C. 552) apply to the Office of Education.

(5 U.S.C. 552)

§ 100.6 Policy on fees.

The Department's policy on fees set forth in § 5.60 of this title is as follows: It is the policy of the Department to provide routine information to the public without charge. Special information services involving a benefit that does not accrue to the general public shall be subject to the payment of fees which shall be fixed in amounts to recover the direct cost to the Government of providing such services. Fees will be charged for the following special services:

(a) Reproduction, duplication or copying of records;

(b) Certification or authentication of records;

(c) Searches for records.

(5 U.S.C. 552(a)(4)(A))

§ 100.7 Fee schedule.

The fee schedule for the Department of Health, Education, and Welfare, set forth in § 5.61 of this title, is as follows:

(a) (1) Search for records—three dollars per hour; provided, however, that no charge will be made for the first half hour.

(2) Reproduction, duplication or copying of records—ten cents per page where such reproduction can be made by commonly available photocopying machines. However, the cost of reproducing records which are not susceptible to such photocopying, e.g., punch cards, magnetic tapes, blueprints, etc., will be determined on a case-by-case basis at actual cost.

(3) Certification or authentication of records—three dollars per certification or authentication.

(4) Forwarding material to destination—any special arrangements for forwarding which are requested by the requester shall be charged on an actual cost basis.

(5) No charge will be made where the total amount does not exceed five dollars.

(b) Waiver or reduction of the fees provided for in this subsection may be made upon a determination that such waiver or reduction is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(5 U.S.C. 552(a)(4)(A))

2. Part 101 of Subchapter B of Chapter I of Subtitle B of Title 45, Code of Federal Regulations, is amended by revising the title of Part 101, by deleting the heading of Subpart A, and by deleting all of Subpart B, so that the heading for Part 101 reads as follows: "Part 101—GRANTS TO LAND-GRANT COLLEGES AND UNIVERSITIES."

Effective date. Pursuant to Section 431 (d) of the General Education Provisions Act, as amended, (20 U.S.C. 1232(d)) these regulations have been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission (October 24, 1975), subject to the provisions therein concerning Congressional action and adjournment.

It is hereby certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with OMB Circular A–107.

(Catalog of Federal Domestic Assistance Programs Nos. 13.400–13.550, Office of Education)

Dated: August 13, 1975.

T. H. BELL,
U.S. Commissioner of Education.

Approved: September 3, 1975.

DAVID MATHEWS,
Secretary of Health, Education, and Welfare.

[FR Doc.75–23868 Filed 9–8–75;8:45 am]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 72–182R]

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

Miscellaneous Amendments; Correction

In FR Doc. 75–22261 appearing at pages 37211–37214 in the FEDERAL REGISTER of August 26, 1975, the citation of authority and the signature block are corrected to read as follows:

(46 U.S.C. 170, 149 U.S.C. 1655(b); 49 CFR 1.64(f)).

* * * * *

HERBERT H. KAISER, Jr.,
Acting Director,
Materials Transportation Bureau.

Dated: September 2, 1975.

HERBERT H. KAISER, Jr.,
Acting Director,
Materials Transportation Bureau.

[FR Doc.75–23927 Filed 9–8–75;8:45 am]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

NATIONAL MAXIMUM SPEED LIMIT; MAXIMUM VEHICLE SIZE AND WEIGHT

Certification of Speed Limit Enforcement

CROSS REFERENCE: For a document on certification of enforcement of a national maximum speed limit issued jointly by the Federal Highway Administration and the National Highway Traffic Safety Administration, see FR Doc. 75-23988 under Title 23 in the Rules Regulations section of this issue of the FEDERAL REGISTER.

proposed rules

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. H-017]

STANDARD FOR EXPOSURE TO COKE OVEN EMISSIONS

Notice of Intent To Prepare an Environmental Impact Statement

Section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) requires each Federal agency to consider the environmental effects of proposed actions and to prepare environmental impact statements on major actions significantly affecting the quality of the human environment. Accordingly, the Occupational Safety and Health Administration (OSHA), U.S. Department of Labor, in conformance with its procedures for preparation and circulation of environmental impact statements (29 CFR 1999.3(d)) hereby announces its intention to prepare an environmental impact statement assessing the impact of the proposed standard regulating exposure to coke oven emissions (40 FR 32268) because the proposed standard regulates an environmental hazard to health in the workplace.

The Office of Standards Development, OSHA, is currently collecting information and data on possible environmental impacts of the proposed standard such as any adverse environmental effects which cannot be avoided should the proposal be adopted; alternatives to such a standard; any irreversible commitments of resources which would be involved if the proposal were promulgated; and the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity. Other items to be included in a draft environmental impact statement are listed in 29 CFR 1999.4.

Issues of particular interest in evaluating the environmental impact of the proposed standard on coke oven emissions include the following:

(a) Current and past levels of occupational exposure.

(b) Effects associated with exposure to coke oven emissions, especially correlating accident experience, damage to facilities or interruption of plant activities.

(c) Substantiated data including medical or toxicological evidence showing the effects of coke oven emissions on air quality in the vicinity of the coking operations or on the health of the general population.

(d) Any information indicating the decrease in employee exposure or exposure of the general population that will result from the implementation of the proposed standard.

(e) Any other pertinent information.

Any person having data or information on this subject which is not readily available in the open literature is invited to submit it, with accompanying documentation, to David R. Bell, Office of Standards Development, Room N-3669, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, by September 30, 1975. Comments submitted in response to the Advance Notice of Proposed Rulemaking (38 FR 26207) or to the proposed standard (40 FR 32268) need not be resubmitted. All information received will be available for public inspection and copying at the above address.

In accordance with 29 CFR 1999.3(d), a copy of the draft environmental impact statement, once it is completed, will be available to any member of the public and a notice of its availability will be published in the FEDERAL REGISTER. Any person or agency submitting comments on the completed draft environmental impact statement to OSHA shall submit five (5) copies to the Council on Environmental Quality. A 45-day period will be allowed for the submission of comments after the publication of the notice of availability of the draft environmental impact statement.

Signed at Washington, D.C., this 3rd day of September 1975.

JOHN T. DUNLOP,
Secretary of Labor.

[FR Doc.75-23922 Filed 9-8-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

[Docket No. 75N-0180]

ANIMAL FOOD OR FEED

Prohibited Substances

The Commissioner of Food and Drugs is proposing to establish a regulation on substances that are prohibited from use in food or feed for animals other than man. The regulation proposes to ban from such use certain industrial grade vegetable oil byproducts. These byproducts, which constitute the residue from distillation and deodorization refinement of crude vegetable oils, have been found to have the capacity to carry high levels of pesticides and other contaminants that are hazardous for food or feed use, and they are thus suitable only for industrial use. Interested persons have until November 10, 1975, to submit comments.

Included in the category of industrial grade vegetable oil byproducts are the so-called deodorizer distillates resulting from the steam stripping or vacuum distillation of edible vegetable oils, residual oils resulting from the extraction of tocopherols from the further distillation of the deodorizer distillates, esters and salts of fatty acids derived from such deodorizer distillates, and any combinations or blends of the byproducts listed above with or without other miscellaneous vegetable oil byproducts or vegetable oil refinery wastes.

The Commissioner therefore concludes that it is in the public interest and will promote efficient enforcement of the act to provide a section in the food additive regulations to provide for the listing of substances, including the foregoing, for which use in animal food or feed has been prohibited.

Food additives are prohibited from use in animal food or feed based on the conclusion that the available evidence does not establish their safety, rather than on the basis of a determination that they are in fact unsafe. Section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348) places the burden on the manufacturer or distributor of a food additive to prove its safety prior to use. Accordingly, the Commissioner recognizes that, as additional scientific information becomes available, it may well be possible to approve one or more of these substances for use in animal food or feed and thus to delete it from the section. The proposed regulation provides for such transfers to and from the section on the Commissioner's initiative or on the petition of any interested person.

The fact that a substance does not appear on this list of prohibited substances does not mean that it may lawfully be used in animal food or feed. The proposed new section should be considered only as an easy reference and a partial list of prohibited substances; it may be amended from time to time as new substances are found to fit into this category.

Regarding industrial grade vegetable oil byproducts included in this proposal, the Commissioner is concerned about incidents of illegal pesticide and industrial chemical contamination of human food derived from animals. Such incidents present a threat to human health and lead to severe economic losses to the milk, egg, poultry and meat-producing industries. The contamination of these

foods has been caused by the misuse of chemicals whereby the animal has been directly exposed to the contaminant or by the presence of illegal pesticide and industrial chemical residues in the feed of these animals. Animal feed contamination may result from misuse of chemicals and from a variety of other causes, including the use as a feed ingredient of certain industrial grade byproducts that result from the processing of edible oils of vegetable origin. These byproducts, which have been shown to contain excessive levels of pesticide and industrial chemical residues, are not normally sold or intended for use in animal rations but are generally used for industrial purposes. However, because certain shipments of these byproducts have been diverted into animal feed channels, the Commissioner is proposing measures considered necessary to prevent the marketing of these byproducts of vegetable oil processing as ingredients for animal feeds.

The United States Department of Agriculture (USDA) in early 1974, encountered contaminated poultry from several growers in Mississippi; it contained residues of the pesticide dieldrin in excess of the current action level of 0.3 part per million (ppm) on a fat basis, with levels ranging up to 7.0 ppm. As a result, premarket testing of all flocks from these growers was instituted by USDA and over 8 million dieldrin-contaminated chickens were subsequently destroyed. Since FDA has responsibility for the safety of animal feeds, extensive investigations were immediately undertaken to determine if animal feed was the source of the contamination and, if so, to initiate regulatory action deemed appropriate, including steps to preclude continued use and further shipment of the dieldrin-contaminated feed or feed ingredients.

The FDA investigation covered vegetable oil processors and blenders, poultry growers, feed mills, meat and poultry slaughtering and byproduct processing plants, and other plants where animal feed ingredients are produced.

Industrial grade vegetable oil byproducts were tested. Of the 125 samples tested, 93 contained dieldrin; the levels ranged from 0.06 to 90.5 ppm. Other animal feed ingredients such as corn, fish meal, meat scrap meal, milo, and cottonseed and alfalfa meals contained no detectable or only trace amounts of dieldrin residues. The pesticides dieldrin and endrin were the contaminants most frequently encountered in the vegetable oil byproduct samples and, in some instances, endrin levels ranged up to 3.96 ppm. DDE, a degradation product of the pesticide, DDT, was found in 1 sample at 9.88 ppm.

Vegetable oil refineries received extensive coverage after the initial FDA investigation of growers revcaled that blended oils being used as components of their feeds were contaminated with dieldrin at levels ranging from a trace amount to 90.5 parts per million. It became apparent that certain industrial grade vegetable oil byproducts consistently contained significant levels of dieldrin residues. The oils received by the growers were traced back through various suppliers or blenders, brokers, and other intermediate channels and ultimately, to the refineries. It was determined that in previous months some suppliers furnishing oils to the growers were shipping industrial grade oils to the feed mills, apparently due to the heavy demand for feed grade oils. The best evaluation of the problem indicates that the Mississippi chicken contamination was caused by the diversion of deodorizer vegetable oil distillates and related vegetable oil refinery byproducts from industrial use to animal feed use.

As a result of the investigation, five product recalls of vegetable oil distillates and feeds containing these oils were instituted. Additionally, three firms were enjoined from shipping in interstate commerce adulterated oils for feed use.

The presence of chemical contaminants in these byproducts appears to result from a series of circumstances. For example, chlorinated hydrocarbon pesticides have been used for control of insects on corn and other crops for many years. Such pesticides are persistent and may remain in the soil for years, breaking down into other products equally toxic and persistent. Aldrin, one such chlorinated hydrocarbon pesticide, remains in the soil either as aldrin or its degradation product, dieldrin. During crop rotation, soybeans or other oil seed crops may be planted after corn crops; the aldrin or dieldrin is absorbed by the plants and, being lipid soluble, enters the seeds. Although only insignificant residue levels of aldrin or dieldrin may be in the oilseeds themselves, or in the crude oils produced from them during the processing of the oil, chlorinated hydrocarbons are concentrated in the deodorizer distillate step of processing by a factor that may exceed 300. The deodorizer distillate step consists of a vacuum distillation to remove objectionable odor and taste factors from the edible oils. These deodorizer distillate oils are normally not used for food but have commercial value in producing paint, linoleum, and other industrial products.

However, one food grade product may be obtained from deodorizer vegetable oil distillates. This is tocopherols. The extracted tocopherols are not known to contain any harmful levels of chlorinated hydrocarbon chemicals or impurities. However, the residual oils from tocopherol manufacture are likely to contain aforementioned pesticide residues and should be sold only for industrial use and labeled or invoiced to indicate that they are not for animal feed use. Experience has shown, however, that once in commerce, price differentials and shortages of suitable animal feed oils may lead to diversion of industrial grade products of this type into animal feed channels.

It is such products that are of particular concern to the Commissioner. Many oil refiners sell these industrial grade vegetable oil byproducts with disclaimers such as "Not for human or animal consumption," or similar statements on written agreements, invoices, and/or other billing record. During the Mississippi incident investigation, it was found that such products were remarketed with the removal of the disclaimer statement. This resulted in contamination of the animal feeds in which they were ultimately used.

Industrial grade vegetable oil byproducts by their very nature must be considered as a contaminated concentrate. There is no way of listing all potentially significant chemical residues that may be present in the distillates. Likewise, there is no specific methodology available to cover either the diversity of samples or contaminants that may be involved, and there can be no valid assurance that any lot is free of all significant contaminants. There are, however, legitimate nonfood or nonfeed uses for these byproducts. While they account for less than 1 percent of the total production of vegetable oils, this is still in excess of millions of pounds of questionable material available for misuse in animal feed. It must be concluded that industrial grade vegetable oil byproducts such as deodorizer distillates and blends thereof, are generally unfit for use as components of food or animal feeds, and thus their use would cause any food or feed article in which they are used to be deemed adulterated within the meaning of section 402(a)(2)(C) of the act (21 U.S.C. 342(a)(2)(C)). Since such byproducts have been used for animal food in the past and shipped in interstate commerce for such purpose, and since it is not easy visually or analytically to distinguish them from those articles deemed suitable for such use, the Commissioner concludes that the proposed regulation requires that the labeling of industrial grade vegetable oil byproducts bear the statement, "NOT FOR FOOD OR FEED USE."

Therefore, when industrial grade vegetable oil byproducts specified in the regulation are offered for entry into or shipped in interstate commerce, the absence of labeling that declares the article "Not for food or feed use" will cause such products to be deemed as unsafe food additives within the meaning of section 402(a)(2)(C) of the act. As an alternative to the labeling requirement proposed, such products may be appropriately denatured to render them as unsuitable and otherwise not capable of use as ingredients of animal feeds. The industry is invited to submit information and data establishing that such products are capable of being so denatured. Should such information and data be supplied, the final regulation based on this proposal will be modified accordingly.

The listing of industrial grade vegetable oil byproducts in the proposed regulation is based on the results of the FDA investigation of the previously discussed Mississippi incident; it includes those products the Commissioner has found or would expect to contain residues of certain pesticides and industrial chemicals in excessive amounts. The Commissioner is, however, specifically seeking comments on the list, both in terms of its completeness and the no-

menclature employed with regard to the industrial-grade vegetable oil byroducts.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 402, 409, 701(a), 52 Stat. 1046–1047, 1055, 72 Stat. 1784–1787, as amended (21 U.S.C. 321(s), 342, 348, 371(a))), and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that Part 121 be amended by adding to Subpart B the following new section as follows:

§ 121.107 Substances prohibited from use in food or feed for animals other than man.

(a) The ingredients listed in this section have been prohibited from use in food or feed for animals other than man by the Food and Drug Administration because of a determination that they present a potential risk to the public health or have not been shown by adequate scientific data to be safe for use in such food or feed. Use of any of these substances in violation of this section causes the food or feed involved to be adulterated and in violation of the act.

(b) This section includes only a partial list of substances prohibited from use in food or feed for animals other than man; it is for easy reference purposes, and is not a complete list of substances that may not lawfully be used in such food or feed. No substance may be used in food or feed for animals other than man, unless it meets all applicable requirements of the act.

(c) The Commissioner of Food and Drugs, either on his own initiative or on behalf of any interested person who has submitted a petition, may publish a proposal to establish, amend, or repeal a regulation under this section on the basis of new scientific evaluation or information. Any such petition shall include an adequate scientific basis to support the petition, shall be in the form set forth in § 121.51, and will be published in the FEDERAL REGISTER for comment if it contains reasonable grounds.

(d) Substances prohibited from direct addition or use as food or feed for animals other than man: (1) *Industrial grade vegetable oil byproducts.* (i) For the purpose of this section, industrial grade vegetable oil byproducts consist of: Deodorizer distillates resulting from the steam stripping or vacuum distillation of edible vegetable oils; residual oils resulting from the extraction of tocopherols from such deodorizer distillates; esters and salts of fatty acids derived from such deodorizer distillates; or combinations or blends of any of the byproducts listed above with or without other miscellaneous vegetable oil byproducts or vegetable oil refinery wastes.

(ii) Industrial grade vegetable oil byproducts identified in paragraph (d)(1)(i) of this section shall be regarded as adulterated as unsafe food additives under section 402(a)(2)(C) of the act, unless such articles are labeled "NOT FOR FOOD OR FEED USE" based on a regulation published in the FEDERAL REGISTER of _____.

(2) [Reserved]

Interested persons may, on or before November 10, 1975, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written comments regarding this proposal. Comments should be filed in quintuplicate (except that individuals may submit single copies), and should be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office Monday through Friday, from 9 a.m. to 4 p.m., except on Federal legal holidays.

Dated: August 28, 1975.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.75-23838 Filed 9-8-75;8:45 p.m.]

[21 CFR Part 640]

[Docket No. 75N-0129]

BIOLOGICAL PRODUCTS

Additional Standards for Cryoprecipitated Antihemophilic Factor (Human)

The Commissioner of Food and Drugs is proposing to amend the regulations for manufacturing Cryoprecipitated Antihemophilic Factor (Human) to permit making the product from plasma obtained by plasmapheresis and to reorganize the regulations to be consistent with other regulations. Interested persons have until November 10, 1975, to comment.

Under section 351 of the Public Health Service Act (42 U.S.C. 262), all biological products offered for sale in interstate commerce must be licensed and meet certain standards that assure their continued safety, purity, potency and efficacy. Such standards for licensed Cryoprecipitated Antihemophilic Factor (Human) are prescribed under §§ 640.50 through 640.52 (21 CFR 640.50 through 640.52) of the biologic regulations.

Cryoprecipitated Antihemophilic Factor (Human) is a life-saving blood component containing sufficient levels of antihemophilic factor, also commonly known as Factor VIII, to correct spontaneous bleeding episodes characteristic of individuals having the coagulation disorder known as hemophilia A, a disease due to a deficiency of antihemophilic factor.

The standards presently limit the source of Cryoprecipitated Antihemophilic Factor (Human) to plasma obtained from a single unit of human blood meeting, for the most part, criteria prescribed for Whole Blood (Human). The Commissioner has received a license application from a manufacturer proposing to prepare this product from a single unit of plasma obtained by plasmapheresis. On the basis of the data in the license application, and other relevant material, the Commissioner concludes that a Cryoprecipitated Antihemophilic Factor (Human) which is as safe, pure, potent, and effective as the same product prepared from a single unit of whole blood obtained from a whole blood donor, may be prepared from plasma obtained by plasmapheresis. Furthermore, since two single units of plasma may be obtained by plasmapheresis from one individual, and each unit may be used as a source of Cryoprecipitated Antihemophilic Factor (Human), an increase in its supply can be expected if preparation of this life-saving substance from plasma obtained by plasmapheresis is permitted.

Accordingly, the Commissioner is proposing to amend the additional standards to permit the preparation of Cryoprecipitated Antihemophilic Factor (Human) from plasma obtained by plasmapheresis, and to prescribe criteria for donor suitability, collection, and testing of source material to protect the donor and assure the integrity of such source material.

In addition, as a result of the Commissioner's ongoing review of the existing standards of safety, purity, potency and efficacy of biological products he considers it appropriate at this time to reorganize the additional standards for Cryoprecipitated Antihemophilic Factor (Human) to be consistent with the organization of other additional standards. The proposal also contains a number of substantive changes, which reflect new scientific knowledge and experience with the product.

A. The current regulations under § 640.52(d) require, in part, that the final container shall be marked or identified by a number or other symbol to relate it to the donor. To promote uniform identification of final containers, the phrases "marked" and "or other symbol" have been deleted, so that all containers must be identified solely by number. In the revision of the standards, this provision is in proposed § 640.54(b)(3).

B. The Bureau of Biologics has been conducting potency tests on inspection samples of Cryoprecipitated Antihemophilic Factor (Human) to monitor the ability of licensed manufacturers to produce consistently a product that is safe, pure, potent and effective. The results of this testing reveal that the majority of licensed establishments are, in fact, consistently producing a final product containing more than 40 units of antihemophilic factor from each 100 milliliters of plasma. The antihemophilic factor potency levels of products produced by a few manufacturers, however, consistently contain less than 40 units of antihemophilic factor.

The Commissioner recognizes that the antihemophilic factor potency of the final product may be dependent on the variability of antihemophilic factor in certain donors or the adequacy of the collection and processing procedures, or both. However, the fact that the majority of manufacturers consistently produce a product containing more than 40 units of antihemophilic factor suggests that the manufacture of low potency products is due to inadequate collection and processing procedures. The Commissioner therefore finds that periodic potency tests should be performed as a quality control procedure to assure that the collection and processing methods do not adversely affect the antihemophilic factor potency of Cryoprecip-

itated Antihemophilic Factor (Human). Advances in antihemophilic factor assay technique, and the availability of testing laboratories other than those of the licensed manufacturer, make it possible for all manufacturers of Cryoprecipitated Antihemophilic Factor (Human) to initiate quality control potency testing of the final product.

Accordingly, the Commissioner proposes: (1) A new § 640.55 that identifies a U.S. Standard Antihemophilic Factor preparation, which may be obtained from the Bureau of Biologics for use in the preparation of a working reference to be employed as a control for the potency testing of licensed Cryoprecipitated Antihemophilic Factor (Human); and (2) a new § 640.56 that requires that four representative units of Cryoprecipitated Antihemophilic Factor (Human) be tested for potency each month to ensure that the collection and processing procedures are adequate, and the resultant product contains 40 units or more of antihemophilic factor from each 100 milliliters of plasma. The procedures for potency testing and a U.S. Standard Antihemophilic Factor (Human) preparation may be obtained, upon request, from the Director, Bureau of Biologics, 8800 Rockville Pike, Bethesda, MD 20014.

C. The labeling requirements currently prescribed in paragraph (c) of § 640.51 have been redesignated, with minor grammatical changes, under a new § 640.57 *Labeling*.

The Commissioner is proposing that labeling requirements concerning the donor number, storage temperature, identification and results of the test conducted for syphilis and, if performed, identification and results of the test conducted for unexpected antibodies be added to the regulations.

Pertinent background data and information on which the Commissioner relies in proposing this 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.

Therefore, under the Public Health Service Act (section 351, 58 Stat. 702, as amended (42 U.S.C. 262)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that Part 640 be amended in Subpart F by revising §§ 640.50, 640.51, and 640.52 and adding §§ 640.53, 640.54, 640.55, 640.56, and 640.57, to read as follows:

§ 640.50 Cryoprecipitated Antihemophilic Factor (Human).

(a) *Proper name and definition.* The proper name of this product shall be Cryoprecipitated Antihemophilic Factor (Human). The product is defined as a preparation of antihemophilic factor, which is obtained from a single unit of plasma collected and processed in a closed system, and which will correct the coagulation defect of hemophilia A.

(b) *Source.* The source material for Cryoprecipitated Antihemophilic Factor (Human) shall be plasma which may be obtained by whole blood collection or by plasmapheresis.

§ 640.51 Suitability of donors.

(a) Whole blood donors shall meet the criteria for suitability prescribed in § 640.3.

(b) Plasmapheresis donors shall meet the criteria for suitability prescribed in § 640.63, excluding the phrase "other than malaria" in paragraph (c)(9) of that section. Informed consent shall be required as prescribed in § 640.61.

(c) Donors shall not be suitable if they are known to have been immunized by injection with human red blood cells or blood group substances.

§ 640.52 Collection of source material.

(a) Whole blood used as a source of Cryoprecipitated Antihemophilic Factor (Human) shall be collected as prescribed in § 640.4, except that paragraphs (d)(2), (g) and (h) of that section shall not apply. Whole blood from which both Platelet Concentrate (Human) and Cryoprecipitated Antihemophilic Factor (Human) is derived shall be maintained as required under § 640.24 until the platelets are removed.

(b) If plasmapheresis is used, the procedure for collection shall be as prescribed in §§ 640.62, 640.64 (except that paragraph (c)(3) of that section shall not apply), and 640.65.

§ 640.53 Testing the blood.

(a) Blood from which plasma is separated for the preparation of Cryoprecipitated Antihemophilic Factor (Human) shall be tested as prescribed in §§ 610.40 of this chapter and 640.5 (a), (b), and (c).

(b) The tests shall be performed on a sample of blood collected at the time of collecting the source blood, and such sample container shall be labeled with the donor's number before the container is filled.

(c) Manufacturers of Cryoprecipitated Antihemophilic Factor (Human) obtained from plasma collected by plasmapheresis shall have testing and record-keeping responsibilities equivalent to those prescribed in § 640.69 (f) and (g).

§ 640.54 Processing.

(a) *Processing the plasma.* (1) The plasma shall be separated from the red blood cells by centrifugation within 4 hours after collection to obtain essentially cell-free material.

(2) The plasma shall be frozen within 2 hours after separation. A combination of dry ice and organic solvent may be used for freezing: *Provided*, That the procedure has been shown not to cause the solvent to penetrate the container or leach plasticizer from the container into the plasma.

(3) Immediately after processing, the plasma shall be stored and maintained at —18° C or colder until further processing to remove the Cryoprecipitated Antihemophilic Factor (Human).

(b) *Processing the final product.* (1) The Cryoprecipitated Antihemophilic Factor (Human) shall be separated from the plasma by a procedure that has been shown to produce a product which has a demonstrated potency to correct the coagulation defect of hemophilia A.

(2) No diluent shall be added to the product by the manufacturer.

(3) The final container used for Cryoprecipitated Antihemophilic Factor (Human) shall be colorless and transparent, to permit visual inspection of the contents; any closure shall maintain a hermetic seal and prevent contamination of the contents. The container material shall not interact with the contents, under the customary conditions of storage and use, in such a manner as to have an adverse effect upon the safety, purity, potency and effectiveness of the product. At the time of filling, the final container shall be identified by a number so as to relate it to the donor.

§ 640.55 U.S. Standard preparation.

A U.S. Standard Antihemophilic Factor (Factor VIII) preparation may be obtained from the Bureau of Biologics, Food and Drug Administration, for use in the preparation of a working reference to be employed in a quality control potency test of Cryoprecipitated Antihemophilic Factor (Human).

§ 640.56 Quality control test for potency.

(a) Quality control tests for potency of antihemophilic factor shall be conducted each month on four representative units of Cryoprecipitated Antihemophilic Factor (Human).

(b) The quality control test for potency may be performed by a clinical laboratory which meets the standards of the Clinical Laboratories Improvement Act of 1967 (CLIA) (42 U.S.C. 263a) and is qualified to perform potency tests for antihemophilic factor. Such arrangements must be approved by the Director, Bureau of Biologics, Food and Drug Administration. Such testing shall not be considered as divided manufacturing, as described in § 610.63 of this chapter, provided the following conditions are met:

(1) The results of each test are received within 10 days of the preparation of the cryoprecipitated antihemophilic factor and are maintained by the establishment licensed for Cryoprecipitated Antihemophilic Factor (Human) so that they may be reviewed by an authorized representative of the Food and Drug Administration.

(2) The licensed Cryoprecipitated Antihemophilic Factor (Human) manufacturer has obtained a written agreement that the testing laboratory will permit an authorized representative of the Food and Drug Administration to inspect its testing procedures and facilities during reasonable business hours.

(3) The testing laboratory will participate in any proficiency testing programs undertaken by the Bureau of Biologics, Food and Drug Administration.

(c) If the average potency level of the four units tested is less than 40 units of antihemophilic factor derived from each 100 milliliters of source material:

(1) Immediate corrective actions shall be taken and a record maintained of such action.

(2) Within 30 days after testing the fourth sample, the potency test results from each of the four samples, together with a description of the corrective action and its effect on the potency of subsequently processed products, shall be submitted to the Director, Bureau of Biologics, Food and Drug Administration.

§ 640.57 Labeling.

In addition to the applicable requirements of § 610.62 of this chapter, and in lieu of the requirements of §§ 610.60 and 610.61 of this chapter, the container label shall bear the following information.

(a) The proper name of the product.

(b) The volume of source blood and plasma, and the volume and type of anticoagulant present in the source blood from which the product was prepared.

(c) Blood group designations of the source blood.

(d) Donor number.

(e) Expiration date.

(f) Type of serologic test for syphilis used and results.

(g) Type of test for hepatitis B surface antigen used and results.

(h) Type of test for unexpected antibodies, if performed, and results.

(i) Instructions to store the product at −18° C or colder.

(j) A warning against further processing of the product if there is evidence of breakage or thawing.

(k) Instructions to thaw the product at a temperature between 30–37° C.

(l) Instructions to store the product at room temperature after thawing, and to use the product within 6 hours after thawing and within 2 hours of entering the container.

(m) Instructions to use a filter in the administration equipment.

(n) A statement to see the instruction circular for directions for use.

(o) The statement "Caution: Federal Law prohibits dispensing without prescription."

(p) Name, address, and license number of the manufacturer.

Interested persons may, on or before November 10, 1975, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written comments regarding this proposal. Comments shall be filed in quintuplicate and shall be identified with the Hearing Clerk docket number found in the document heading. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: September 2, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

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COST ACCOUNTING STANDARDS BOARD

[4 CFR Part 410]

ALLOCATION OF BUSINESS UNIT GENERAL AND ADMINISTRATIVE EXPENSE TO FINAL COST OBJECTIVES

Proposed Cost Accounting Standard

Notice is hereby given of a proposed Cost Accounting Standard on Allocation of Business Unit General and Administrative (G&A) Expense to Final Cost Objectives, being considered by the Cost Accounting Standards Board for promulgation to implement further the requirement of Section 719 of the Defense Production Act of 1950, as amended, Public Law 91–379, 50 U.S.C. App. 2168. When effective, the Standard will be used by all relevant Federal agencies and national defense contractors and subcontractors.

The Board published an earlier proposal for this Standard in the FEDERAL REGISTER for September 24, 1974 (39 FR 34300). The Board supplemented the publication by sending copies of the FEDERAL REGISTER material to organizations and individuals who had expressed an interest in the work of the Board. Fifty responses were received.

After reviewing those responses, the Board has revised the proposal in a number of ways, and the proposal as revised is being published for comments by interested persons.

To assist interested persons who wish to comment on this proposal, the Board has identified below the principal areas in which it has modified the proposal published on September 24, 1974, together with the Board's reasons for those modifications.

1. *Selection of an Allocation Base for the G&A Expense Pool.* Commentators expressed the view that the choice of an allocation relationship between the G&A expense pool and final cost objectives is arbitrary; particularly, the selection of a single allocation base is arbitrary. Because of this view, commentators have inquired about the Board's reasons for selecting cost input as the allocation base for the G&A expense pool. The expenses in the G&A expense pool are the expenses of the general management and administration of a business unit as a whole. Therefore, the allocation base chosen should be one which measures the total activity of the business unit during a cost accounting period and not just some part of total activity. Only a cost input base accomplishes this objective.

Shortly after the initial FEDERAL REGISTER publication, the Board surveyed segments of a number of companies who use a cost of sales base to allocate G&A expenses. The survey was designed to compare the results of using a cost of sales base versus a cost input base to allocate these expenses. Responses were received from 91 segments. The results of the survey established that in the case of individual segments the use of a cost of sales base as compared with a cost input base can result in a significant change in the G&A rate and in the allocations of G&A expenses to final cost objectives.

A number of commentators suggested that the use of cost of sales as a measurement of the allocation base for the G&A expense pool should be permitted. Commentators asserted that this base has long been used for the allocation of the G&A expense pool and that it was in consonance with the concept of period expense. The measurement of a cost of sales base is representative, in part, of the productive activities of prior periods and is subject to fluctuations which can distort the allocation of G&A expenses to activities of the current period. Although the measurement of cost of sales is based on a recorded date of sale, management activities of a period are not necessarily related to the date of sale.

Under current regulations as interpreted by the Armed Services Board of Contract Appeals, a cost of sales base should only be used where it cosely approximates a cost input base. The Board has considered the existence of these past disputes and cases involving the use of a cost of sales allocation base. In given circumstances, due to the definition and accounting for sales under various types of contracts, the cost of similar types of productive activities may be treated differently in terms of the measurement of a cost of sales allocation base. The use of a cost of sales base can result in unwarranted shifting of costs between different types of final cost objectives. Therefore, the Board has concluded that the use of a cost of sales base is inappropriate for establishing the proper cost of final cost objectives within a cost accounting period.

Commentators also asserted that the Standard was unduly rigid because it permitted only one base for the allocation of the G&A expense pool. The proposed Standard is not limited to the use of one allocation base; rather, the scope of the base, the measurement of total activity, is limited to cost input as this is the measure of the total activity of the business unit. The proposed Standard provides that the measure of cost input best representing the total activity of the business unit during a cost accounting period would be the one chosen as the base. The Standard provides criteria for determining the cost input base which will best measure total activity. The criteria are provided so that the allocation base for the G&A expense pool can be selected giving consideration to the differing circumstances of individual business units.

Commentators expressed concern that the criteria for selection of a particular cost input base were not clear and could lead to disputes. The Board has recognized the merit of these comments and has modified the Standard to clarify the criteria for selection of an allocation base in a particular circumstance. Under the proposed Standard, only a cost input base may be used. Three cost input bases have been provided and criteria have been established for selection of the appropriate base. The individual circumstances of a given business unit must be analyzed, and the cost input base that best represents the total activity of that business unit would be the base selected. The Board's research indicates that generally total cost input, because it is a broad measure of all of the work done and includes all of the costs allocable to the contracts of the period will be a measure that is representative of the total actvity of the cost accounting period.

In this context the term "total activity" refers to the production of goods and services during a cost accounting period. This scope of activity is selected in light of the fact that the purpose of this Standard is to provide guidelines for the allocation of expense to the work of a cost accounting period. Thus, the total activity involved in the production of goods and services is the measure selected to act as a base for allocating the G&A expense pool to the final cost objectives of a given cost accounting period.

Commentators were uncertain as to the relationship of cost input to the purchase of raw materials inventory and to Cost Accounting Standard (CAS) 404—Capitalization of Tangible Assets. To help clarify the relationship of this Standard to the purchase of raw material inventories and to CAS 404, an illustration has been added. Cost input is basically a measure of the costs and expenses allocated to production of goods and services during a cost accounting period. Thus, items purchased for raw material inventory which are not entered into production during a cost accounting period would not be part of the cost input base for that cost accounting period. As to the acquisition costs of assets constructed or fabricated by a contractor, CAS 404 and the proposed Standard must be read together. The requirements of CAS 404 provide that those G&A expenses which are identifiable with the constructed asset and are material in amount shall be allocated to the cost of the asset. CAS 404 also provides that the cost of constructed assets that are identical with or similar to the contractor's regular product shall include a full share of indirect costs—thus, the costs of these assets will be included in the cost input base.

Commentators also suggested that guidance be given for the accounting for costs which are excluded from the G&A expense pool under this Standard. An illustration has been provided to clarify the accounting for those costs as part of the cost input base.

2. *A Transition Provision.* Some commentators suggested that to avoid disputes and inequities the Board should provide a specific method of compensation for any contractor who is required to change from a cost of sales or sales base to a cost input base. They suggested that the transition provision should specifically consider the potential administrative cost and difficulty that could arise in adjusting existing fixed price contracts. Other commentators recommended that the Board leave this question for resolution by the contracting parties, because no single transition technique was likely to be satisfactory to all. When commenting on this issue, some commentators asserted that the transition could significantly impact both profit shown in the income statement and cash flow in the year of transition.

The Board recognizes that the conversion to a cost input base from a cost of sales or sales base may have an impact on a considerable number of fixed price contracts. To avoid potential disputes and to minimize the administrative cost of implementing the transition, the Board is considering the adoption of a specific transition method. In the Standard published today, the Board has included two alternative transition methods from which it expects to select one as the specific transition method. The alternatives are designated 410.40(b)(2)(ii) X or Y; 410.50(e) X or Y; 410.60(f) X or Y.

Either method will permit a business unit whose disclosed or established cost accounting practice was to use a cost of sales or sales base and which has cost reimbursement-type or fixed price contracts, or both, subject to the CAS clause existing as of the date the business unit must first allocate costs in compliance with the requirements of this Standard, to allocate the G&A expense pool to these final cost objectives using a cost of sales base. The method shall also be used to determine the amount of G&A expenses to be removed from the G&A expense pool prior to the allocation of that pool to new cost reimbursement-type contracts and new fixed price contracts subject to the CAS clause.

The difference between the proposed methods is the treatment of final cost objectives not subject to the CAS clause existing as of the date the business unit must first allocate costs in compliance with the requirements of this Standard. These final cost objectives may include:

(1) Government contracts which do not contain the CAS clause;

(2) Contracts other than Government contracts or customer orders awarded prior to the date the business unit must first allocate its costs in compliance with the requirements of this Standard; and

(3) Production not specifically identified with contracts or customer orders under production or work orders existing prior to the date on which a business unit must first allocate its costs in compliance with this Standard and which are limited to time or quantity.

Production under standing or unlimited work orders, continuous flow processes and the like, not identified with contracts or customer orders are to be treated as final costs objectives awarded after the date on which a business unit must first allocate its cost in compliance with the requirements of this Standard.

In alternative Method X, the cost input base is used to determine that portion of the G&A expense pool applicable to those fiual cost objectives not subject to the CAS clause existing as of the date a business unit must first allocate costs in compliance with the requirements of this Standard. In alternative Method Y, the cost of sales or sales base is used to determine the portion of the G&A expense pool applicable to such final cost objectives.

The proposed transition methods incorporate a number of suggestions that were made to the Board in comments on the draft which previously appeared in the FEDERAL REGISTER. The methods involve using a combination of a cost of sales or sales base and a cost input base. A contractor will use the transition method until all pre-existing final cost objectives using the cost sales or sales base are completed. At that point the contractor would be using and would continue to use a cost input base selected in accordance with the requirements of 410.50(d) to allocate the G&A expense pool.

The Board recognizes that the inventorying or deferring of G&A on fixed price contracts received after the date on which a business unit must first record costs in compliance with the proposed Standard will affect its cash flow. The Board notes that this effect can be somewhat offset by means of progress payments for that portion of the G&A expenses which are in inventory at the end of a cost accounting period.

3. *Definition of G&A Expense.* Commentators were concerned that the proposed definition of G&A expense was narrower than those definitions currently in use, and the result might be excessive fragmentation of existing G&A expense pools to remove insignificant items.

Board research indicates that while accountants are in agreement about the general character of G&A expenses, practice has resulted in the cost of a variety of functions and expenses being included in the G&A expense pool. The definition proposed by the Board limits G&A expenses to those expenses which are related to the general management and administration of the business unit as a whole. Excluded are those management expenses whose beneficial or causal relationship to cost objectives can be more directly measured by a base other than a cost input base representing the total activity of a business unit during a cost accounting period.

With respect to the questions about materiality, the Board has several times expressed its belief that the administration of Cost Accounting Standards should be reasonable and not seek to deal with insignificant amounts of cost. See, for example, the March 1973 "Statement of Operating Policies, Procedures and Objectives." The Board has considered the comments concerning the potential problems that could arise without a clearer statement of materiality related to the

composition of the G&A expense pool. The Board believes in this instance a significance test will be useful and the proposed Standard has been appropriately modified.

Commentators also expressed concern about the treatment of specific items of expense that are sometimes found in the G&A expense pool. In particular, commentators expressed concern over the treatment of selling and marketing expense, independent research and development (IR&D) expense and bidding and proposal (B&P) expense. Commentators questioned whether under the proposed Standard these expenses were G&A expenses to be included in the G&A expense pool.

The Board recognizes that at the present time selling costs (marketing or selling expenses) may constitute a significant amount of cost and are accounted for in a variety of ways. Some account for selling costs in a separate cost pool while others include selling costs as part of the G&A expense pool. Also, the Board notes that the current ASPR provision related to the accounting for IR&D and B&P requires that generally the allocation of these costs shall be on the same basis as the contractor's allocation of his G&A expense pool, although these expenses are not termed G&A expenses. All of these subjects are being considered by the Board as separate Standards, and at this time the Board does not propose altering or changing their existing accounting treatment.

Contractors who have included IR&D and B&P costs in their G&A expense pool may continue to do so. As a result of having these costs remain in the G&A expense pool and of the proposed alternative transition provisions of 410.50(e), the accounting for these costs will be as follows:

(a) During the transition period, those business units which were using a cost of sales or sales base would continue to use that base to allocate the G&A expense pool to cost contracts and fixed price contracts subject to the CAS clause, which were in existence as of the date the business unit must first allocate its costs in accordance with the requirements of this Cost Accounting Standard.

(b) During the transition period and subsequent to that time, the G&A expense pool would be allocated to new cost contracts and new fixed price contracts subject to the CAS clause using a cost input base as required by 410.50(d).

Contractors who have included selling costs in a cost pool separate and apart from the G&A expense pool may continue to account for those costs in a separate pool or may change and include selling costs in their G&A expense pool. Further, contractors who will have to change the allocation base used for the G&A expense pool and who have in the past included selling costs as part of the G&A expense pool may account for selling costs by establishing a separate cost pool for the selling costs and using the allocation base they previously used for their G&A expense pool. Where selling costs are accounted for in a cost pool separate and apart from the G&A expense pool, they shall become part of the cost input base used to allocate the G&A expense pool. Illustrations have been added to the proposed Standard to clarify the treatment of these costs.

As a result of the current ASPR provision, which requires that generally the allocation of IR&D and B&P costs on the same basis as the business unit's G&A expense pool, a business unit which is required under this proposed Standard to change the allocation base used for its G&A expense pool could, because of the ASPR requirements, also be required to change the allocation base for IR&D and B&P. This change in the business unit's method of accounting for IR&D and B&P costs, however, would be subject to the transition provision of the proposed Standard, and would only affect allocation of these costs to contracts awarded afer the date on which a business unit must first allocate its costs in accordance with the requirements of this Standard.

4. *Use of Memorandum Records.* Some commentators urged that the Standard specifically permit the use of memorandum records for the allocation of G&A expenses to final cost objectives. The Board notes that even in the absence of this Standard, many contractors now use memorandum records to perform the allocation of G&A expenses for purposes of Government contracts, because they do not make formal allocation of G&A expenses to contracts or they do so on a different basis. The Board sees no need to disturb the practice of using memorandum records for the allocation of G&A expenses to final cost objectives.

5. *Allocation of Home Office Expenses to Final Cost Objectives.* Commentators expressed concern about the handling of home office expenses which are received by a segment as residual expenses under CAS 403 or as a lump sum which is not designated as a particular type of expense. The proposed Standard now provides explicitly that individual handling of various types of home office expenses would be required only where a separate allocation of expenses is received from a home office, and where the amount of the allocated expense is significant.

Other commentators suggested that in given circumstances a different allocation base than the allocation base used for the allocation of home office expense to the segment may be appropriate for the allocation of home office expense to final cost objectives of the segment. The Standard does not require that the same base be used for the allocation of home office expenses to final cost objectives of the segment as was used for the allocation of home office expenses to the segment. The Standard requires establishment of a beneficial or causal relationship between the cost objectives and the expense wherever separate and significant allocations of home office expenses are received by a segment. It may be appropriate to use a different allocation base for the allocation of home office expenses received by a segment than the allocation base used to allocate home office expenses to the segment.

6. *Allocation of G&A Expenses to Special Contracts.* Commentators suggested that the special allocation provision be stated in terms of class of contracts or types of situations. If the G&A expense meets the requirements of the proposed Standard, the existence of a need for special allocation to a class of contracts or type of situation would indicate that the allocation base being used is not representative of the total activity of the business unit during a cost accounting period. The Standard is designed to provide consistent accounting treatment for all contracts, except for a particular contract or other final cost objective which is an exception to a business unit's normal operation.

The cost input allocation base for G&A expense is a broad measure which is normally representative of the total activity of a business unit during a cost accounting period. Thus, for a given final cost objective to qualify for special treatment, the difference in its beneficial or causal relationship to G&A expense as compared with the relationship of other final cost objectives to G&A expenses should be one which is apparent and capable of being supported. The provision of the proposed Standard will call for the exercise of judgment; nonetheless, the Board believes a materiality criterion based on a measure of significantly different benefits is proper for use in evaluating and establishing a separate and exceptional allocation to a given final cost objective.

The Board solicits comments on this revised proposal for a Cost Accounting Standard which will assist the Board in its further consideration of the proposal. The Board is particularly interested in receiving comments on the alternative methods for the proposed requirement for the transition from use of a cost of sales base for allocation of the G&A expense pool to use of a cost input base as set out in Section 410.50 (e). Respondents are asked to comment on the administrative cost and effort entailed by each of the alternatives and to indicate their preference between the alternatives. Interested persons should submit written data and views, concerning the proposed Cost Accounting Standard to the Cost Accounting Standards Board, 441 G Street, N.W., Washington, D.C. 20548.

To be given consideration by the Board in its determination relative to final promulgation of the Cost Accounting Standard covered by this notice, written submissions must be made to arrive no later than November 14, 1975.

NOTE: All written submissions made pursuant to this notice will be made available for public inspection at the Board's office during regular business hours.

PART 410—ALLOCATION OF BUSINESS UNIT GENERAL AND ADMINISTRATIVE EXPENSE TO FINAL COST OBJECTIVES

Sec.

Sec.
410.40 Fundamental requirement.
410.50 Techniques for application.
410.60 Illustrations.
410.70 Exemptions.
410.80 Effective date.

AUTHORITY: 84 Stat. 796, sec. 103, 50 U.S.C. App. 2168.

§ 410.10 General applicability.

General applicability of this Cost Accounting Standard is established by § 331.30 of the Board's regulations on applicability, exemption, and waiver of the requirement to include the Cost Accounting Standards contract clause in negotiated defense prime contracts and subcontracts (§ 331.30 of this chapter).

§ 410.20 Purpose.

The purpose of this Cost Accounting Standard is to provide criteria for the allocation of business unit general and administrative (G&A) expenses to business unit final cost objectives based on their beneficial or causal relationship. These expenses represent the cost of the management and administration of the business unit as a whole. The Standard also provides criteria for the allocation of home office expenses received by a segment to the cost objectives of that segment. This Standard will increase the likelihood of achieving objectivity in the allocation of expenses to final cost objectives and comparability of cost data among contractors in similar circumstances.

§ 410.30 Definitions.

(a) The following definitions of terms which are prominent in this Standard are reprinted from Part 400 of this chapter for convenience. Other terms which are used in this Standard and are defined in Part 400 of this chapter have the meanings ascribed to them in that part unless the text demands a different definition or the definition is modified in paragraph (b) of this section.

(1) *Allocate.* To assign an item of cost or a group of items of cost, to one or more cost objectives. This term includes both direct assignment of cost and the reassignment of a share from an indirect cost pool.

(2) *Business unit.* Any segment of an organization, or an entire business organization which is not divided into segments.

(3) *Cost input.* The cost, except G&A expenses, which for contract costing purposes is allocable to the production of goods and services during a cost accounting period.

(4) *Cost objective.* A function, organizational subdivision, contract or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capitalized projects, etc.

(5) *Final cost objective.* A cost objective which has allocated to it both direct and indirect costs, and, in the contractor's accumulation systems, is one of the final accumulation points.

(6) *General and Administrative (G&A) expense.* Any management, financial, and other expense which is incurred by or allocated to a business unit and which is for the general management and administration of the business unit as a whole. G&A expense does not include those management expenses whose beneficial or causal relationship to cost objectives can be more directly measured by a base other than a cost input base representing the total activity of a business unit during a cost accounting period.

(7) *Segment.* One of two or more divisions, product departments, plants, or other subdivisions of an organization reporting directly to a home office, usually identified with responsibility for profit and/or producing a product or service. The term includes Government-owned contractor-operated (GOCO) facilities, and joint ventures and subsidiaries (domestic and foreign) in which the organization has a majority ownership. The term also includes those joint ventures and subsidiaries (domestic and foreign) in which the organization has less than a majority of ownership, but over which it exercises control.

(b) The following modifications of definitions set forth in Part 400 of this chapter are applicable to this Standard: None.

§ 410.40 Fundamental requirement.

(a) Business unit G&A expenses shall be grouped in a separate indirect cost pool which shall be allocated only to final cost objectives.

(b) (1) The G&A expense pool of a business unit for a cost accounting period shall be allocated to final cost objectives of that cost accounting period by means of a cost input base representing the total activity of the business unit during that entire cost accounting period, except as provided in paragraph (b) (2) of this section.

(b) (2) (i) The allocation of the G&A expense pool to any particular final cost objectives which receive benefits significantly different from the benefits accruing to other final cost objectives shall be determined by special allocation.

ALTERNATIVE X

(ii) Where, prior to the effective date of this Standard, a business unit's disclosed or established cost accounting practice was to use a cost of sales or sales base, final cost objectives subject to the CAS clause in existence on the date on which a business unit must first allocate its costs in accordance with the requirements of this Cost Accounting Standard shall use the transition method required by § 410.50(e) to allocate the G&A expense pool.

OR

ALTERNATIVE Y

(ii) Where, prior to the effective date of this Standard, a business unit's disclosed or established cost accounting practice was to use a cost of sales or sales base, final cost objectives in existence on the date on which a business unit must first allocate its costs in accordance with the requirements of this Cost Accounting Standard shall use the transition method required by § 410.50(e) to allocate the G&A expense pool.

(c) Home office expenses received by a segment shall be allocated to segment cost objectives as required by § 410.50(g).

(d) Notwithstanding any other provisions herein, any costs which do not satisfy the definition of G&A expenses in this Standard, but which are currently classified by a business unit as G&A expenses (e.g., selling cost) or are required by a controlling agency to be accounted for in the same way the business unit accounts for G&A expenses (e.g., Independent Research and Development costs and Bidding and Proposal costs), shall continue to be treated pursuant to provisions of existing laws, regulations, and other controlling factors.

§ 410.50 Techniques for application.

(a) G&A expenses of a segment(s) incurred by another segment shall be removed from the incurring segment's G&A expense pool. These expenses shall be allocated to the segment(s) for which the expenses were incurred on the basis of the beneficial or causal relationship existing between the expenses incurred and all benefiting or causing segments. If the expenses are incurred for two or more segments, they shall be allocated using an allocation base common to all such segments.

(b) The G&A expense pool may be combined with other expenses for allocation to final cost objectives provided that:

(1) The allocation base used for the combined pool would be appropriate both for the allocation of the G&A expense pool under this Standard and for the allocation of the other expenses; and

(2) Provision is made to identify the components and total of the G&A expense pool separately from the other expenses in the combined pool.

(c) Expenses which are not G&A expenses and are insignificant in amount may be included in the G&A expense pool for allocation to final cost objectives.

(d) The cost input base used to allocate the G&A expense pool shall include all significant elements of that cost input which represent the total activity of the business unit. The cost input measure selected to represent the total activity of a business unit during a cost accounting period may be any one of the three: total cost input, value-added cost input, or single element cost input. The determination of which allocation base best represents the total activity of a business unit must be judged on the basis of the facts of each situation.

(1) A total cost input allocation base is generally acceptable as an appropriate measure of the total activity of a business unit.

(2) Value-added cost input may be used as an allocation base where inclusion of material and subcontract costs would significantly distort the allocation of the G&A expense pool in relation to the benefits received, but where costs other than direct labor are significant measures of total activity. A value-added cost input base is total cost input less material and subcontract costs.

(3) A single element cost input base, e.g., direct labor hours or direct labor dollars, which represents the total activity of a business unit may be used to allocate the G&A expense pool where it produces equitable results. A single element base may not produce equitable results where other measures of activity are also significant in relation to total activity. A single element base is inappropriate where it is an insignificant part of the total cost of some of the final cost objectives.

ALTERNATIVE X

(e) The transition method for allocating the G&A expense pool shall be as provided below.

(1) A business unit, whose established or disclosed cost accounting practice is to use a cost of sales or sales base to allocate its G&A expense pool, and which has final cost objectives subject to the CAS clause existing on the date on which it must first allocate costs in accordance with the requirements of this Cost Accounting Standard shall allocate its G&A expense pool as provided below.

(2) Any such business unit shall use the following transition method to compute the allocation of its G&A expense pool until all pre-existing final cost objectives subject to the CAS clause have been completed;

(i) (A) Calculate the cost of sales or sales base in accordance with the cost accounting practice disclosed or established prior to the effective date of this Cost Accounting Standard;

(B) Calculate the G&A expense allocation rate using the base determined in paragraph (e) (2) (i) (A) of this section and use that rate to allocate from the G&A expense pool to the pre-existing final cost objectives subject to the CAS clause as described in paragraph (e) (1) of this section;

(ii) Calculate a cost input base in compliance with § 410.50(d) except that the cost input of all final cost objectives described in paragraph (e) (1) of this section shall be excluded; and

(iii) Use the cost input base calculated in paragraph (e) (2) (ii) of this section to determine the allocation of the pool that remains after step (i) (B) to the final cost objectives whose cost input was included in the base.

OR

ALTERNATIVE Y

(e) The transition method for allocating the G&A expense pool shall be as provided below.

(1) A business unit, whose established or disclosed cost accounting practice is to use a cost of sales or sales base to allocate its G&A expense pool, and which has final cost objectives existing on the date on which it must first allocate costs in accordance with the requirements of this Cost Accounting Standard shall allocate its G&A expense pool as provided below.

(2) Any such business unit shall use the following transition method to compute the allocation of its G&A expense pool until all pre-existing final cost objectives have been completed;

(i) (A) Calculate the cost of sales or sales base in accordance with the cost accounting practice disclosed or established prior to the effective date of this Cost Accounting Standard;

(B) Calculate the G&A expense allocation rate using the base determined in paragraph (e) (2) (i) (A) of this section and use that rate to allocate from the G&A expense pool to the pre-existing final cost objectives subject to the CAS clause as described in paragraph (e) (1) of this section;

(C) Remove from the remaining pool of G&A expense the amount applicable to all other final cost objectives described in paragraph (e) (1) of this section by using the base and rate determined under paragraph (e) (2) (i) (A) and (B) of this section;

(ii) Calculate a cost input base in compliance with § 410.50(d) except that the cost input of all final cost objectives described in paragraph (e) (1) of this section shall be excluded; and

(iii) Use the cost input base calculated in paragraph (e) (2) (ii) of this section to determine the allocation of the pool that remains after steps (i) (B) and (C) to the final cost objectives whose cost input was included in the base.

(f) Cost input shall include those expenses which by operation of this Standard are excluded from the G&A expense pool and are not part of a combined pool of G&A expenses and other expenses allocated using the same allocation base.

(g) (1) Allocations of the home office expenses of (i) line management of particular segments or groups of segments, (ii) residual expenses, and (iii) directly allocated expenses related to the management and administration of the receiving segment as a whole shall be included in the receiving segment's G&A expense pool.

(2) Any separate allocation of the expenses of home office (i) centralized service functions, (ii) staff management of specific activities of segments, and (iii) central payments or accruals, which is received by a segment shall be allocated to the segment cost objectives in proportion to the beneficial or causal relationship between the cost objectives and the expense if such allocation is significant in amount. Where a beneficial or causal relationship for the expense is not identifiable with segment cost objectives, the ship between the ocst objectives and the expense may be included in the G&A expense pool.

(h) Where a segment performs home office functions and also performs as an operating segment having a responsibility for final cost objectives, the expense of the home office functions shall be segregated. These expenses shall be allocated to all benefiting or causing segments, including the segment performing the home office functions, pursuant to disclosed or established accounting practices for the allocation of home office expenses to segments.

(i) For purposes of allocating the G&A expense pool, items produced or worked on for stock or product inventory shall be accounted for as final cost objectives in accordance with the following paragraphs:

(1) Where items are produced or worked on for stock or product inventory in a given cost accounting period, the cost input to such items in that period shall be included only once in the computation of the G&A expense allocation base and in the computation of the G&A expense allocation rate for that period and shall not be included in the computation of the base or rate for any other cost accounting period.

(2) A portion of the G&A expense pool shall be allocated to items produced or worked on for stock or produot inventory in the cost accounting period or periods in which such items are produced at the rates determined for such periods except as provided in paragraph (i) (3) of this section.

(3) Where the contractor does not include G&A expense in inventory as part of the cost of stock or product inventory items, the G&A rate of the cost accounting period in which such items are issued to final cost objectives may be used to determine that portion of the G&A expense pool to be allocated to issues of stock or product inventory items.

(j) Where a particular final cost objective in relation to other final cost objectives receives significantly more or less benefit from G&A expense than would be reflected by the allocation of such expenses using a base determined pursuant to paragraph (d) of this section, the Government and the contractor shall agree to a special allocation from the G&A expense pool to the particular final cost objective commensurate with the benefits received. The amount of a special allocation to any final cost objective made pursuant to such an agreement shall be excluded from the G&A expense pool required by § 410.40(a), and the particular final cost objective's cost input data shall be excluded from the base used to allocate this pool.

§ 410.60 Illustrations.

(a) Business Unit A has been including the cost of scientific computer operations in its G&A expense pool. The scientific computer is used predominately for research and development. Costs of the scientific computer operations should not be included in the G&A expense pool because these costs benefit a particular group of cost objectives, research and development, rather than A as a whole.

(b) Segment B performs a budgeting function, the cost of which is included in its G&A expense pool. This function includes the preparation of budgets for another segment. The cost of preparing the budgets for the other segment should be removed from B's G&A expense pool and transferred to the other segment.

(c) (1) Business Unit C has a personnel function which is divided into two parts (i) a vice president of personnel who establishes personnel policy and overall guidance, and (ii) a personnel department which handles hirings, testing,

evaluations, etc. The expense of the vice president is included in the G&A expense pool. The expense of the personnel department is allocated to the other indirect cost pools based on the beneficial or causal relationship between that expense and the indirect cost pools. This procedure is in compliance with the requirements of this Standard.

(2) Business Unit C has included selling costs as part of its G&A expense pool. Business Unit C wishes to continue to include selling costs in its G&A expense pool. Under the provisions of this Standard, Business Unit C may continue to include selling costs in its G&A pool, and these costs will be allocated over a cost input base selected in accordance with the provisions of § 410.50(d) and (e).

(3) Business Unit C has included IR&D and B&P costs in its G&A expense pool. C has used a cost of sales base to allocate its G&A expense pool.

As of January 1, 1977, (assumed for purposes of this illustration) the date on which C must first allocate its G&A expense pool in accordance with the requirements of this Standard, C has among its final cost objectives several cost reimbursement contracts and fixed price contracts subject to the CAS clause [referred to as the pre-existing contracts].

With respect to the accounting for the IR&D and B&P costs, a. during the transition period (from January 1, 1977 to and including the cost accounting period during which the pre-existing contracts are completed), C shall allocate such costs to the pre-existing contracts as part of its G&A expense pool using a cost of sales base pursuant to 410.50(e).

b. during the transition period such costs, as part of the G&A expense pool, shall be allocated to new cost reimbursement contracts and new fixed price contracts subject to the CAS clause using a cost input base as required by 410.50 (d) and (e).

c. beginning with the cost accounting period after the transition period the IR&D and B&P costs as part of the G&A expense pool shall be allocated to all final cost objectives using a cost input base as required by 410.50(d).

If C accounted for IR&D and B&P costs in a cost pool separate and apart from the G&A expense pool, the allocation of these costs to final cost objectives would be computed in the same way as that illustrated above unless the parties have specifically agreed to a different allocation method pursuant to existing laws and regulations.

(4) Business Unit C has included selling costs as part of its G&A expense pool. Business Unit C has used a cost of sales base to allocate the G&A expense pool. Business Unit C desires to continue to allocate selling costs using the cost of sales base. Under the provisions of this Standard, Business Unit C would account for selling costs as a cost pool separate and apart from the G&A expense pool and continue to allocate these costs over a cost of sales base.

(d)(1) Business Unit D has accounted for selling costs in a cost pool separate and apart from its G&A expense pool and has allocated these costs using a cost of sales base. Under the provisions of this Standard, Business Unit D may continue to account for those costs in a separate pool and allocate them using a cost of sales base. Business Unit D has a total cost input base to allocate its G&A expense pool. The selling costs will become part of the cost input base used by Business Unit D to allocate the G&A expense pool.

(2) During a cost accounting period, Business Unit D buys $2,000,000 of raw materials. At the end of that cost accounting period, $500,000 of raw materials remain in inventory. The $500,000 of raw materials remaining in inventory is not part of the total cost input base for the cost accounting period, because it is not allocable to the production of goods and services during that period. If all of the $2,000,000 worth of raw material had been allocated directly to a contract during the cost accounting period, the cost input base for the allocation of the G&A expense pool would include the entire $2,000,000.

(3) Business Unit D manufactures a variety of testing devices. During a cost accounting period, Business Unit D acquires and uses a small building, constructs a small production facility using its own resources, and keeps for its own use one unit of a testing device that it manufactures and sells to its customers. The acquisition cost of the building is not part of the total cost input base; however, the depreciation taken on the building would be part of the total cost input base. The costs of construction of the small production facility are not part of the total cost input base. The requirements of Cost Accounting Standard 404 provide that those G&A expenses which are identifiable with the constructed asset and are material in amount shall be capitalized as part of the cost of the production facility. If there are G&A expenses material in amount and identified with the constructed asset, these G&A expenses would be removed from the G&A expense pool prior to the allocation of this pool to final cost objectives. The cost of the testing device shall be part of the total cost input base per the requirements of Cost Accounting Standard 404 which provides that the costs of constructed assets identical with the contractor's regular product shall include a full share of indirect cost.

(e) Business Unit E has been using a cost of sales base to allocate its G&A expense pool to final cost objectives. Business Unit E uses a calendar year as its cost accounting period. On January 1, 1976, (assumed for purposes of this illustration) Cost Accounting Standard 410 becomes effective. On January 2, 1976, Business Unit E receives a contract containing the Cost Accounting Standards clause. As a result, Business Unit E must comply with the requirements of the Standard in the cost accounting period beginning in January 1977.

As of January 3, 1977, Business Unit E has the following fixed price contracts:

(1) Contract I—A four-year contract awarded in January 1975.

(2) Contract II—A three-year contract which was negotiated in March 1976, and was awarded in September 1976.

(3) Contract III—A four-year contract awarded on January 2, 1977.

Business Unit E will allocate its G&A expense pool to these contracts as follows:

(a) *Contract I*—Since Contract I was in existence prior to January 1, 1977, the G&A expense pool shall be allocated to it using a cost of sales base as provided in 410.50(e).

(b) *Contract II*—Since this contract was in existence prior to January 1, 1977, the G&A expense pool will be allocated to it using a cost of sales base as provided in § 410.50(e).

(c) *Contract III*—Since this contract was awarded after January 1, 1977, the G&A expense pool shall be allocated to this contract using a cost input base.

Business Unit E will use the transition method of allocating the G&A expense pool to final cost objectives as provided in 410.50(e), until all contracts awarded prior to January 1, 1977, are completed (1979 if the contracts are completed on schedule). Beginning with the cost accounting period subsequent to that time, Business Unit E will use a cost input to allocate the G&A expense pool to all cost objectives.

ALTERNATIVE X

(f) Business Unit F is first required to allocate its costs in accordance with the requirements of CAS 410 during the fiscal year beginning January 1, 1977. Business Unit F has used a cost of sales base to allocate its G&A expense pool.

During the year 1977, Business Unit F reported the following operating data:

	Total	Non-cost-accounting-standard covered work existing prior to Jan. 1, 1977	New non-cost-accounting-standard covered work	Cost-accounting-standard covered fixed price work existing prior to Jan. 1, 1977	New cost-accounting standard covered fixed price work	Cost-accounting-standard covered cost contracts prior to Jan. 1, 1977	New cost-accounting standard covered cost contracts
Beginning inventory	$500,000	300,000	0	200,000	0	0	0
Cost input	+3,000,000	400,000	500,000	600,000	500,000	700,000	300,000
	3,500,000	700,000	500,000	800,000	500,000	700,000	300,000
Cost of sales	−2,500,000	600,000	350,000	400,000	150,000	700,000	300,000
Ending inventory	1,000,000	100,000	150,000	400,000	350,000	0	0

NOTE.—G & A expense $375,000 (in accordance with the requirements of this standard).

Non-CAS covered work existing prior to January 1, 1977 may include:

(1) Government contracts which do not contain the CAS clause;

(2) Contracts other than Government contracts or customer orders awarded prior to the date the business unit must first allocate its costs in compliance with the requirements of this Standard; and

(3) Production not specifically identified with contracts or customer orders under production or work orders existing prior to the date on which a business unit must first allocate its costs in compliance with this Standard and which are limited to time or quantity.

Production under standing or unlimited work orders, continuous flow processes and the like, not identified with contracts or customer orders are to be treated as final cost objectives awarded after the date on which a business unit must first allocate its costs in compliance with the requirements of this Standard.

Business Unit F will allocate the G&A expense pool as follows:

1. Calculate the cost of sales base—$2,500,000.

2. Calculate the cost of sales allocation rate—$375,000/$2,500,000=0.15.

3. Allocate a portion of the G&A expense pool to the CAS-Covered contracts existing prior of 1/1/77 using the cost of sales rate.

Cost Accounting Standard—Covered fixed price contracts $400,000×0.15	$60,000
Cost Accounting Standard—Covered cost contracts $700,000×0.15	105,000
Total	$165,000

4. Determine the amount of the G&A expense pool which remains to be allocated.

$375,000−$165,000=$210,000

5. Calculate a cost input base for the remaining final cost objective.

$400,000+$500,000+$500,000+$300,000=$1,700,000

6. Calculate a cost inpute rate.

$210,000/$1,700,000=0.124

7. Allocate a portion of the G&A expense pool to the new CAS-covered cost and fixed price contracts using the cost input rate.

New CAS-Covered Fixed Price Contracts.

$500,000×0.124=$62,000

New CAS-Covered Cost Contracts.

$300,000×0.124=$37,200

The G&A expenses applicable to Non-CAS covered work is:

$900,000×0.124=$11,600

OR

ALTERNATIVE Y

(f) Business Unit F is first required to allocate its cost in accordance with the requirements of CAS 410 during the fiscal year beginning January 1, 1977. Business Unit F has used a cost of sales base to allocate its G&A expense pool.

During the year 1977, Business Unit F reported the following operating data:

	Total	Non-cost-accounting-standard covered work existing prior to Jan. 1, 1977	New non-cost-accounting-standard covered work	Cost-accounting-standard covered fixed price work existing prior to Jan. 1, 1977	New cost-accounting-standard covered fixed price work	Cost-accounting standard covered cost contracts prior to Jan. 1, 1977	New cost-accounting-standard covered cost contracts
Beginning inventory	$500,000	300,000	0	200,000	0	0	0
Cost input	+3,000,000	400,000	500,000	600,000	500,000	700,000	300,000
	3,500,000	700,000	500,000	800,000	500,000	700,000	300,000
Cost of sales	−2,500,000	600,000	350,000	400,000	150,000	700,000	300,000
Ending inventory	1,000,000	100,000	150,000	400,000	350,000	0	0

NOTE.—G & A expense $375,000 (in accordance with the requirements of this standard).

Non-CAS covered work existing prior to January 1, 1977 may include:

(1) Government contracts which do not contain the CAS clause;

(2) Contracts other than Government contracts or customer orders awarded prior to the date the business unit must first allocate its costs in compliance with the requirements of this Standard; and

(3) Production not specifically identified with contracts or customer orders under production or work orders existing prior to the date on which a business unit must first allocate its costs in compliance with this Standard and which are limited to time or quantity.

Production under standing or unlimited work orders, continuous flow processes and the like, not identified with contracts or customer orders are to be treated as final cost objectives awarded after the date on which a business unit must first allocate its costs in compliance with the requirements of this Standard.

Business Unit F will allocate the G&A expense pool as follows:

1. Calculate the cost of sales base—$2,500,000.

2. Calculate the cost of sales allocation rate—$375,000/$2,500,000=0.15.

3. Allocate a portion of the G&A expense pool to the CAS-Covered cost contracts and fixed price contracts existing prior to 1/1/77 using the cost of sales rate.

Cost Accounting Standard=Covered Fixed Price Contracts

$400,000×0.15 ..... $60,000

Cost Accounting Standard Covered=Cost Contracts

$700,000×0.15 105,000

Total $165,000

4. Remove from the remaining $210,000 ($375,000-$165,000) pool of G&A expenses the amount applicable to the other final cost objectives existing prior to 1/1/77 using the cost of sales rate.

$600,000 × 0.15=$90,000

$210,000—$90,000=$120,000

5. Calculate a cost input base for the remaining final cost objectives.

$500,000+$500,000+$300,000=$1,300,000

6. Calculate a cost input rate.

$120,000/$1,300,000=0.092

7. Allocate a portion of the G&A expense pool to the new CAS-Covered Contracts and Fixed Price Contracts using the cost input rate.

Covered Fixed Price Contracts.

$500,000×0.092=$46,000

Covered Cost Contracts

$300,000×0.092=$27,600

G&A expenses applicable to Non-CAS covered work is:

$90,000+($500,000×0.092)=$136,000

(g) Business Unit G produces Item Z for stock or product inventory. The business unit does not include G&A expense as part of the inventory cost of these items. A production run of these items occurred during Cost Accounting period 1. A number of the units produced were not issued during Period 1 and are issued in Period 2. Business Unit G should apply the G&A expense rate of Period 1 to those units of item 2 issued during the period and may apply the rate of Period 2 to the units issued in Period 2. If the practice of Business Unit G is to include G&A expense as part of the cost of stock or product inventory, the inventory cost of all units of Item Z produced in Period 1 and remaining in inventory at the end of Period 1, should include G&A expense using the G&A rate of Period 1.

(h) Business Unit H produces Item X for stock or product inventory. A production run of these items was started, finished, and placed into inventory in a single cost accounting period. These items are issued during the next cost accounting period. The cost of items produced for stock or product inventory should be included in the G&A base in the same year they are produced. The cost of such items is not to be included in the G&A base on the basis of when they are issued to final cost objectives. Therefore, the time of issuance of these items from inventory to a final cost objective is irrelevant in computing the G&A base.

(i) The normal productive activity of Business Unit I includes the construction of base operating facilities for others. I uses a total cost input base to allocate G&A expense to final cost objectives. As part of a contract to construct an operating facility, I agrees to acquire a large group of trucks and other mobile equipment to equip the base operating facility. I does not usually supply such equipment. The cost of the equipment constitutes a significant part of the contract cost. A special G&A allocation to this contract shall be agreed to by the parties if they agree that in the circumstances the contract as a whole receives substantially less benefit from the G&A expense pool than that which would be represented by a cost allocation based on inclusion of the contract cost in the total cost input base.

(j) The home office of Segment J separately allocates to benefiting or causing segments significant home office expenses of (i) staff management functions relative to manufacturing, (ii) staff management functions relative to engineering, (iii) central payment of health insurance costs and (iv) residual ex-

penses. J maintains three indirect cost pools: (i) G&A expense, (ii) manufacturing overhead and (iii) engineering overhead; all home office expenses allocated to J are included in J's G&A expense pool. This accounting practice of J does not comply with § 410.50(g). Home office residual expenses should be in the G&A expense pool, and the expenses of the staff management functions relative to manufacturing and engineering should be included in the manufacturing overhead and engineering overhead pools, respectively. The health insurance costs should be allocated in proportion to the beneficial and causal relationship between these costs and J's cost objectives.

§ 410.70 Exemptions.

This Standard shall not apply to contractors who are subject to the provisions of Federal Management Circular 73-8 (Cost Principles for Educational Institutions) or Circular 74-4 (Principles for Determining Costs Applicable to Grants and Contracts with State and Local Governments).

§ 410.80 Effective date.

(a) The effective date of this Cost Accounting Standard is [Reserved].

(b) This Cost Accounting Standard shall be followed by each contractor after the start of his next fiscal year beginning after the receipt of a contract to which this Cost Accounting Standard is applicable.

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc.75-23836 Filed 9-8-75;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Rel. No. 34-11628; File No. 4-180]

AMENDMENT OR ABROGATION OF EXCHANGE OFF-BOARD TRADING RULES

Notice of Rulemaking Proceeding

The Securities and Exchange Commission today announced that it is commencing a proceeding, pursuant to Section 19(c) of the Securities Exchange Act of 1934 (the "Act") (15 U.S.C. 78s (c)), to determine (i) whether to amend or abrogate rules of national securities exchanges which limit or condition the ability of members to effect transactions otherwise than on such exchanges; and (ii) whether to compel exchanges to adopt any one of proposed §§ 240.19c-1 (Alternative A), 240.19c-1 (Alternative B) or 240.19c-1 (Alternative C), described below, or some variation thereof, to replace the foregoing existing exchange rules in the event it is determined to amend or abrogate such existing rules. The Commission also announced that it will hold oral hearings beginning Wednesday, October 1, 1975, at 10 a.m., in Room 776 at the Commission's headquarters, 500 North Capitol Street, Washington, D.C. 20549.

INTRODUCTION

On June 4, 1975, the Securities Acts Amendments of 1975 (the "1975 Amendments")[1] were signed into law. Section 11A(c)(4)(A) of the Act 15 U.S.C. 78k-1 (c)(4)(A), as added by the 1975 Amendments, directed the Commission to review all rules[2] of national securities exchanges which limit or condition the ability of members to effect transactions in securities otherwise than on such exchanges. The legislative history of Section 11A(c)(4)(A) indicated that the Commission must review such rules de novo and must evaluate them in light of the purposes of the Act and in consideration of certain competitive standards made explicit by the 1975 Amendments.[3] Section 11A(c)(4) also provided that, on or before the ninetieth day following the day of enactment of the 1975 Amendments, the Commission shall (i) report to the Congress the results of this review, including the effects on competition of these rules, and (ii) commence a proceeding, in accordance with Section 19(c) of the Act, to amend any such rule imposing a burden on competition which does not appear to the Commission to be necessary or appropriate in furtherance of the purposes of the Act.

COMMISSION'S REPORT TO THE CONGRESS

Pursuant to the Congressional directive described above, the Commission today has transmitted to the Congress the following report of the results of its review (appendices omitted):

PRESIDENT OF THE SENATE, SPEAKER OF THE HOUSE OF REPRESENTATIVES, CONGRESS OF THE UNITED STATES, *Washington, D.C.*

DEAR SIRS: Section 11A(c)(4)(A) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, Pub. L. No. 94-29 (June 4, 1975), directs the Commission to review any and all rules of national securities exchanges which limit or condition the ability of members to effect transactions in securities otherwise than on such exchanges. Further, the Commission is directed to report to the Congress the results of its review, including a description of the effects on competition of such rules, and to commence a proceeding, in accordance with Section 19(c) of the Act, to amend any such rule imposing a burden on competition, if such rule does not appear to be necessary or appropriate in furtherance of the purposes of the Act. This is a report of the results of that review.

The Commission has concluded that off-board trading rules of exchanges impose burdens on competition, and the Commission is not now prepared to conclude that these burdens are necessary or appropriate in furtherance of the purposes of the Act. Accordingly, we have today, as required by Section 11A(c)(4)(A) of the Act, commenced a proceeding, pursuant to Section 19(c) of the Act, to determine

(i) the extent to which such rules do engender significant anticompetitive effects;

(ii) whether, although such rules are anti-competitive, there are countervailing considerations which appropriately outweigh the need to abrogate or amend such rules at the present time; and

(iii) whether such rules could be appropriately modified so as to further the purposes of the Act.

* * * * *

All of the nation's registered securities exchanges have rules which are specifically intended to limit or condition the ability of a member to effect transactions over-the-counter in securities listed, or admitted to unlisted trading privileges, on the exchanges. As more fully explained herein, these rules have two major effects on competition. One, restrictions on "off-board" principal transactions appear to impede the ability of an exchange member to make two-sided continuous markets in direct competition with existing specialists and existing over-the-counter market makers in listed securities ("third market makers"), and therefore limit the potential competition among dealers in listed securities which might otherwise be realized. Second, restrictions on off-board agency transactions limit the access which exchange brokers have to one segment of the professional dealer community, third market makers, in favor of another segment, exchange specialists, and thereby disadvantage third market makers in the competition for members' business.

A. *Exchange Rules which Limit or Condition the Ability of Members to Effect Transactions in Securities Listed, or the Subject of Unlisted Trading Privileges, on Such Exchanges.*

New York Stock Exchange. Rule 394[1] of the New York Stock Exchange ("NYSE") is generally thought to be the most restrictive of the off-board trading provisions of exchanges. A member is prohibited from effecting transactions in "listed stock" over-the-counter as principal or agent unless the transaction is specifically exempted[2] or permission is granted[3]

A member is permitted by paragraph (b) of Rule 394 to effect an off-board transaction as agent so long as certain conditions are observed. Among these are the requirements that (i) the transaction be effected with a third market maker qualified pursuant to Rule 19b-1 under the Act;[4] (ii) a "diligent effort" be made to explore the market on the floor; (iii) a report of such

[1] Pub. L. No. 94-29, 89 Stat. 97 (June 4, 1975).

[2] As defined by Section 3(a)(27) of the Act (15 U.S.C. 78c(a)(27)), the term "rules of an exchange" includes the constitution, articles of incorporation, by-laws and rules of such exchange ". . . and such of the states policies, practices, and interpretations of such exchange, . . . as the Commission, by rule, may determine to be necessary or appropriate in the public interest or for the protection of investors to be deemed to be rules of such exchange. . . ."

[3] *See, Committee on Conference, Conference Report to Accompany S. 249,* H.R. Rep. No. 94-229, 94th Cong., 1st Sess. 95 (1975).

[1] *See* Appendix A at p. A-1. Read literally, Rule 394(a) would prohibit a member from effecting transactions in listed stocks "off the exchange," but it is applied only to over-the-counter transactions and not to transactions on other exchanges. *See* Appendix B at pp. 1, 2.

[2] Certain preferred and guaranteed stocks are exempted specifically, as are off-board secondary distributions in conformity with NYSE Rule 393.

[3] Over the years, the NYSE has built up a specific body of interpretations permitting off-board principal transactions in certain specified situations. For example, a member is permitted to purchase stock for his own account off-board at a price below the prevailing market, without filling better bids on the specialist's book or on the floor and without reporting the transaction on the tape, in order to effect a special offering on-board pursuant to Rule 391. We understand that the exchange gave permission for 170 such off-board transactions in 1973 and 52 such transactions in 1974.

[4] 17 C.F.R. 240.19b-1.

effort, along with a report of certain additional information (including the details of the effort made to explore the floor and the extent of the specialist's interest), be made to a floor governor; (iv) a reoffering be made on the floor prior to an off-floor trade to permit displacement by public orders represented in the crowd and bids or offers on the specialist's book at the same price and on the same side of the market as the third market maker, and by the specialist acting as dealer, if the specialist, before the third market maker was solicited, had advised the member of the extent of his interest at an indicated price or prices at which the off-floor transaction was proposed to be made; and (v) a subsequent report be made of the particulars of the transaction. In addition, the rule requires that the diligent effort to explore the market on the floor and the report of such effort to a floor official must be made prior to any solicitation of the third market maker (indeed, transactions initiated by the third market maker have been specifically interpreted not to comply with the rule) and apparently has been interpreted to require that the member disclose his customer's order to the specialist.

Amendments to Rule 394(b) were proposed by the New York Stock Exchange in 1974.[5] The amendments would eliminate the requirement of a report to a floor governor prior to any solicitation of a third market maker. In addition, the amendments would alter the solicitation feature of the Rule so that if a third market maker expressed a willingness to be solicited by a member in a particular issue, that fact alone would no longer bar the transaction, assuming all other conditions of the amended procedure were satisfied. Finally, the amendments propose to alter the displacement procedure to permit floor professionals to displace the third market maker at the same or a better price if such persons indicated a willingness to transact at a specific price or prices when informed that a third market maker was to be solicited.

Off-board transactions by New York Stock Exchange specialists are governed by NYSE Rule 107.[6] A specialist may effect a transaction off-board only with the approval of a floor governor; such approval will not be granted unless the floor governor has determined that the regular market cannot absorb or supply the block within a reasonable period of time at reasonable prices. If permission is granted, the specialist may effect the transaction off-board without executing better bids or offers on his book which he represents as agent. The specialist may not, however, bid for or purchase stock on the exchange at destabilizing prices subsequent to an off-board purchase.

In addition to the foregoing, NYSE Rule 438 prohibits a member from publishing bids and offers for listed securities in "quotation sheets having a strictly professional clientele."[7] The NYSE apparently does not interpret this restriction to extend to publishing bids or offers in an electronic quotation system. Nevertheless, it is our understanding that, in response to a member's inquiry whether he could quote two-sided markets in the National Association of Securities Dealers Quotation System ("NASDAQ"), the NYSE staff answered negatively on the grounds that the National Association of Securities Dealers ("NASD") requires all quotations in NASDAQ to be firm for 100 shares, a requirement the member would not be able to meet, since Rule 394 would require that the order be brought to the floor for execution and displacement.

American Stock Exchange. Rule 5 of the American Stock Exchange ("Amex") prohibits a member from effecting over-the-counter transactions in certain securities admitted to trading on the exchange unless the transaction is specifically exempted under the rule.[8] One of the exceptions covers transactions made with prior permission of the exchange. It is our understanding that, pursuant to this exception, the American Stock Exchange will approve a transaction by a member as principal or as agent for a customer if the member can "reasonably demonstrate" that a better execution can be obtained.

Prior to effecting any such transaction, the member must request permission from the exchange staff and in connection therewith "should" furnish certain details of the transaction. The staff weighs the request in terms of the character of the market, the price and size of the transaction and related factors, and will grant the request "if the Exchange is satisfied, in each instance, that the transaction can be executed more advantageously off the Exchange." In connection with the review of any such request, a staff member personally will go to the floor and review the facts with a floor official. In all, the Amex states, this approval procedure "does not exceed ten minutes."[9]

Assuming compliance with the above procedure results in permission for an off-floor transaction, that permission is conditioned on satisfying the orders on the book at a better or the same price. The specialist and other floor professionals are also permitted to participate at the same or a better price, although, as a practical matter, since the proposed off-floor transaction is not announced on the floor, floor professionals other than the specialist would not have an opportunity to participate unless they previously had announced their interest publicly or had left a limit order for execution with the specialist.

Off-board transactions by American Stock Exchange specialists are governed by Amex Rules 187 and 189.[10] Specialists are prohibited from effecting off-board transactions except in certain narrow instances, namely a transaction as principal to offset another transaction made in error or a transaction as principal made with prior approval of the exchange (i) to tender securities the subject of a public offer or (ii) to decrease or liquidate a position in a security subject to a trading suspension.

American Stock Exchange Rule 482 is similar in terms to NYSE Rule 438, noted above, in prohibiting a member from listing his name in quotation sheets "having a strictly professional clientele" with respect to certain securities dealt in on the exchange.[11] Unlike the NYSE, however, the Amex interprets this prohibition to extend to quotations in an electronic inter-dealer quotation system.

Boston Stock Exchange. Section 23, Chapter II, of the rules of the Boston Stock Exchange prohibits off-board transactions in securities admitted to trading on the exchange unless, prior to such a transaction, the member has made a *bona fide* effort to effect the transaction on the exchange and has received permission from the exchange to trade off-board.[12]

Chicago Board Options Exchange. Rule 6.49(a) of the Chicago Board Options Exchange provides that a member shall not effect off-board transactions unless (i) the member has attempted to execute the transaction on the floor and has "reasonably ascertained" that it may be executed at a better net price off the floor, and (ii) the customer has been informed of and has approved the off-floor execution.[13]

Cincinnati Stock Exchange. Section 26 of the By-Laws of the Cincinnati Stock Exchange requires simply that prior to an off-board transaction the member must "make an equivalent bid or offer on the floor of the exchange."[14]

Detroit Stock Exchange. Chapter I, Section 5 of the Detroit Stock Exchange Rules has only one requirement: the exchange must grant permission prior to any off-board transaction.[15]

Intermountain Stock Exchange. Similarly, Rule 9 of Article XII of the Rules of the Intermountain Stock Exchange prohibits a member from effecting an off-board transaction without the "prior permission of the Board of Governors."[16]

Midwest Stock Exchange. Rule 9 of Article XVII of the Rules of the Midwest Stock Exchange ("MSE")[17] prohibits a member from effecting an over-the-counter transaction in securities listed or admitted to unlisted trading privileges on the exchange without prior permission of an officer of the exchange.[18] We understand that, pursuant to interpretation, prior permission is no longer actually required although subsequent notification must be made; if, upon review, the transaction is not found to be in compliance with certain published interpretations, it apparently would then be disapproved.

Among other things, the interpretations require that any such off-floor transaction may be effected only with a broker-dealer who is "registered" pursuant to Rule 17a–9 under the Act and who is making markets in listed securities on a continuous basis, and that the order must be "made available" to the regular membership prior to the off-floor trade.[19]

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[5] The amendments were submitted on October 4, 1974, pursuant to Rule 17a–8 under the Act. After certain correspondence with the NYSE to clarify several aspects of the proposed amendments, letter from Lee A. Pickard, Director, Division of Market Regulation to James E. Buck, Secretary, New York Stock Exchange, October 24, 1974, and letter from James E. Buck, Secretary, New York Stock Exchange to Lee A. Pickard, Director, Division of Market Regulation, November 26, 1974, the Commission published the proposed amendments for public comment. Securities Exchange Act Release No. 11151 (December 20, 1974). *See* Appendix A at pp. A–4—A–20. No action has been taken with respect to the proposed amendments.

[6] *See* Appendix A at p. A–21.

[7] *See* Appendix A at p. A–22.

[8] *See* Appendix A at p. A–23.

[9] Comments of the American Stock Exchange in response to Securities Exchange Act Release No. 11521, Commission File No. S7–543 at p. 4 (July 30, 1975).

[10] *See* Appendix A at pp. A–24—A–25.

[11] *See* Appendix A at p. A–25.

[12] *See* Appendix A at p. A–26.

[13] *See* Appendix A at p. A–27.

[14] *See* Appendix A at p. A–28.

[15] *See* Appendix A at p. A–30.

[16] *See* Appendix A at p. A–31.

[17] *See* Appendix A at p. A–32.

[18] It is our understanding that this provision is interpreted to be inapplicable to transactions in securities in the MSE inactive post.

[19] The interpretations specifically require that the MSE specialist be made aware of the transaction. The specialist is permitted to participate in the off-board transaction at the same price as the off-board trade if he indicated an interest prior to the trade. If he did not indicate an interest in the order at a specified price, then he will only be allowed to participate if the third market maker's bid or offer is different from the indicated price.

In addition to the foregoing, if the off-floor transaction is to be effected by the MSE specialist for his own account, the transaction must be for a minimum of 500 shares (except in issues valued at over $100 per share) and the specialist must be willing to bid for or to offer (depending on whether the off-board transaction was a purchase or a sale) the same amount of stock at the same price on the exchange. A transaction by an MSE floor member off-board must also be for a minimum of 500 shares (except to accommodate a regular customer) as must arbitrage transactions between the exchange and the over-the-counter market. Finally, all transactions effected off the floor by floor members must be reported in the consolidated transaction reporting system as an MSE transaction and are subject to an MSE transaction fee.

Pacific Stock Exchange. Rule XIII of the Pacific Stock Exchange permits off-board executions, without prior approval, provided (i) the transaction is with a broker-dealer making continuous two-sided markets in the security and who files reports pursuant to Rule 17a–9 under the Act, and (ii) an equivalent bid or offer has first been made on both the Los Angeles and San Francisco floors of the Pacific Exchange.[20]

PBW Stock Exchange. Rule 132 of the PBW Stock Exchange prohibits over-the-counter transactions in securities admitted to trading on the exchange unless, prior to such a transaction, the member (i) has made a bona fide effort to effect the transaction on the exchange, and (ii) receives permission from the PBW Stock Exchange to trade off-board.[21]

Spokane Stock Exchange. Rule 18.3 of the Spokane Stock Exchange prohibits any transaction off-the-floor of the exchange during the regular trading session. Spokane permits unrestricted off-floor transactions, however, during the "inter-session," a trading session about equal in length of time to the regular trading session.[22]

In addition to the foregoing, certain other rules of exchanges having some effect on off-board executions by members could be considered strictly as coming within the scope of review commanded by Section 11A(c)(4)(A); in the Commission's judgment, however, these rules do not appear to have a significant effect on competition, although further study may alter this view. For example, both the New York and American Stock Exchanges impose certain limitations on transactions in rights to subscribe to stock issues,[23] a very specialized market, and require that all transactions in bonds involving nine bonds or less be brought to their respective floors.[24] These rules, along with certain others, such as the so-called "New York City Rule," [25] which only arguably comes within the Section 11A(c)(4)(A) directive, have been reserved for the Commission's more general review of all exchange rules required by Section 31(b) of the Securities Acts Amendments of 1975.[26]

[20] *See* Appendix A at p. A–34.

[21] *See* Appendix A at p. A–33.

[22] *See* Appendix A at p. A–38.

[23] NYSE Rule 395. 2 CCH, *New York Stock Exchange Guide* Para. 2395 at p. 3676. Amex Rule 5. 2 CCH, *American Stock Exchange Guide* Para. 9225 at p. 2419.

[24] NYSE Rule 396. 2 CCH, *New York Stock Exchange Guide* Para. 2396 at p. 3677. Amex Rule 6. 2 CCH, *American Stock Exchange Guide* Para. 9226 at p. 2420.

[25] Article XIV, Section 8 of the NYSE Constitution provides:

Whenever it is adjudged in a proceeding under this Article that a member or allied member is connected either through a partner or otherwise, with another exchange or similar organization in the City of New York which permits dealings in any securities dealt in on the Exchange, or deals directly or indirectly upon such other exchange or organization, or deals publicly outside the Exchange in securities dealt in on the Exchange, such member or allied member may be suspended or expelled. . . .

2 CCH, *New York Stock Exchange Guide* Para. 1658 at pp. 1095–96.

Article V, Section 4(g) of the Constitution of the Amex provides:

Whenever it is adjudged in a proceeding under this Article that a member or member organization is connected, either through a partner or otherwise, with another exchange or similar organization in the City of New York which permits dealings in any securities dealt in on this Exchange, or deals directly or indirectly upon such other exchange or organization in securities listed or admitted to unlisted trading on this Exchange, such member or member organization may be suspended or expelled from membership.

2 CCH, *American Stock Exchange Guide* Para. 9043 at p. 2161.

Neither the New York nor the American Stock Exchanges have listed or traded securities listed or traded on the other, nor has such trading existed on any other exchange in New York in this century.

[26] Section 31(b) of the Securities Acts Amendments of 1975 provides in part:

If it appears to the Commission at any time within one year of the effective date of any amendment made by this Act to the Securities Exchange Act of 1934 that the organization or rules of any national securities exchange or registered securities association registered with the Commission on the date of enactment of this Act do not comply with such Act as amended, the Commission shall so notify such exchange or association in writing, specifying the respects in which the exchange or association is not in compliance with such Act.

[27] The Joint Explanatory Statement of the Committee of Conference stated, with respect to Section 11A(c)(4)(A):

Both the Senate bill and the House amendment contained provisions directing the elimination of restrictive rules and practices which prohibit brokers from searching out the best price for their customers or which limit or impede market making activities as inconsistent with the development of a national market system.

With respect to exchange rules which limit or condition a member's ability to transmit [sic] business or [sic] any other exchange or otherwise than on an exchange, the House bill specifically required their elimination after September 1, 1975, unless specifically reviewed and approved by the Commission. Upon review of such rules, the Commission would be required to find that (1) any limitation or condition imposed on the ability of an exchange or association member to select among competing markets was consistent with such member's agency obligation to his customer and (2) the restriction was otherwise necessary to accomplish the purposes of the Exchange Act.

The Senate bill did not attempt to eliminate specific enumerated barriers to competition. Rather, the Senate bill charged the SEC with an explicit and pervasive obligation to eliminate all present and future competitive restraints that could not be justified by the purposes of the Exchange Act. The Commission was directed to remove existing burdens on competition and to refrain from imposing, or permitting to be imposed, any new regulatory burden "not necessary or appropriate in furtherance of the purposes" of the Exchange Act. Thus, the Commission was obligated to review existing and proposed rules of the self-regulatory organizations and to abrogate any present rule, or to disapprove any proposed rule imposing a competitive restraint neither necessary nor appropriate in furtherance of a legitimate regulatory objective. . . . The Commission's responsibility under the Senate bill is to balance the perceived anticompetitive effects of a regulatory policy or decision (whether its own or that of a self-regulatory organization) against the purposes of the Exchange Act that are advanced thereby and the costs of doing so.

The conference substitute accepts the Senate provisions with respect to competitive standards. A specific provision is added, however, concerning exchange rules which limit or condition the ability of members to effect transactions in securities otherwise than on such exchanges. The Commission is directed to review such rules de novo in light of the specific competitive standards added by the Securities Acts Amendments of 1975 and, on or before the 90th day following the date of enactment of the Securities Acts Amendments of 1975, to (1) report to Congress the results of its review, including the effects on competition of such rules, and (2) commence a proceeding if such rules do not meet these requirements in accordance with the provisions of new Section 19(c) of the Exchange Act.

H.R. Rep. No. 94–229, 94th Cong., 1st Sess. 94–95 (1975).

[28] Securities Exchange Act Release No. 11521 (July 2, 1975).

[29] *E.g.*, SEC, *Hearings in the Matter of Commission Rate Structure of Registered National Securities Exchanges* File No. 4–144 (1968–1971); SEC, *Hearings in the Matter of the Structure, Operation and Regulation of the Securities Markets,* File No. 4–147 (1971).

[30] *E.g.*, SEC Staff, *Report: Rule 394* (1965), reprinted *in Hearings Before the Subcomm. on Commerce and Finance, of the Committee on Interstate and Foreign Commerce,* 92d Cong., 2d Sess., pt. 6 at 3293 (1972); SEC, *Institutional Investor Study Report,* H.R. Doc. No. 92–64, 92d Cong., 1st Sess. (1971); *Statement of the SEC on the Future Structure of the Securities Markets,* Securities Exchange Act Release No. 9484 (Feb. 2, 1972); *Report to the SEC by the Advisory Committee on Market Disclosure on a Composite Transaction Reporting System* (July 17, 1972); *Report to the SEC by the Advisory Committee on Block Transactions* (Aug. 7, 1972); *Interim Report of the Advisory Committee on a Central Market System to the SEC on Regulation Needed to Implement a Composite Transaction Reporting System* (Oct. 11, 1972); *Report to the SEC by the Advisory Committee on Market Disclosure on a Composite Quotation System* (Nov. 21,

B. *Effects on Competition of Off-Board Trading Rules.*

The Commission has reviewed the effects on competition of the off-board trading rules described above in accordance with our perception of the legislative intent underlying Section 11A(c)(4)(A).[27] Thus, the Commission has sought to review off-board trading rules *de novo* in order to reach such conclusions as analysis, the current methods of doing business in the securities markets and the purposes of the Act, as amended by the Securities Acts Amendments of 1975, may dictate. In connection with the preparation of this report, therefore, the Commission solicited and received the written views of various national securities exchanges, third market makers, and other interested persons.[28] Nevertheless, in reaching its conclusions, the Commission has taken cognizance of the prior studies of this question, including *inter alia,* Commission hearings,[29] studies, policy statements and reports of advisory committees,[30] as well as Congressional reports.[31]

The Commission has given particular scrutiny to New York Stock Exchange Rule 394. Transactions in NYSE-listed stocks account for virtually all the volume in the over-the-counter market for listed securities. Further, the rules of other national securities exchanges limiting or conditioning the ability of members to trade off-board are generally less restrictive than NYSE Rule 394.

TRADING BY MEMBERS AS PRINCIPAL

All exchanges, except for the Chicago Board Options Exchange, have adopted the so-called unitary specialist system. Thus, whenever a new security is admitted to trading on an exchange, it will be assigned or "allocated" to a single specialist or specialist unit. Thereafter, all transactions in that security, with exceptions not relevant here, are required to be effected at the specialist's post, and customers' orders at a price limited away from the market generally are left with the specialist for execution.[32]

Exchanges usually permit another class of member—the floor trader—to compete on the floor of the exchange with the specialist by buying and selling securities as principal for his own account at the specialist's post. Floor traders do not, however, make regular two-sided markets; instead, they look for special trading situations in which they can profitably commit their capital. Members' trading for their own accounts from off the floor similarly is to effectuate investment decisions. Regardless of differences in motivations, the foregoing classes of members do compete for orders and to secure trading and investment opportunities arising in the normal course of the market.

In connection with reviewing competition in the dealer function among exchange members, one other phenomenon is worthy of note. The institutionalization of the trading markets in the last decade gave rise to substantial demand for liquidity in size. Well-capitalized institutionally-oriented brokerage houses responded to this demand by providing an "upstairs" market in size for their institutional customers.[33] (Of course, a transaction between an institution and a member acting as principal for his own account, once negotiated "upstairs," is presently required to be brought to the floor for execution and possible displacement by orders having priority.)

Some institutional brokerage firms have evinced a willingness, and have the necessary capital, to make position bids or offers on all securities listed and traded on the primary exchanges. Others "specialize" in securities of issuers in which they have developed a particular expertise and hold themselves out as being willing to bid or offer in medium size on any security in the selected group at a price near last sale. As a general matter, however, these institutional firms do not compete directly with the specialist. Rather, it appears that these "upstairs market makers" fill a void created by specialist unwillingness to deal in substantial size, either because of regulatory restrictions on specialists or the nature and size of the risks associated with principal trades in block size.

Institutional brokerage firms have several important competitive advantages over specialists in the so-called block-trading market. Specialists on the New York and American Stock Exchanges are not permitted to accept orders directly from an institutional customer.[34] NYSE and Amex specialists are thereby cutoff from direct access to the institutional order flow and are unable to canvass the institutional market to put together buyers and sellers. Moreover, the upstairs members presently may charge an institutional customer a commission when purchasing from or selling to the institutional customer as principal. The specialist, however, must make net bids and offers. Also, the specialist is regulated in his trading activity and must continually provide a two-sided market whereas the upstairs firm is not under such restrictions and obligations.

In the round-lot market, however, the specialist has certain advantages over the institutional broker. All trades in a listed security must be executed at the specialist's post. Because the specialist stands at the center of any crowd which may exist and sees all the executions in his specialty stock, he is opportunely situated to develop a "feel" for the market. Moreover, the specialist is the only exchange trader having knowledge of, and regular income from the execution of, limit orders on the book.[35]

As a result, two-sided market making in round-lots on exchanges is effectively allocated to specialists whereas the block market is the province of upstairs firms. Of course, exceptions to the general rule abound. Some upstairs firms, we understand, hold themselves out as willing to buy and sell smaller blocks, of a size which specialists ordinarily may be expected to supply or absorb. And, some specialists have demonstrated a willingness to make position bids on large institutional-size orders. In addition, since specialists on regional exchanges are not under the same constraints as specialists on the New York or American Stock Exchange, regional specialists may trade in round lots and in block size directly with institutional customers.

Regional exchanges, as well as the New York and American Stock Exchanges, generally prohibit members from making markets off the floor of the exchanges in direct competition with their specialists. Nevertheless, five regional exchanges—the Boston, Cincinnati, Detroit, PBW and Pacific Stock Exchanges—have adopted special rules to permit third market makers to effect transactions directly on their respective floors without affecting the ability of these firms to continue to make two-sided off-board markets in listed securities.[36] On some exchanges, third market makers who have availed themselves of this opportunity have become the primary odd-lot dealer or market maker while on other exchanges they act as supplemental specialists, *i.e.*, receiving an inquiry only after the regular specialist has had an opportunity to bid or offer on a proposed transaction.

The rules of exchanges described supra at pp. 2-9 appear to engender anticompetitive effects in certain important respects. By requiring that transactions of a member as principal for his own account be effected only on the floor of the exchange, these rules erect an effective barrier to competition by exchange members with specialists and third market makers. If exchange members were permitted to hold themselves out in electronic inter-dealer quotation systems as two-sided market makers in listed securities, and if such members were permitted the convenience of "in-house" executions, the number of dealers willing to buy and sell listed securities as market makers on a continuous basis likely would increase.

On the other hand, the Commission notes that if exchanges were willing to permit their members to incorporate, or affiliate with, non-member third market makers and to abandon significant limitations on the ability of members to seek off-board execution for agency orders, much of the apparent anti-competitive impact of the above noted rules, as it relates to competition in the two-sided round-lot market making function by existing exchange firms with specialists and third market makers, would likely disappear.[37]

In addition, the Commission notes that, with respect to the New York and American

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1972); *Report to the SEC by the Advisory Committee on a Central Market System* (March 6, 1973); *SEC Policy Statement on the Structure of a Central Market System*, Securities Exchange Act Release No. 10076 (March 29, 1973); *Preliminary Statement of the Advisory Committee on the Implementation of a Central Market System to the Securities and Exchange Commission* (December 11, 1974); *Securities and Exchange Commission Advisory Committee on the Implementation of a Central Market System—Summary Report* (July 17, 1975).

[32] Subcommittee on Commerce and Finance, House Committee on Interstate and Foreign Commerce, *Securities Industry Study Report*, H. Rept. No. 92-1519, 92d Cong., 2d Sess. (1972). Subcommittee on Securities, Senate Committee on Banking, Housing and Urban Affairs, *Securities Industry Study Report*, S. Doc. No. 93-13, 93d Cong., 1st Sess. (1973).

[33] In contrast, the Chicago Board Options Exchange has segregated the agency and dealer functions of floor professionals. Limit orders are left with a "board broker" for execution and competing market makers are appointed for each of the option contracts traded. We understand that as many as thirty market makers compete in certain option contracts on the floor of the Chicago Board Options Exchange.

[34] *See* 4 SEC, *Institutional Investor Study Report*, H. Doc. No. 92-64, 92d Cong., 1st Sess. at 1932-1948 (1971).

[34] NYSE Rule 113. 2 CCH, *New York Stock Exchange Guide* Para. 2113 at p. 2719-2720. Amex Rule 190. 2 CCH, *American Stock Exchange Guide* Para. 9330 at p. 2484.

[35] The specialist's position in the trading market has been described as follows:

In this unique capacity the specialist stands at the heart of the Exchange market mechanism. He has intimate knowledge of the past market action of the stocks in which he specializes. He also has sole access to the specialist book showing outstanding orders both below and above the market which affords him a great competitive advantage over the public. In addition, he exercises a significant influence on the public appraisal of a security, since he is the one who quotes the market. For all these reasons, it is a matter of tremendous importance in the maintenance of a fair and orderly market that a specialist's transactions as principal be only of such kinds and in such amounts as are consistent with his function of acting as broker at the vital center of the auction market.

SEC, *Staff Report on Organization, Management, and Regulation of Conduct of Members of the American Stock Exchange*, at 23 (1962) quoted in 2 SEC, *Special Study of Securities Markets* H.R. Doc. No. 95, 88th Cong., 1st Sess. at 59 (1963).

[36] Article XXV of the Constitution of the Boston Stock Exchange; Section 26(g) of the By-Laws of the Cincinnati Stock Exchange; Section XXI of the Rules of the Detroit Stock Exchange; Article XXIII of the By-Laws of the PBW Stock Exchange; and Sections 1(c) and 7(a) of Rule XIII of the Pacific Stock Exchange.

[37] At least one exchange, the NYSE, has suggested that it would require that any such non-member affiliate of an NYSE member, like the member, be subject to Rule 394. Letter from James E. Buck, Secretary, New York Stock Exchange, to Lee A Pickard, Director, Division of Market Regulation, July 11, 1975. It should be noted that the NYSE took this position prior to our announcement of these tentative conclusions.

Stock Exchanges, some may view the restrictions on the ability of specialists to compete with upstairs members in the institutional block trading market as a *quid pro quo* for the inability of the upstairs members to compete directly with the specialist by making continuous two-sided markets. It might be competitively unfair, therefore, to permit the upstairs firm to compete directly with the specialist without, at the same time, addressing those restrictions which limit the specialist's ability to compete in the institutional trading market.

AGENCY TRANSACTIONS BY MEMBERS IN THE OVER-THE-COUNTER MARKET FOR LISTED SECURITIES

Paragraph (b) of Rule 394 was adopted by the New York Stock Exchange in 1966, at the request of the Commission, pursuant to Section 19(b) of the Act, to permit members to effect certain transactions as agents for a customer with "qualified" third market makers.[38] It would appear, however, that the conditions imposed by the rule and the interpretations given to it by the NYSE may have negated its utility.[39]

The NYSE proposed to amend Rule 394(b) in 1974 to eliminate certain of the conditions.[40] As amended, Rule 394(b) would still (i) require a member to make a "diligent effort to explore the feasibility of obtaining a satisfactory execution of the order on the floor" prior to solicitation of a third market maker and (ii) require the member, after receiving a bid or offer from a third market maker, to return to the floor to ask other members in the crowd if they have an order at the same or a better price as the third market maker's bid or offer. If there are such orders on the floor, the third market maker's order would be displaced in whole or in part by all such bids or offers although bids and offers by the specialist and other members for their own accounts would participate only to the extent that interest had been expressed at an indicated price or prices when the member first announced an intention to solicit a third market maker.[41] In addition, the NYSE apparently still would interpret the rule to require a member to disclose his customer's order to the specialist.[42]

The Commission understands that the New York Stock Exchange interprets NYSE Rule 394(b) to govern all off-board agency transactions of an NYSE member in securities listed on the NYSE, whether or not the transaction was first shown on the NYSE floor or on a regional exchange of which the broker was also a member. Thus, if an NYSE member is also a member of the Pacific Stock Exchange, and attempts an execution on the Pacific floor, under the NYSE interpretation the member would be governed by Rule 394 (b) as well as Pacific Stock Exchange Rule XIII if he attempted subsequently to execute the transaction off-board with any third market maker, wherever located. In this context, it should be noted that if a member of the New York Exchange is also a member of several regional exchanges, all of which have rules requiring an order to be shown on their respective floors prior to an off-board transaction, it would appear that a literal reading of these rules would require compliance with all such rules prior to any over-the-counter transaction in a listed security traded on those exchanges.[43]

Since the New York Stock Exchange membership community handles the great majority of public agency business in listed securities, and since NYSE Rule 394 appears to operate as a substantial barrier to egress from that exchange, third market makers may be disadvantaged vis-a-vis exchange specialist in the competition for volume in listed securities.[44] Observers have also asserted that the anticompetitive effects of Rule 394 are exacerbated by its interference with a broker's ability to execute his customers' orders in a professional and capable manner in the best market available.

The barrier to competition and the interference with brokerage judgment which restrictions on a member's ability to effect agency execution with third market makers seem to represent are not as formidable today as they may once have been. First, as noted at p. 17, *supra*, five regional exchanges—the Boston, Cincinnati, Detroit, Pacific and PBW Stock Exchanges—have adopted rules which permit third market makers to effect transactions directly on the respective floors of these exchanges and to continue to make an over-the-counter market in listed securities. Thus, some third market makers now operate as supplemental specialists on these exchanges. Since members of the New York and American Stock Exchanges which are also members of one or more of these regional exchanges can effect transactions on the regionals without regulatory inhibition, such dual members presently have access to those third market makers who have availed themselves of the opportunity to join such exchanges. Nonetheless, not all exchange members also belong to one of the exchanges which third market makers are permitted to join and only some third market makers have joined any exchange.

Second, a member of an exchange can today solicit the interest of a third market maker to participate in a transaction to be effected on the floor of an exchange. The Commission staff's 1965 report on NYSE Rule 394 found that one of the rule's most serious anticompetitive aspects was that a member was required to charge a third market maker a commission whenever an order of a third market maker was effected on an exchange (since the third market maker was treated as any other non-member customer).[45] The adoption of Rule 19b–3 under the Act has freed members from that requirement.[46] Thus, it would appear that a member of the New York Stock Exchange can today canvass the third market[47] and solicit the participation of a third market maker in a transaction, so long as the execution is effected on an exchange floor. Indeed, it would appear likely that exchanges would encourage such a development since their volume would be directly increased by the number of such transactions. In this regard, however, it should be noted that such canvassing would preclude use of Rule 394(b) to effect the transaction off-board on an agency basis.

Nevertheless, it must be recognized that, by substantially impeding the ability of a member to effect transactions off-floor directly with third market makers, the effect of rules such as NYSE Rule 394 is to diminish the amount of volume in which a third market maker might otherwise participate. Like any other professional trader, a third market maker generally is willing to make firm quotations only for immediate acceptance. It would therefore appear to operate as a disincentive to the third market maker's participation in a transaction to require in effect that his quotation be held firm while the exchange member attempts an execution on the floor; the third market maker may be unwilling to lose control of his order as it is taken to an exchange floor for execution, since he thereby risks a shift in current prices and an execution at a price away from his then current quotation in the third market.[48] Moreover, if the transaction is re-

[38] *See* Securities Exchange Act Release No. 7954 (September 16, 1966).

[39] In response to a request from the Commission staff, the NYSE has provided the following chart:

Summary of inquiries and transactions effected pursuant to rule 394(b) from January 1969 to April 1975

	Number of inquiries	All off floor	Inquiries resulting in transactions		Nothing done on inquiry	Shares on floor	Shares off floor
			All on floor	Some on/ off floor			
1969	16	6	1	1	8	5,800	64,200
1970	11	4	0	5	2	13,500	80,500
1971	17	10	0	4	3	23,100	274,100
1972	32	22	0	10	0	19,100	368,500
1973	7	1	1	4	1	21,300	48,300
1974	5	4	0	1	0	2,200	113,700
1975	1	1	0	0	0	0	2,000
Total	89	48	2	25	14	85,000	951,300
Percent	100	53.9	2.3	28.1	15.7	(8.2)	(91.8)

[40] *See* Appendix A at p. A–4 and discussion *supra* at pp. 3–4.

[41] *See* NYSE proposed Amendments to Rule 394(b) in Appendix A at p. A–4.

[42] Letter from James E. Buck, Secretary, New York Stock Exchange to Lee A. Pickard, Director, Division of Market Regulation, November 26, 1974 at p. 2.

[43] Only Chapter II, Section 23(d) of the Boston Stock Exchange Rules excepts dual members from this obligation. While it is probable that dual members have simply ignored their obligation in the past to comply with regional exchange rules after, for example, having received permission to effect an off-board principal trade pursuant to Rule 394(a), the Securities Exchange Act requires each exchange to enforce compliance by its members with its own rules.

[44] Rule 394 may also disadvantage exchange brokers insofar as it may divert orders directly to the third market which might otherwise have been given to an exchange member for execution in the best available market in accordance with the member's professional brokerage judgment and expertise.

[45] SEC Staff, *Report: Rule 394* (1965), reprinted in *Hearings Before the Subcomm. on Commerce and Finance of the House Comm. on Interstate and Foreign Commerce*, 92d Cong., 1st Sess., pt. 6 at 3293, 3370 (1972).

[46] 17 C.F.R. 240.19b–3. Securities Exchange Act Release No. 11203 (January 23, 1975).

[47] Rule 394 only governs the solicitation of a third market maker for a transaction off-the-floor of the exchange.

[48] The New York Stock Exchange has taken a similar point of view in an analogous context. In connection with the amendments to Rule 394(b) proposed by the NYSE in 1974, the Commission staff asked the NYSE

quired to be effected on an exchange floor, rather than directly with the third market maker off the floor, the transaction would be reported in the consolidated transaction reporting system as an exchange trade and the third market maker would lose the advertising value of the tape print.

Finally, if the transaction is effected on the exchange, better limit bids or offers would have to be satisfied prior to the execution. Since third market makers generally trade net of commission, their acquisition price, in the case of a purchase, would be the same as the resulting tape print price, leaving them without any "cushion" to ameliorate the risk taken.[49] While block positioners have been willing to make position bids below the market, even though they must generally permit limit bids to participate, thus lowering the prevailing market price to their bid price, they are permitted to charge the seller a commission; accordingly the block positioner has some cushion to lessen the market risk assumed.[50] Indeed, it has been asserted to the Commission that if block positioners were required to trade net, so that the tape print price and their actual acquisition cost were identical, it would create a severe disincentive to positioning.[51] It would appear, therefore, that requiring a third market maker to be displaced might create a disincentive to participation. This is not to say that the reasons in favor of permitting bids or offers on the specialist's book to participate in discount or premium trades may not outweigh the reasons for creating incentives to dealer participation, but that the disincentives created thereby must be considered in the balance.

One commentor has urged that Rule 394 is not anticompetitive at all and indeed that elimination of Rule 394 would reduce the fairness of competition between exchange and non-exchange markets because "unequal regulation of exchange and non-exchange markets makes it impossible for any type of pure competition between them to be 'fair' or 'equal' " [52] It is urged that specialists are subject to stringent rules and regulations which, among other things, include affirmative obligations to assume risks, especially during crisis periods, which their third market counterparts can easily avoid.

On its face, this argument has a certain symmetrical appeal. Nevertheless, it is not explained whether the desired result could be achieved by other, more appropriate means. The Securities Acts Amendments of 1975 appear to have been intended to establish a presumption in favor of (i) eliminating barriers between competing markets and between market makers which are specialists and those which are not, insofar as such barriers are not otherwise in furtherance of the purposes of the Act, and (ii) equalizing regulation of competitors that enjoy similar privileges, perform similar functions and have the potential for similar market impact.[53] Presumably, therefore, concerns with respect to "equal regulation" could be satisfied by either eliminating the "stringent" rules and regulations which apply to exchange trading, or applying such rules to the over-the-counter market for listed securities. Moreover, it would appear that third market makers do not in fact avoid crisis periods and fail to perform a legitimate market function on a regular or continuous basis. Indeed, some have asserted that third market makers, in part because they deal exclusively with a professional clientele—broker-dealers and institutions—are compelled, as a business matter, to make continuous markets "both in rising and falling markets."

Additionally, it is important, when comparing regulation of exchange specialists with regulation of third market makers, to be cognizant of the privileges now associated with a specialist's position. The Commission's *Institutional Investor Study*, for example, found that the specialist's brokerage income from limit orders entrusted to him by other brokers exceeded trading income in every category of specialist measured.[54] Earlier, the Commission's *Special Study* had noted that the only justification for permitting a specialist to enjoy trading advantages over others is "if high standards of conduct in dealer and broker activities are defined and enforced." [55] The unique advantages of the specialists, and the relationship of those advantages to the regulatory fabric, were summed up by the *Special Study* as follows:

It must be remembered that the specialist is not purely dependent upon his trading acumen for his income. Not only does the book serve on occasion as an outlet for excess inventory, but the brokerage function serves as a relatively riskless source of income. . . . If the conflict of interest between the two functions is to be tolerated the duty to the customer must include the obligation to maintain markets which are fair and reasonable. . . . Since access to the floor confers substantial trading advantages, even without the special knowledge available to the specialist, the privileges enjoyed by the specialist are compatible with the statutory scheme only if his duties to the public are not terminable at will but continue reasonably through good markets and bad, through profitable and unprofitable periods.[56]

Assuming that exchange rules which limit or condition the ability of members to make two-sided markets in listed securities and which limit or condition the ability of a member to execute a customer's order over-the-counter with a third market maker impose burdens on competition, the questions remain whether these rules are otherwise in furtherance of the purposes of the Act.

C. *Whether Off-Board Trading Restrictions of Exchanges Are Otherwise Necessary or Appropriate in Furtherance of the Purposes of the Act.*

Having concluded that rules which limit or condition the ability of a member to effect a transaction off-board, as principal or agent, are anticompetitive, the Commission is obliged to determine whether such rules are nevertheless justified by reference to other regulatory goals. These purposes, insofar as off-board trading rules are concerned, are referred to or described in Sections 2, 6(b)(5), 11A(a)(1)(C), 11A(a)(2) and 15A(b)(6) of the Act, namely:

(1) the protection of investors; [57]

(2) the maintenance of fair and orderly markets;[58]

(3) the removal of impediments to, and the perfection of a mechanism for, a national market system for securities; [59]

(4) fair competition among brokers and dealers, among exchange markets, and be-

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whether a floor professional making a bid or offer prior to an off-floor execution would be held to that quotation while the member communicated with a third market maker. Letter from Lee A. Pickard, Director, Division of Market Regulation, to James E. Buck, Secretary, New York Stock Exchange, October 24, 1974, at p. 2. The NYSE replied that a floor professional should not be held for an unreasonable amount of time to a bid or offer; any other result would mean that the floor professional would in effect be "penalized" for having made the initial bid or offer. Letter from James E. Buck, Secretary, New York Stock Exchange, to Lee A. Pickard, Director, Division of Market Regulation, November 26, 1974, at p. 3.

[49] Similarly, it would appear that members request permission to effect off-board principal purchases pursuant to Rule 394(a) primarily to avoid the book and the tape print involved with an exchange transaction below the prevailing market; the member may thereafter distribute the stock on the exchange pursuant to a special distribution plan and enjoy a substantial "spread."

[50] *See generally* 4 SEC, *Institutional Investor Study Report*, H.R. Doc. No. 92–64, 92d Cong., 1st Sess. at 1944–1945 (1971).

[51] Comments of Bear, Stearns & Co., Donaldson, Lufkin & Jenrette, Inc., The First Boston Corp., Goldman, Sachs & Co., Morgan Stanley & Co., Inc., Salomon Brothers, and Shields, Model Roland, Inc., in response to Securities Exchange Act Release No. 11508, Commission File No. SR–1 (August 22, 1975).

[52] Comments of the New York Stock Exchange in response to Securities Exchange Act Release No. 11521, Commission File No. S7–543 at p. 14 (July 29, 1975) ("NYSE Comments"). The NYSE contended that:

Since Rule 394 relates only to taking orders to other than exchange markets, the issue here centers on competitive restraints among brokers and dealers, as well as between exchange and non-exchange markets. The abolition of Rule 394 would actually *reduce* the fairness of the competition between these elements, since the present system of unequal regulation of exchange and non-exchange markets makes it impossible for any type of pure competition between them to be "fair" or "equal."

In the absence of the protection afforded by Rule 394, the Exchange market would bear a severe competitive disadvantage vis-a-vis the third market. The Commission is aware of the stringent rules and regulations which apply to Exchange trading. These include the affirmative responsibilities of specialists to assume risks, especially during crisis period, which their third market counterparts can easily avoid. These risks, of course, raise the cost of operating on the floor of the Exchange relative to operating in the third market.

Exchange regulation is predicated on the need to assure high-quality service to the public under all market conditions—not just when prices are rising. The specialist's affirmative marketmaking responsibility assures that he will be at his post—maintaining fair and orderly markets in his assigned stocks—both in rising and falling markets.

Id.

[53] *See* S. Rep. No. 94–75, 94th Cong., 1st Sess. at 12–16 (1975); H.R. Rep. No. 94–123, 94th Cong., 1st Sess. at 47–48 (1975); S. Doc. No. 93–13, 93d Cong., 1st Sess. at 104–105, 115–119; Subcomm. on Commerce and Finance of the Comm. on Interstate and Foreign Commerce, 92d Cong., 2d Sess., *Securities Industry Study Report* at 126–130 (1972).

[54] 4 Securities and Exchange Commission, *Report of Institutional Investor Study*, H.R. Doc. No. 92–64, 92d Cong., 1st Sess. at 1916, Table XII–21 (1971).

[55] 2 Securities and Exchange Commission, *Report of Special Study of Securities Markets*, H.R. Doc. No. 95, 88th Cong., 1st Sess. at 166 (1963).

[56] *Id.* at 127–128.

[57] Sections 6(b)(5), 11A(a)(1)(C), 11A(a)(2), and 15A(b)(6) of the Act.

[58] *Id.*, Sections 11A(a)(1)(C) and 11A(a)(2).

[59] *Id.*, Sections 2, 6(b)(5) and 15A(b)(6).

tween exchange markets and markets other than exchange markets; [60]

(5) prevention of unfair discrimination between customers, between brokers and between dealers; [61]

(6) the practicability of brokers executing investors' orders in the best market; [62]

(7) economically efficient execution of securities transactions; [63] and

(8) an opportunity, consistent with the standards indicated in subparagraphs (6) and (7) above, for investors' orders to be executed without the participation of a dealer.[64]

It has been asserted by one commentator that "Rule 394 is vitally necessary 'to protect investors and the public interest,'" a requirement of all exchange rules established by Section 6(b)(5) of the Act, and that the public interest lies in the maintenance of markets with liquidity, depth and continuity, adequate disclosure and safeguards against manipulation, and the financial health of the securities industry.[65] It is further suggested that NYSE rule 394 specifically supports these public interest goals because otherwise trades would be diverted from the floor "not so much because of competitive price considerations, but to shield transactions from the interplay of supply and demand in the public markets." [66] It is further asserted that, if orders are diverted from the exchange floor, prices would no longer mirror all supply and demand, and that the "public price" would be different from what it would be "had the off-floor trade occurred in the auction market," a difference "detrimental to the public investor." [67]

As a preliminary observation, apart from the validity of these arguments, Congress appears to have determined that it is desirable to encourage the broadest possible competition in order to achieve, to the maximum extent possible, continuity, depth and liquidity in the secondary trading markets. Among other things, it is difficult to perceive how impeding the participation of any segment of that competition—such as the third market—furthers that particular goal. Also, the consolidated transaction reporting system has as its major purpose the reporting of all transaction in listed securities, wherever effected, so that prices could react to all such transactions. It has not been shown that this system, coupled with enhanced competition among market makers, will not appropriately reflect all supply and demand.

It is also suggested that the Commission should avoid "major rule changes" which will "weaken existing market mechanisms" at a time when a "sensitive industry" is being called upon to adjust to "a new and significantly different [commission] rate environment . . ." [68] While the advent of new regulatory and other conditions for the industry may, indeed, suggest a basis for proceeding with other steps toward establishment of a national market system prior to the elimination or modification of off-board trading rules, the argument assumes, without elaboration, that modifications or elimination of Rule 394 will weaken rather than strengthen the trading markets.

Further, it is posited that the New York State stock transfer tax provides an impetus to the erosion of trading on the primary markets in New York.[69] Assuming this to be a fact, it does not follow that volume will necessarily be diverted to third market makers, at least some of whom are also located in New York. Trading could just as easily be diverted to a non-New York exchange.

It is asserted also that elimination of Rule 394 will place brokers in an impossible legal dilemma since "neither the trade nor the clearance and settlement mechanisms are presently in place to insure 'best execution.'" [70]

Such an assertion must be squared with the obvious fact that members of the NYSE and Amex apparently are not today placed in an "impossible legal dilemma" though they are permitted to effect transactions on regional exchanges of which they are members.[71] Moreover, a distinction must be drawn between a rule permitting a broker to exercise his professional judgment to seek out the best market for his client, on the one hand, and a rule requiring him to secure the best price for his customers regardless of expense or other relevant considerations, on the other.

Finally, it is argued that elimination of off-board trading restrictions will result in exchange members forsaking trading floors, matching orders in-house in the most active stocks, and, when that is not possible, effecting transactions in the third market "where regulatory disparities even now offer advantages vis-a-vis trading in the stock exchanges." [72] The resulting fragmentation, it is urged, will permit limit orders left with the specialist to be bypassed and in general will undermine the auction market and the opportunity for public orders to meet public orders without the intervention of a dealer, which one commentator estimates amounts to one-half to two-thirds of "NYSE reported volume." [73] Such a result, it is contended, would be contrary to Congressional intent in determining that it is in the public interest to assure "economically efficient execution of securities transactions," the "practicability of brokers executing investors orders in the best market," and an opportunity, consistent with the foregoing, "for investors orders to be executed without the participation of a dealer."

This argument is not without appeal. Nevertheless, these apparent benefits to the markets provided by off-board trading rules must be assessed against certain important issues, such as (i) whether the competition which would result from a proliferation of upstairs market makers would further the statutory aims; (ii) whether other more appropriate regulations might be adopted to prevent such potential market makers from over-reaching their customers, such as a regulation requiring a market maker to be prepared to demonstrate that in dealing with a retail brokerage customer the price given to that customer was as good as or better than any other price generally available; (iii) what precisely the regulatory disparities are which create the incentive to trade in the third market; and (iv) whether, once these disparities are identified, equalization of regulation might be a generally more appropriate response. In addition, if the phrase "economically efficient execution of securities transactions" is identical, as this line of reasoning seems to assume, to the phrase an opportunity "for investors orders to be executed without the particpation of a dealer," then it may be difficult to reconcile the statute's establishment of both as independent goals with the expressly stated view that the latter is to be achieved only when consistent with the former.

It would appear that numerous factors exert an influence on the efficiency of executions, including differences in clearing costs, communications costs and the like. In addition, differences between auction-type trading markets and dealer markets may result in economic differences in the comparative efficiency of executions effected within the two types of markets.

In an ideal market, bids and offers would offset each other precisely at various transaction prices. Because this rarely occurs, however, certain market professionals perform a market making function, bidding and offering for their own accounts to bridge the gap between the highest available bids and the lowest available offers and smoothing out imbalances between supply and demand at particular points in time. The market maker is compensated by the profit derived from buying for his own account at a price lower than the price at which he sells for his own account. This market maker profit, or "jobber's turn," appears to be an essential ingredient of the cost to public buyers and sellers of effecting executions.

The cost of the jobber's turn would appear to be minimized in a market system characterized by a centralization of all bids and offers, and a mechanism whereby public bids and offers could meet at prices between the bid and asked prices of market makers and would take precedence over market professional bids and offers. In today's markets, the auction-type trading rules of exchanges afford the only existing mechanism for public bids and offers to meet at prices between the otherwise highest bid and lowest offer of a market maker (*i.e.*, specialist). But the existing mechanisms of exchange trading may involve offsetting inefficiencies (*e.g.*, the required use of floor brokers to perform the function of transmitting orders to the specialist, and exceptions from exchange priority and precedence rules which dilute their effects in terms of achieving economic efficiencies in transaction costs). While the over-the-counter market does not currently provide a method for orders channeled to market makers to meet between the highest market maker bid and the lowest market maker offer, availability of direct communications with over-the-counter market makers and other factors may lessen to a significant degree any additional costs associated with third market executions as compared to exchange executions.

Elimination or amendment of exchange rules which limit or condition the ability of a member to trade off-board may not lead to a loss of efficiency in executing transactions in the markets considered as a whole since, although there may be some dispersal of order flow from exchange markets, increased exposure of over-the-counter market makers to that order flow coupled with enhancement of direct competition among all market mak-

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[60] Id., Section 11A(a)(1)(C)(ii).
[61] *Id.*, Sections 6(b)(5) and 15A(b)(6).
[62] *Id.*, Section 11A(a)(1)(C)(iv).
[63] *Id.*, Section 11A(a)(1)(C)(i).
[64] *Id.*, Section 11A(a)(1)(C)(v).
[65] NYSE Comments at 4.
[66] *Id.* at 6.
[67] *Id.* at 6–7.
[68] Comments of the Securities Industry Association in response to Securities Exchange Act Release No. 11521, Commission File No. S7–543 at p. 2 (August 4, 1975) ("SIA Comments").
[69] *Id.*
[70] *Id.* at 2–3.
[71] Indeed, the Commission has been informed by the NYSE that Rule 394(b) does not affect the ability of sole members to seek executions on regional exchanges.
[72] SIA Comments at p. 2. *Accord*, NYSE Comments at p. 10; Comments of the PBW Stock Exchange in response to Securities Exchange Act Release No. 11521, Commission File No. S7–543 at p. 3–4 (August 22, 1975); Comments of the Midwest Stock Exchange in response to Securities Exchange Act Release No. 11521, Commission File No. S7–543 at p. 8 (August 8, 1975); Comments of the Association for the Preservation of the Auction Market, Inc. in response to Securities Exchange Act Release No. 11521, Commission File No. S–7–543, *passim*, (August 7, 1975).
[73] NYSE Comments at pp. 8–9.

ers might result in narrower spreads between market maker and specialist bid and asked prices generally without any loss of liquidity or depth.[74]

Moreover, the 1975 Amendments make explicit the need to eliminate burdens on competition not necessary or appropriate in furtherance of the purposes of the Act.[75]

It is by no means clear that the forces of competition would not exert, of themselves, the requisite pressure on all specialists and market makers (including primary exchange specialists) to maintain fair and orderly markets, characterized by narrow spreads between bid and asked prices, continuity, depth and liquidity.

Moreover, there may be more efficient and appropriate ways of preserving or improving upon systems presently devised for the handling of limit orders; while it may continue to be appropriate to require broker-dealers to expose their transactions to limit orders entered by public customers or others, this might be accomplished through systems which utilize different communication facilities or alternative measures for insuring limit order protection.

Finally, one of the fundamental goals of a national market system, as expressed by Section 11A(a)(1)(C)(iv) of the Act, is to assure the practicability of brokers executing investors' orders in the best market. It has been suggested that exchange auction type trading, which affords an opportunity for public orders to meet without the participation of a dealer, offers the possibility of better executions for more customers (whether or not it would achieve the "best" execution of a particular order for a particular customer) than a market which encourages competing dealers. Thus, rules which limit the ability of a member to effect off-board transactions appear to be designed, among other things, to preserve the rights of customers represented on the exchanges, and even of other members trading for their own accounts (including specialists), rights which are treated as being superior to those of the customer for whom a third market execution is sought.

While Congress did authorize the Commission, in Section 11A(c)(3), to eliminate third market trading in listed securities as a solution to the most extreme problems, if stringent conditions precedent are met, Congress also specifically focused its attention on assuring that a broker in the exercise of his professional judgment had the ability to seek best execution for *his* customer in any existing market in light of the prevailing opportunities and circumstances at the time the broker received the order.[76]

It is also argued that exchange off-board trading restrictions serve as a "stabilizing force to facilitate development of a national market system" and are thus in furtherance of the statutory goal to remove impediments to and perfect the mechanism of a free and open market and a national market system.[77] Since centralization of all buying and selling interest is one of the purposes of a national market system, it is urged, elimination of existing exchange rules designed to preserve such centralization of order flow as has been achieved to date is not consistent with the objective of creating a national market system.

In directing the Commission to facilitate the development of a national market system in accordance with certain statutory findings,[78] and giving the Commission broad authority to achieve those goals,[79] the Congress evinced a preference for an approach which would permit a national market system to evolve through an interplay of competitive and economic forces interacting in a fair regulatory field, as "unnecessary regulatory restrictions are removed." [80] This free-market approach, which appears designed to permit the Commission to rely upon market forces rather than regulatory fiat to achieve mandated objectives (such as availability of quotations), would not seem to be given a fair chance of success if such restrictions as off-board trading rules create artificial disincentives to the achievement of the goals expressed.

In this regard, if an exchange member is compelled, by virtue of off-board trading restrictions, to route orders to the floor of an exchange, it would appear that the member would have little or no use, for example, for a quotation system reflecting indications of interest to buy or sell in other markets, nor would the member have any desire to implement modern execution facilities for customers. Under such circumstances, a market maker would be aware that the insertion of a quotation in a composite system would receive scant inquiry. Thus, it would appear that off-board trading restrictions likely impede the development of a quotation system, as well as better communication facilities to securities markets by members and modern execution facilities for securities transactions. Moreover, since present rules appear to compel transmittal of orders to the floor of an exchange, there is little if any incentive on the part of those who handle the orders, primarily specialists, to improve upon their systems of communications with the members with whom they deal or to modernize the facilities for limit orders, since by regulatory fiat they are aware that a major portion of the business will flow to them anyway.

Accordingly, while both the arguments for and against characterizing off-board trading restrictions as an impediment to a national market system must by their very nature depend upon certain assumptions, some of which perforce are speculative, it would appear more likely that off-board trading rules as presently constituted impede, rather than promote, attainment of that system.

For the foregoing reasons, the Commission is not now prepared to conclude that existing rules of exchanges which limit or condition the ability of members to effect transactions otherwise than on such exchanges are necessary or appropriate in furtherance of the purposes of the Act. Accordingly, the Commission has announced today the commencement of a proceeding in accordance with the provisions of Section 19(c) of the Act to amend or abrogate such rules. Notice of the commencement of this Section 19(c) proceeding is attached hereto as Appendix E.

By the Commission.

Respectfully,

GEORGE A. FITZSIMMONS,
Secretary.

In view of the Commission's conclusions with respect to the burdens on competition represented by exchange rules which limit or condition the ability of members to effect transactions otherwise than on such exchanges ("off-board trading rules"), enumerated above in the Commission's report to the Congress with respect to off-board trading rules, the Commission has determined to commence a rulemaking proceeding under Section 19(c)(1) of the Act to consider whether to amend or abrogate all such rules by adopting one of the proposed rules, designated §§ 240.19c–1 (Alternative A), 240.19c–1 (Alternative B) and 240.19c–1 (Alternative C), described below, or some variation thereof. These proposed rules have been drafted in such a manner as to present a broad range of possible formulations of a uniform exchange off-board trading rule. Commentators and prospective witnesses at the hearings to be conducted by the Commission are invited to comment specifically on which of these rule proposals (or some variation thereof) the Commission should adopt.

If the facts, views and evidence adduced at the hearings support the abrogation of off-board trading rules, the Commission will consider adoption of proposed § 240.19c–1 (Alternative A) which would prevent any exchange, by rule or otherwise, from prohibiting, conditioning or otherwise limiting any member, whether as principal or agent (or, alternatively, only as agent), from effecting transactions on any other exchange or over-the-counter.

If the facts, views and evidence adduced at the hearings support modification or amendment of existing off-board trading rules, the Commission will consider adoption of proposed § 240.19c–1 (Alternative A) or § 240.19c–1 (Alternative C). Proposed § 240.19c–1 (Alternative B) would require a member, prior to effecting a transaction either for his own account or the account of a customer over-the-counter (or, alternatively, over-the-counter or on another exchange):

(1) at a price equal to or better than the best bid or the best offer on the member's exchange, to make such inquiry of the exchange floor as the member deems appropriate under the circumstances (whether by means of interrogating an electronic quotation system or otherwise) and to believe, in light of such inquiry, that all or a portion of the order may be executed over-the-counter (or, alternatively, over-the-counter or on another exchange) at a better price; or

(2) at a price lower than the best bid or higher than the best offer on the member's exchange, to (i) inquire of the specialist to

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[74] A narrowing of market maker spreads was observed in the over-the-counter market after introduction of NASDAQ; this development was not accompanied by any noticeable increase in volatility. *See* NASD, *NASDAQ—Third Market Study* (April, 1972). In addition, in successive test periods which NYSE specialists' quotations in securities traded in the third market were compared with quotations in NASDAQ by the NYSE staff under circumstances which permitted the NYSE specialists to be aware of both the comparison being performed by current third market quotations, the spreads between NYSE specialist bid and asked prices narrowed considerably. *See* Research Department, NYSE: *Some Difficulties with the NASDAQ Quotation System* (December, 1974).

[75] *See, e.g.*, Sections 6(b)(8), 15A(b)(9) and 23(a)(2); *also see* S. Rep. No. 94–75, 94th Cong., 1st Sess. 14 (1975) and H.R. Rep. No. 94–123, 94th Cong., 1st Sess. 47 (1975).

[76] H.R. Rep. No. 94–123, 94th Cong., 1st Sess. 93–94 (1975); S. Rep. No. 94–75, 94th Cong., 1st Sess. 12–13, 20, 104–105 (1975); S. Doc. No. 93–13, 93d Cong., 1st Sess. 105 (1973).

[77] NYSE Comments at p. 15.

[78] Sections 11A(a)(1) and (2) of the Act.

[79] *E.g.*, Section 11A(c) of the Act.

[80] H.R. Doc. No. 94–229, 94th Cong., 1st Sess. 92 (1975); S. Rep. No. 94–75, 94th Cong., 1st Sess. 7–8 (1975). That the Commission has been in fundamental agreement with this approach is evidenced by its decision to defer adoption of proposed Rule 17a–14, requesting instead that exchanges eliminate restrictions on access to quotation information they may disseminate. Securities Exchange Act Release No. 11288 (March 11, 1975).

ascertain the extent to which his order may be satisfied by limited price orders on the specialist's book; (ii) believe, in light of what he learns as a result of his inquiry, that a better price may be obtained by executing all or a portion of the order over-the-counter (or, alternatively, over-the-counter or on an another exchange); and (iii) assure, either before, simultaneously with, or immediately after the off-board execution, that public orders on the specialist's book which were disclosed to the member at the time of his inquiry of the specialist, at prices better than the price to be afforded the order off-board, be satisfied at the prices bid or offered at the time of such inquiry are satisfied.

Proposed § 240.19c–1 (Alternative C) is modeled on proposed § 240.19c–1 (Alternative B), but would limit the circumstances under which a member could effect a transaction over-the-counter (or, alternatively, over-the-counter or on another exchange) on the basis of a belief that a better price can be obtained by executing all or a part of the order off-board (after such inquiry of the exchange as the member deems appropriate under the circumstances) to transactions at a price between the highest bid and the lowest offer on the exchange. In addition, for transactions to be effected off-board at other prices, proposed § 240.19 c–1 (Alternative C) would require the member to:

(1) inquire of the specialist and other members then present at the specialist's post in order to ascertain whether and at what prices the order may be satisfied by public orders (entered on the specialist's book or represented by such members) or by orders by the specialist and such members for their own accounts;

(2) believe, as a consequence of the bids or offers elicited as a result of his disclosure, that a better price may be obtained over-the-counter (or, alternatively, over-the-counter or on another exchange) by executing all or part of the order off-board; and

(3) assure, either before, simultaneously with, or immediately after the off-board execution that all public bids or offers which were made to the member during his preliminary inquiry and which are still outstanding are satisfied at the transaction price, and that all bids or offers which were made at that time by the specialist or other members who were present at the specialist's post during that inquiry at a price better than the transaction price are satisfied; provided that such bids or offers may be required to be satisfied at the transaction price under circumstances consistent with the rule's purposes, the public interest and the protection of investors by an exchange rule approved by the Commission.

With respect to proposed §§ 240.19c–1 (Alternative B) and 240.19c–1 (Alternative C), the Commission is particularly interested in receiving views as to the practicability of compliance with exchange rules adopted thereunder in view of the fact that all exchanges might be required to adopt and enforce one of the exchange rules thereunder (or some variation thereof). It would appear, for example, that exchange members belonging to two or more exchanges would experience extreme difficulty in effecting such compliance in view of the fact that, with respect to orders to be effected over-the-counter (or, alternatively, over-the-counter or on any other exchange), inquiry of each exchange would have to be made, and certain bids or offers made on any of the exchanges to which such a "dual" member belongs would have to be ascertained and satisfied in connection with each off-board execution. Since this problem seems to exist today, in light of the fact that all exchanges have off-board trading rules in one form or another, the Commission is concerned that such rules currently may be unequally enforced with respect to "dual" members which effect transactions in the over-the-counter market or may not be observed at all by them.

If the facts, views and evidence adduced at the hearings support retention of existing off-board trading rules, the Commission will withdraw the rules proposed herein. With respect to the texts of proposed §§ 240.19c–1 (Alternative A), 240.19c–1 (Alternative B) and 240.19c–1 (Alternative C), the Commission wishes to receive comment directed to the reasons for preferring one rule over another (or some variation of any of them) for some or all exchanges in terms of the arguments and concerns presented in the Commission's report to the Congress with respect to off-board trading rules and in terms of the respective interest of (i) a customer whose order is sought to be executed off-board; (ii) a member representing such an order, or a bid or offer for his own account; (iii) other customers whose orders have been brought to the exchange (including institutional and small customers, and customers who have given market orders, "not held" orders, and limited price orders to their brokers); (iv) block positioning and other member firms; (v) specialists on all exchanges, in terms of their obligations and needs, with special reference to the problems presented by multiple trading; (vi) over-the-counter market makers; and (vii) exchanges (both primary and regional). Commentators should relate their discussions and analyses of the interests of the foregoing persons and entities to the provisions and purposes of the Act, as amended by the 1975 Amendments, supporting their views with such facts, data and citations to legal authorities as they deem appropriate.

The texts of proposed §§ 240.19c–1 (Alternative A), 240.19c–1 (Alternative B) and 240.19c–1 (Alternative C) are set forth below (Brackets indicate certain alternative formulations of each proposed rule.):

ALTERNATIVE A

§ 240.19c–1 Governing Off-Board Trading By Members of Exchanges.

The rules of each national securities exchange shall provide, on and after January 2, 1976, as follows:

No rule, stated policy or practice of this exchange shall prohibit or condition, or be construed to prohibit, condition or otherwise limit, directly or indirectly, the ability of any member [acting as agent] to effect transactions on any other exchange or over-the-counter in any equity security which is listed on the exchange or to which unlisted trading privileges on the exchange have been extended.

ALTERNATIVE B

§ 240.19c–1 Governing Off-Board Trading By Members of Exchanges.

The rules of each national securities exchange shall provide, on and after January 2, 1976, as follows:

No rule, stated policy or practice of this exchange shall prohibit or condition, or be construed to prohibit, condition or otherwise limit, directly or indirectly, the ability of any member, acting as agent for a customer or as principal for his own account, to effect transactions [on any other exchange or] over-the-counter in any equity security which is listed on the exchange or to which unlisted trading privileges on the exchange have been extended ("exchange securitie"); provided, however, that, in connection with any such rtansaction effected by a member [on any other exchange or] over-the-counter:

(1) at a price either equal to or better than the highest current bid or the lowest current offer on the exchange floor, the member shall believe, as a consequence of such inquiry of the exchange specialist in the security to be bought or sold and such other inquiry of the exchange floor as the member, in the exercise of professional judgment, deems appropriate under the circumstances (whether by means of interrogating an electronic system displaying quotations or quotation information in exchange securities or otherwise), that a better price may be obtained by executing all or a portion of the order [on another exchange or] over-the-counter; or

(2) at a price either lower than the highest current bid or higher than the lowest current offer on the exchange floor, the member shall:

(i) make such inquiry of the exchange specialist in the security to be bought or sold and other members of the exchange then present at the specialist's post as the member, in the exercise of professional judgment, may deem appropriate under the circumstances, to ascertain whether his bid or offer may be satisfied, in whole or in part, by limited price orders entered on the specialist's book;

(ii) believe, in light of such information as the member may have obtained at the time of his inquiry pursuant to subparagraph (1) of this paragraph (2) as to the extent to which his bid or offer may be satisfied, in whole or in part, by limited price orders entered on the specialist's book, that a better price may be obtained by executing all or a portion of the order [on another exchange or] over-the-counter; and

(iii) assure, either before, simultaneously with or immediately after execution of the order in a transaction effected [on another exchange or] over-the-counter, that public bids or offers at prices better than the transaction price entered on the specialist's book as limited price orders, which were disclosed in the aggregate to the member at the time of the member's inquiry pursuant to subparagraph (1) of this paragraph (2), are satisfied at the prices which were bid or offered at the time of such inquiry.

ALTERNATIVE C

§ 240.19c–1 Governing Off-Board Trading By Members of Exchanges.

The rules of each national securities exchange shall provide, on and after January 2, 1976, as follows:

No rule, stated policy or practice of this exchange shall prohibit or condition, or be construed to prohibit, condition or otherwise limit, directly or indirectly, the ability of any member, acting as agent for a cus-

tomer or as principal for his own account, to effect transactions on any other exchange or over-the-counter in any equity security which is listed on the exchange or to which unlisted trading privileges on the exchange have been extended; provided, however, that, in connection with any such transaction effected by a member [on any other exchange or] over-the-counter:

(1) at a price higher than the highest current bid but lower than the lowest current offer on the exchange floor, the member shall believe, as a consequence of such inquiry of the exchange specialist in the security to be bought or sold and such other inquiry of the exchange floor as the member, in the exercise of professional judgment, deems appropriate under the circumstances, that a better price may be obtained by executing all or a portion of the order [on another exchange or] over-the-counter; or

(2) at a price equal to or lower than the highest current bid, or equal to or higher than the lowest current offer, on the exchange floor, the member shall:

(i) inquire of the exchange specialist in the security to be bought or sold and other members of the exchange then present at the specialist's post to ascertain whether and at what prices such order may be satisfied, in whole or in part, by the specialist for the accounts of customers whose limited price orders have been entered on the specialist's book and for his own account, or by other members of the exchange then present at the specialist's post for the account of any customer and for their own accounts;

(ii) believe, as a consequence of such bids or offers as the member may have received from the specialist and from other members of the exchange who were present at the specialist's post at the time of his inquiry pursuant to sub-paragraph (1) of this paragraph (2), that a better price may be obtained by executing all or a portion of the order [on another exchange or] over-the-counter; and

(iii) assure, either before, simultaneously with or immediately after execution of the order in a transaction effected [on another exchange or] over-the-counter, that the public bids or offers entered on the specialist's book as limited price orders or represented by other members on the exchange floor made to the member at the time of his inquiry pursuant to subparagraph (1) of this paragraph (2) at prices equal to or better than the transaction price, and any bids or offers for the specialist's own account or for the accounts of other members made to the member at the time of his inquiry pursuant to subparagraph (1) of this paragraph (2) at prices better than the transaction price, are satisfied at the prices which were bid or offered at the time made to the member; provided, however, that bids and offers entered on the specialist's book as limited price orders or represented by other members of the exchange which were made to the member at the time of the member's inquiry pursuant to subparagraph (1) of this paragraph (2) may be required to be satisfied at the transaction price under circumstances consistent with the purposes of this rule, the public interest and the protection of investors in accordance with a rule of this exchange approved by the Securities and Exchange Commission.

Set forth below is a list of some of the more important source materials relating to rules of national securities exchanges which limit or condition the ability of members to effect transactions otherwise than on such exchanges. While the list should not be assumed to be complete, it may prove useful to interested persons who wish to submit views, data and arguments with respect to proposed §§ 2840.19c–1 (Alternative A), 240.19c–1 (Alternative B) and 240.19c–1 (Alternative C).

Releases under the Act:

No. 7474 (December 1, 1964) Adoption of Rule 17a–9.
No. 7954 (September 16, 1966) Proposal to adopt Rule 19b–1.
No. 7981 (October 20, 1966) Adoption of Rule 19b–1.
No. 8001 (December 6, 1966) Proposal to amend Rule 17a–9.
No. 8047 (March 22, 1967) Adoption of amendments to Rule 17a–9.
No. 8324 (May 28, 1968) Announcement of public hearings on commission rate structure.
No. 8348 (July 1, 1968) Description of initial phase of commission rate structure hearings.
No. 8362 (July 26, 1968) Announcement of second phase of commission rate structure hearings.
No. 8432 (October 21, 1968) Announcement of resumption of public hearings on commission rate structure.
No. 8791 (December 31, 1969) Request for comment on specific questions relating to commission rates.
No. 8923 (July 2, 1970) Announcement of resumption of public hearings to consider extension of interim service charge.
No. 9234 (June 28, 1971) Announcement of resumption of hearings to consider NYSE proposed rate structure.
No. 9315 (August 26, 1971) Announcement of public investigatory hearings regarding the structure, operation and regulation of the securities markets.
No. 9529 (March 8, 1972) Notice of proposed Rule 17a–14 regarding composite quotation system.
No. 9530 (March 8, 1972) Notice of proposed Rule 17a–15 regarding consolidated transaction reporting system.
No. 9731 (August 14, 1972) Notice of revision of proposed Rule 17a–15.
No. 9850 (November 8, 1972) Adoption of Rule 17a–15.
No. 9950 (January 16, 1973) Adoption of Rule 19b–2.
No. 10026 (March 5, 1973) Notice of receipt of joint industry plan under Rule 17a–15.
No. 10218 (June 13, 1973) Notice of Commission comments on consolidated tape plan.
No. 10383 (September 11, 1973) Announcement of Commission intention to eliminate fixed commission rates.
No. 10668 (March 6, 1974) Proposed amendments to short sale rules.
No. 10671 (March 8, 1974) Commission comments on consolidated tape plan.
No. 10751 (April 23, 1974) Notice of Public Hearing on Intra-Member Commission Rate Schedules of Registered National Securities Exchanges.
No. 10760 (April 26, 1974) Notice of receipt of revised consolidated tape plan.
No. 10787 (May 10, 1974) Commission declares consolidated tape plan effective.
No. 10790 (May 10, 1974) Notice of formation of Advisory Committee on the Implementation of a Central Market System.
No. 10969 (August 14, 1974) Notice of revised proposed Rule 17a–14.
No. 10986 (August 27, 1974) Procedure to eliminate fixed commission rates.
No. 11019 (September 19, 1974) Commission letters to national securities exchanges formally requesting elimination of fixed commission rates on or before May 1, 1975.
No. 11030 (September 27, 1974) Adoption of amendments to short sale rule.
No. 11036 (October 3, 1974) Two week postponement of pilot phase of consolidated tape.
No. 11056 (October 17, 1974) Suspension of amendments to short sale rules.
No. 11073 (October 24, 1974) Proposed Rules 19b–3 and 10b-22.
No. 11131 (December 11, 1974) Preliminary Statement of the Advisory Committee on the Implementation of a Central Market System.
No. 11151 (December 24, 1974) Proposed amendments to NYSE Rule 394.
No. 11203 (January 23, 1975) Adoption of Rule 19b–3 requiring the unfixing of public commission rates.
No. 11273 (March 3, 1975) Notice of correspondence regarding a delay in implementation of Phase II of consolidated tape.
No. 11276 (March 5, 1975) Proposed amendments to short sale rules.
No. 11288 (March 11, 1975) Written request to national securities exchanges regarding availability of quotation information.
No. 11293 (March 13, 1975) Announcement of program to monitor impact of Rule 19b–3; Proposed Rule 17a–20.
No. 11395 (May 2, 1975) Adoption of Rule 17a–20.
No. 11406 (May 7, 1975) Announcement of responses from national securities exchanges regarding quotation information.
No. 11461 (June 11, 1975) Notice of NASD filing of proposed rule changes.
No. 11468 (June 12, 1975) Adoption of amendments to short sale rule; request for comment on certain additional proposed amendments.
No. 11497 (June 26, 1975) Adoption of uniform net capital rule.
No. 11521 (July 2, 1975) Request for public comment on rules of national securities exchanges which limit or condition the ability of members to effect transactions otherwise than on such exchanges.

Commission Staff Study:

Staff Report: Rule 394 in *Study of the Securities Industry Hearings Before the Subcommittee on Commerce and Finance of the House Committee on Interstate and Foreign Commerce*, H.R. Serial No. 92–37e, 92d Cong., 2d Sess., pt. 6 at 3293–3372 (1972).

Commission Decisions:

In re Edison Elec. Illuminating Co. of Boston, 1 SEC 909 (1936).
In re Rules of the New York Stock Exchange, 10 SEC 270 (1941).

Special Studies:

Securities and Exchange Commission, *Special Study of Securities Markets*, H.R. Doc. No. 95, 88th Cong., 1st Sess. (1963).
Securities and Exchange Commission, *Institutional Investor Study Report*, H.R. Doc. No. 92–64, 92d Cong., 1st Sess. (1971).
Studies and Reports Prepared or Commissioned by the New York Stock Exchange:
Economic Effects of Negotiated Commission Rates on the Brokerage Industry, the Market for Corporate Securities and the Investing Public, New York Stock Exchange (August, 1968).
The Securities Markets, A Report, with Recommendations by William McChesney Martin, Jr. (1971).
A Staff Analysis of Issues Affecting the Structure of a Central Market System for Listed Securities, New York Stock Exchange (July 1973).
Equal or Uniform Regulation and a Consolidated Tape System for Listed Securities, New York Stock Exchange (September 1973).

Commission Hearings:

In the Matter of Commission Rate Structure of Registered National Securities Exchanges, Securities and Exchange Commission File No. 4–144 (1968–1971), consisting

of 23 volumes of reported testimony and 15 volumes of written statements and exhibits.

In the Matter of the Structure, Operation and Regulation of the Securities Markets, Securities and Exchange Commission File No. 4–147 (1971), consisting of 24 volumes of reported testimony and 4 volumes of written statements and exhibits.

In the Matter of Commission Rate Schedules of Registered National Securities Exchanges, Securities and Exchange Commission File No. 4–167 (1973), consisting of 10 volumes of reported testimony and written statements and exhibits.

In the Matter of Intra-Member Commission Rate Schedules of Registered National Securities Exchanges, Securities and Exchange Commission File No. 4–171 (1974), consisting of 4 volumes of reported testimony and written statements and exhibits.

In the Matter of NASD Anti-Reciprocal Rule and Investment Company Brokerage Practices, Securities and Exchange Commission File No. 4–172 (1974), consisting of 3 volumes of reported testimony and written comments and exhibits.

In the Matter of Commission Rate Schedules of Registered National Securities Exchanges, Securities and Exchange Commission File No. 4–174 (1974), consisting of 4 volumes of reported testimony and written statements and exhibits.

Policy Statements:

Securities and Exchange Commission, *Policy Statement on the Structure of a Central Market System* (March, 1973).

Securities and Exchange Commission, *Statement on the Future Structure of the Securities Markets* (February, 1972).

Congressional Hearings and Reports:

Securities Industry Study, Report of the Subcommittee on Securities of the Senate Committee on Banking, Housing and Urban Affairs, S. Doc. No. 93–13, 93d Cong., 1st Sess.

Securities Industry Study, Report of the Subcommittee on Securities of the Senate Committee on Banking, Housing and Urban Affairs for the Period Ending Feb. 4, 1972, 92d Cong., 2d Sess. (1972).

Securities Industry Study, Report of the Subcommittee on Commerce and Finance of the House Committee on Interstate and Foreign Commerce, 92d Cong., 1st and 2d Sess. (1972).

Hearings before the Subcommittee on Securities of the Senate Committee on Banking, Housing and Urban Affairs on S. 3126, 93d Cong., 2d Sess. (1974).

Hearings before the Subcommittee on Securities of the Senate Committee on Banking, Housing and Urban Affairs on S. 470 and S. 488, 93d Cong., 1st Sess. (1973).

Hearings before the Subcommittee on Commerce and Finance of the House Committee on Interstate and Foreign Commerce on H.R. 5050 and H.R. 340, 93d Cong., 1st Sess. (1973).

Hearings before the Subcommittee on Securities of the Senate Committee on Banking, Housing and Urban Affairs on S. 3169, 92d Cong., 2d Sess. (1972).

Hearings on Securities Industry Study before the Subcommittee on Securities of the Senate Committee on Banking, Housing and Urban Affairs, 92d Cong., 1st Sess. (1972).

Hearings on Securities Industry Study before the Subcommittee on Commerce and Finance of the House Committee on Interstate and Foreign Commerce, 92d Cong., 1st Sess. (1971).

Hearings Before the Subcommittee on Securities of the Senate Committee on Banking, Housing and Urban Affairs on S. 2519, 93d Cong., 1st Sess. (1973).

Hearings Before the Subcommitte on Securities of the Senate Committee on Banking, Housing and Urban Affairs on S. 249, 94th Cong., 1st Sess. (1975).

Senate Committee on Banking, Housing and Urban Affairs, Report to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Sess. (1975).

House Committee on Interstate and Foreign Commerce, Report to Accompany H.R. 4111, H.R. Rep. No. 94–123, 94th Cong., 1st Sess. (1975).

Committee on Conference, Conference Report to Accompany S. 249, H.R. Rep. No. 94–229, 94th Cong., 1st Sess. (1975).

Exchange Constitutions and Rules:

American Stock Exchange Constitution and Rules Boston Stock Exchange, Constitution and Rules Chicago Board Options Exchange, Constitution and Rules Cincinnati Stock Exchange, Rules and By-Laws Detroit Stock Exchange, Constitution and Rules Intermountain Stock Exchange, Constitution and Rules Midwest Stock Exchange, Constitution and Rules New York Stock Exchange, Constitution and Rules Pacific Stock Exchange, Constitution and Rules PBW Stock Exchange, Constitution and Rules Spokane Stock Exchange, Constitution and Rules

Miscellaneous Materials:

Baxter, *NYSE Fixed Commission Rates: A Private Cartel Goes Public*, 22 Stan. L. Rev. 675 (1975).

Demsetz, *The Cost of Transacting*, Quarterly Journal of Economics (Feb. 1968).

Friend and Blume, *The Consequences of Competitive Commissions on the NYSE* (1972). Reprinted in *Stock Exchange Commission Rates, Hearings Before the Subcommittee on Securities of the Senate Committee on Banking, Housing and Urban Affairs*. Also appears, in condensed form, in 28 Journal of Finance 795 (Sept. 1973).

Kahn, *The Economics of Regulation*, Vol. II, pp. 193–209 (1971).

Lorie, *Public Policy for American Capital Markets*, submitted to the Secretary and Deputy Secretary of the Treasury (Feb. 7, 1974).

Pozen, *Competition and Regulation in the Stock Markets*, 73 Mich. L. Rev. 317 (1974).

Ratner, *Regulation of the Compensation of Securities Dealers*, 55 Cornell L. Rev. 348 (Fall, 1970).

Russo and Wang, *The Structure of the Securities Market—Past and Future*, 41 Fordham L. R–v. 1 (1972).

All persons who wish to appear at the oral hearings should inform Bart Friedman, Assistant Director, Office of Market Structure and Trading Practices, Division of Market Regulation, Room 302, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, telephone number (202) 755–4470, not later than September 26, 1975. Persons intending to appear should file with George A. Fitzsimmons, Secretary of the Commission, Room 892 at the above address, 30 copies of the text of any prepared statements not later than 48 hours prior to their appearance and are invited, at the time of their appearance, to make additional copies of their statements available for the benefit of the press and all other interested persons. Persons wishing to make written submissions of views, data and arguments should file 30 copies thereof with the Secretary no later than October 17, 1975. Copies of the Commission's report to the Congress, as well as all submissions and trancript of the oral hearing, will be made available in the Public Reference Room, 1100 L Street NW., Washington, D.C. and at each regional office of the Commission. Persons wishing to submit written views, data or arguments in respect of submissions made by others or in respect of views, data and arguments presented at the oral hearings may do so until October 31, 1975. All submissions should refer to Securities and Exchange Commission File No. 4–180.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 2, 1975.

[FR Doc.75–23948 Filed 9–8–75;8:45 am]

[17 CFR Part 270]

[Release No. IC–8902, File No. S7–514]

ANCSA CORPORATIONS

Permanent Rule

Notice is hereby given that the Securities and Exchange Commission proposes to adopt an amended version of previously proposed Rule 6c–2 (the "Rule") under the Investment Company Act of 1940 ("Act"), which would provide corporations organized pursuant to the Alaska Native Claims Settlement Act of 1971[1] ("ANCSA Corporations" and "Settlement Act", respectively) substantial exemptive relief from the requirements and prohibitions of the Act, and which would supersede temporary Rule 6c–2 (T) under the Act if adopted.

As explained in more detail under the heading "Rules and Regulations" elsewhere in this issue of the FEDERAL REGISTER, the Commission has adopted an amendment to temporary Rule 6c–2(T) (17 CFR 270.6c–2) to make it clear that the relief afforded by the temporary rule is retroactive to December 18, 1971, the date of enactment of the Settlement Act (Rule 6c–2 is not proposed to be retroactive) and that registration pursuant to Section 8(a) of the Act (15 U.S.C. 80a–8a) is necessary to qualify for the exemptive relief afforded by the temporary rule. The exemptions the temporary rule provides are made retroactive to the date of enactment of the Settlement Act so that questions will not be raised whether ANCSA Corporations registering during the period of effectiveness of the temporary rule had violated Section 7 of the Act by operating in interstate commerce or purchasing securities in interstate commerce.[2] Rule 6c–2(T) will remain in effect as now amended until such time as the Commission takes action on proposed Rule 6c–2 or rescinds Rule 6c–2 (T). Registration by an ANCSA Corporation which is an investment company pursuant to Section 8(a) during the effectiveness of Rule 6c–2(T) will enable

[1] P.L. 92–203, 92d Cong., 85 Stat. 688.

[2] Such activities might have been precluded by Section 7(a)(4) of the Act, which provides that an unregistered investment company may not engage in any business in interstate commerce.

such corporation to claim the relief afforded by proposed Rule 6c–2, if adopted, as well as that afforded by Rule 6c–2(T). (ANCSA Corporations are reminded, however, that if they have registered or now register pursuant to Section 8(a) during the existence of Rule 6c–2(T), they will become subject to Rule 6c–2 if it is adopted and to the greater burden of compliance the latter rule would impose. ANCSA Corporations which have not registered pursuant to the temporary rule should do so immediately if they are in need of its retroactive protection).

As originally proposed by the Commission on February 26, 1974, Rule 6c–2 would have exempted the ANCSA Corporations from all provisions of the Act except Sections 8(a), 9, 17, 36, and 37 (15 U.S.C. 80a–8a, 80a–9, 80a–17, 80a–36, 80a–37). The Rule is now being amended to provide, in effect, that ANCSA Corporations registering under its provisions ("ANCSA Registrants") will be subject to all provisions of the Act except Sections 8(b), 11, 12, 13, 14, 15(b), 15(d), 16, 18, 19, 20(b), 20(c), 20(d), 21(a), 22, 23, 24, 26, 27, 28, 29 30(b)(1), 30(c), 30(f), 32(a)(2), 32(a)(4), 35(a), 35(b), and 35(c) (15 U.S.C. 80a–8b, 80a–11, 80a–12, 80a–13, 80a–14, 80a–15b, 80a–15d, 80a–16, 80a–18, 80a–19, 80a–20b, 80a–20c, 80a–20d, 80a–21(a), 80a–22, 80a–23, 80a–24, 80a–26, 80a–27, 80a–28, 80a–29, 80a–30(b)(1), 80a–30(c), 80a–30(f), 80a–32(a)(2), 80a–32(a)(4), 80a–35a, 80a–35b, and 80a–35c), and to provide partial exemptive relief from Sections 17(a) and 17(d), and Rule 17d–1(a), and Sections 20(a), 30(a), and 30(d) of the Act (15 U.S.C. 80a–17a, 80a–17d, 17 CFR 270.17d–1(a), 80a–20a, 80a–30a, and 80a–30d). This notice, as it relates to Rule 6c–2, is being published so that interested persons will have an opportunity to comment upon the revised proposal before any final action is taken with respect to it.

The ANCSA Corporations have been organized to hold and administer the extensive land grants, mineral rights, cash, and mineral revenues intended by the Government of the United States to recompense Alaska's native Indian Aleut and Eskimo population ("Alaska Natives") for lands within the State of Alaska. In accordance with this statutory purpose, the ANCSA Corporations are owned and managed exclusively by Alaska Natives, who have been given all the shares of stock in the ANCSA Corporations. The ANCSA Corporations consist of twelve "Regional Corporations," representing the Alaska Natives residing in twelve geographical districts designated by the Department of the Interior, and more than 200 "Village Corporations" within these districts, each representing Alaska Natives residing in a village. There will also be the so-called "Thirteenth Regional Corporation" for Natives who are not residents of the State of Alaska. The organization of this corporation has been ordered by a recent court decision.

Although the ANCSA Corporations are entitled to receive substantial real estate and subsurface mineral interests, many of such interests are not presently specifically identifiable, as they are to be selected and acquired over a four-year period in accordance with the provisions of the Settlement Act. However, distribution of significant amounts of the monetary portion of the settlement was made almost immediately upon enactment of the Settlement Act and large additional distributions of cash will be made to the ANCSA Corporations in the next few years.[3] As a result, during this period, at least until they have fully exercised their land grant privileges and have begun to engage primarily in owning and developing land or operating a business, a number of the ANCSA Corporations may be investment companies within the meaning of Sections 3(a)(1) and 3(a)(3) of the Act.[4] To date, 32 ANCSA Corporations have registered under the Act and are covered by temporary Rule 6c–2(T).

NOTE: ANCSA Corporations having fewer than 100 shareholders are not investment companies within the meaning of the Act and need not register with the Commission.

As now proposed, Rule 6c–2 would remove all ANCSA Registrants from the burden of complying with certain specified requirements of the Act. Such Registrants would be obliged to comply with only those provisions which provide essential protection for the substantial pools of liquid capital they hold in trust for the Alaska Natives. Accordingly, if adopted, Rule 6c–2 would provide that ANCSA Registrants shall be exempt from Sections 8(b), 11, 12, 13, 14, 15(b), 15(d), 16, 18, 19, 20(b), 20(c), 20(d), 21, 22, 23, 24, 26, 27, 28, 29, 30(b)(1), 30(c), 30(f), 32(a)(2), 32(a)(3), 32(a)(4), 35(a), 35(b), and 35(c) of the Act, and shall be partially exempted from the provisions of Sections 17(a) and 17(d) of the Act, and Rule 17d–1(a) thereunder, and of Sections 20(a), 30(a), and 30(d) of the Act, all as described in detail hereinafter. It is noteworthy that the format of the present proposed version of the Rule is the reverse of the original format in that the present format would, in effect, make ANCSA Registrants generally subject to the Act and exempt therefrom only as specifically provided in the Rule, whereas under the original structure ANCSA Registrants would have been generally exempted from the Act, and subject thereto only as specifically provided in the Rule. It should be recognized that this new structure would not result in the imposition of any significant additional burdens upon ANCSA Registrants; most of the additional provisions of the Act that would be embraced by the new structure are directed to the Commission rather than to registered investment companies and pertain to matters of enforcement or administrative procedure.[5] The new format would also embrace the definitional sections of the Act,[6] which were not included in the original version of the proposed Rule.

The major substantive provisions which the present proposed version of the Rule would add to the list of provisions with which ANSCA Registrants would have been required to comply under the original proposal are the following: Sections 10(a), 15, 20(a), 30(a), 30(d), 31(a), 31(b), and 33 (15 U.S.C. 80a–10a, 80a–15, 80a–20a, 80a–30a, 80a–30d, 80a–31a, 80a–31b, and 80a–33). As explained in more detail below, the impact of these additional provisions would be lessened substantially by the provisions the Rule would make to exempt ANCSA Registrants below a certain size from the proxy, periodic reporting, and financial record keeping requirements of the Act. In addition, the new proposed version of the Rule would afford ANCSA Registrants substantial blanket exemptions from Section 17 of the Act, beyond those which are presently provided by existing rules under Section 17.

It should also be understood that ANCSA Corporations which are not investment companies need not register with the Commission at all and would not be affected by the Rule. Other ANCSA Corporations would be subject to the Rule and eligible for its exemptions only if they register pursuant to Section 8(a) of the Act. The proposed Rule has also been modified to clarify that the exemptive relief it would afford would take effect as of the date of registration by an ANCSA Corporation pursuant to Section 8(a).

The new version of the Rule makes it clear, by not exempting ANCSA Corporations from Section 7 of the Act, that registration under the Act is required in order to obtain the exemptive relief provided by the Rule. Section 7, together with Section 8(a), has the effect of requiring ANCSA Corporations that are investment companies ("ANCSA Investment Companies") to register under the Rule if they wish to engage in certain

[3] To date, approximately 260 million dollars in cash have been distributed to the ANCSA Corporations as a group.

[4] Section 3(a)(1) defines "investment company" as an issuer which is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities. Section 3(a)(3) defines "investment company" as any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 percent of the value of such issuer's total assets (excluding Government securities and cash items) on an unconsolidated basis.

[5] See, e.g., Sections 38–46, and 50–53 of the Act (15 U.S.C. 80a–38—80a–46, and 80a–50—80a–53).

[6] See, e.g., Sections 2(a), 3(a), 4, 5(a) and 5(b) of the Act (15 U.S.C. 80a–2(a), 80a–3(a), 80a–4, 80a–5(a), and 80a–5(b)). Section 2(a) contains the general definitions under the Act. The inclusion of this section is appropriate to enhance compliance with the other sections included in the Rule, wherein defined terms may be used. For example, in Section 17 of the Act, the term "affiliated person" is used extensively. Section 3(a), containing the Act's definition of investment company, is described, in pertinent part, in note 4, supra. Section 4 sets forth the Act's classifications of investment companies, and Sections 5(a) and 5(b) the subclasses.

essential activities,[7] and any such ANCSA Corporation wishing to qualify for the protections afforded by Rule 6c–2 would, therefore, be required to register with the Commission on Form N–8A pursuant to Section 8(a). The wording of the Rule itself has been amended to make this clear.

ANCSA Registrants would be subject under the present proposed version of the Rule to the requirements of Section 10 of the Act, which provides certain requirements as to the composition of boards of directors of registered investment companies for the purpose of establishing some degree of independence of management on such boards. ANCSA Registrants would be primarily affected by paragraphs (a), (b)(1), (b)(3), and (c) of Section 10.[8] Section 10(a) of the Act (15 U.S.C. 80a–10a) provides that no more than 60% of an investment company's board of directors may be "interested persons" of the company. Insofar as relevant to an ANCSA Registrant, the term "interested person" is defined by Section 2(a)(19) of the Act (15 U.S.C. 80a–2(a)(19)) to include all "affiliated persons"[9] of the Registrant and its investment adviser; members of the immediate family of persons affiliated with the investment advisers; and those holdings beneficial or legal interests as fiduciaries in securities issued by the adviser or its controlling persons; any person affiliated with a broker-dealer registered under the Securities Exchange Act of 1934 (48 Stat. 881–905; 15 U.S.C. chapter 2B); legal counsel for the Registrant or its investment adviser (and such legal counsel's partners or employees); and anyone having a "material business or professional relationship" with the Registrant or its investment adviser or with the executive officers or controlling persons thereof.

Section 10(b)(1) of the Act (15 U.S.C. 80a–10(b)(1)) prohibits a registered investment company from employing as regular broker any director, officer, or employee of such registered company, or any person with whom such persons are affiliated, unless a majority of the board of directors of such registered company Section 10(b)(3) of the Act (15 U.S.C. are not such brokers or affiliated persons. 80a–10(b)(3)) prohibits a registered investment company from having an investment banker or an affiliated person thereof as director, officer, or employee unless a majority of its board of directors consists of persons who are not investment bankers or affiliated persons of any investment banker. Section 10(c) of the Act (15 U.S.C. 80a–10(c)), in pertinent part, prohibits a registered investment company from having a majority of its board of directors consisting of the officers, directors, or employees of any one bank.

ANCSA Registrants would also be subject to the provisions of Section 15 of the Act (15 U.S.C. 80a–15), as it pertains to the investment advisory agreements into which such Registrants may enter.[10] However, the provisions of Section 15 dealing with shareholder action with respect to the advisory agreement would not be applicable in the case of ANCSA Registrants. Thus, ANCSA Registrants would be subject to Section 15(a) of the Act (15 U.S.C. 80a–15a), insofar as it requires an advisory contract to be in writing, to describe precisely all compensation to be paid thereunder, to be renewed each year by the board of directors, to be terminable by the board at any time on 60 days' notice, and to be terminable automatically upon assignment. In addition, Section 15(c) of the Act (15 U.S.C. 80a–15c), in pertinent part, would require that the investment advisory agreement initially be approved by and renewed only upon the approval of a majority of the registrant's directors who were not parties to the agreement or interested persons of any such party. Such directors would have to cast their votes on the advisory agreement in person at a meeting called for the purpose of voting on such approval. Additionally, it would be the duty of the directors of the registrant to request and evaluate and the duty of the adviser to furnish such information as may reasonably be necessary to evaluate the terms of the advisory contract.

As originally proposed, the Rule would have required ANCSA Registrants to comply with the provisions of Section 17 of the Act and the rules thereunder as provisions of the Act deemed essential to protect the pools of liquid capital entrusted to the corporations for the benefit of the Alaska Natives. Section 17 and such rules, generally speaking, would protect the shareholders of ANCSA Registrants from self-dealing by management and other affiliates, particularly persons who would be affiliated with the ANCSA Corporations through "insider" relationships, such as investment advisers, officers, and directors, by prohibiting these affiliates from entering into transactions with their ANCSA Corporations without obtaining Commission approval.[11] It would also require the ANCSA Corporations to make certain arrangements for the custody of their securities and similar investments and provide fidelity bonding for certain of their officers and employees.[12]

As a result of comments received on the original proposal to adopt Rule 6c–2, the Commission has revised the Rule to provide substantial blanket exemptions from Sections 17(a) and 17(d) of the Act, and Rule 17d–1(a) thereunder, for affiliated transactions involving ANCSA Registrants, under circumstances and conditions which would make it unlikely that overreaching, unfairness, or disadvantage to an ANCSA Registrant would be involved. However, the Rule would not provide significant blanket relief for transactions involving ANCSA Registrants and their affiliated persons where such affiliated persons were natural persons [13] or non-ANCSA Registrants. Most

[7] Section 7 of the Act (15 U.S.C. 80a–7) in effect prohibits an investment company not registered under Section 8 of the Act from selling or acquiring securities in interstate commerce or controlling any investment company engaged in such activities, and from engaging in any business in interstate commerce or controlling any company engaged in interstate commerce.

[8] Section 10(b)(2) (U.S.C. 80a–10(b)(2)) would likely not apply to ANCSA Registrants because they do not have principal underwriters at present, and in all probability will not be issuing underwritten securities in the foreseeable future. Section 10(d) of the Act (15 U.S.C. 80a–10d) applies only to open-end companies. Section 10(f), prohibiting purchases by a registered investment company during the existence of an underwriting syndicate, could apply to transactions involving ANCSA Registrants (15 U.S.C. 80a–10f). Section 10(g) would apply to any ANCSA Registrant having an advisory board (15 U.S.C. 80a–10g). Section 10(h) (15 U.S.C. 80a–10h), by its terms, would not apply to ANCSA Registrants.

[9] Affiliated persons are defined in Section 2(a)(3) of the Act (15 U.S.C. 80a–2(a)(3)) to include: (A) any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting securities of such other person; (B) any person 5 per centum or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person; (C) any person, directly or indirectly controlling, controlled by, or under common control with, such other person; (D) any officer, director, partner, copartner, or employee of such other person; (E) if such other person is an investment company, any investment adviser thereof or any member of an advisory board thereof; and (F) if such other person is an unincorporated investment company not having a board of directors, the depositor thereof.

[10] The Rule assumes that ANCSA Registants do not and will not have principal underwriting agreements.

[11] Section 17(a) of the Act, as here pertinent, prohibits an affiliated person of a registered investment company, or any affiliated person of such a person, from selling property to, or purchasing, or borrowing property from the registered company, or any company controlled by such registered company, without a prior Commission order pursuant to Section 17(b). An exemptive order may be obtained under Section 17(b) if the Commission finds, upon application, that the evidence establishes that the terms of the proposed transaction, including the consideration to be paid, or received, are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

On the other hand, Section 17(d) and Rule 17d–1 thereunder, as here pertinent, prohibit affiliated persons, and their affiliates, from participating in joint enterprises or arrangements with registered investment companies or their controlled companies without a prior Commission order obtained pursuant to Rule 17d–1(a). Rule 17d–1(b) (17 CFR § 17d–1(b)) provides that the Commission will, in passing upon such applications, consider whether the participation of the registered investment company or its controlled company in the proposed transaction is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

[12] See Sections 17(f) and 17(g) of the Act (15 U.S.C. 80a–17(f) and 80a–17(g)) and Commission rules thereunder.

[13] For an example of this type of transaction, see in the *Matter of Kikiktagruk Inupiat Corporation*, et al. File No. 812–3801, Investment Company Act Rel. No. 8851, July 18, 1975.

transactions of this kind would remain subject to Commission review pursuant to Section 17(b) of the Act or Rules 17d–1(a) and 17d–1(b) thereunder.

As now proposed, the Rule would provide an automatic exemption from Section 17(a) of the Act, and Section 17(d) of the Act and Rule 17d–1 thereunder, for transactions involving ANCSA Registrants under the following conditions:

(1) participation in the transaction by any ANCSA Registrant could not exceed $50,000;

(2) the board of directors of each ANCSA Registrant would be required to make a determination that participation by such ANCSA Registrant in the proposed transaction would be fair and reasonable and would not involve any overreaching of its shareholders;

(3) (a), where all of the directors of an ANCSA Registrant were "disinterested" in the proposed transaction, the participation by the ANCSA Registrant would have to be approved by a majority of such directors or (b), where one or more directors of any such ANCSA Registrant were not disinterested, the proposed transaction could still be consummated without a Commission order provided (i) that the ANCSA Registrant were a Village Corporation, (ii) the proposed transaction received the approval of a majority of the disinterested directors of the ANCSA Registrant and a majority of the disinterested directors of the Regional Corporation for such ANCSA Registrant, and (iii) that such Regional Corporation was not itself a party to the transaction;

(4) the board of directors of each participating ANCSA Registrant would be required to request from each affiliated person of any ANCSA Registrant, or from an affiliated person of such affiliated person, who is a party to the proposed transaction, the information reasonably necessary to make the required determination, and to evaluate such information prior to making the determination; [14]

(5) each such affiliated person would be required to receive a certified copy of the required determination made by each group of directors prior to consummation of the proposed transaction.[15]

The term "disinterested director" in the proposed Rule is defined as a director having no financial interest in the transaction other than his interest as a shareholder of the ANCSA Registrant involved.

The foregoing exemption should provide a reasonable degree of freedom to ANCSA Registrants to enter into transactions between and among themselves where the dollar value of participation by each of them is relatively small. Illustrative of the type of affiliated transaction which would be exempt, and the conditions the Rule would place on the exemption, is the following hypothetical transaction:

Village Corporations V, W, X, Y, and Z, each of which is an ANCSA Registrant located in the "A" Region, enter into a joint venture agreement with the Alaska Lumber Company ("ALC") to develop certain timber lands in their region, each ANCSA Registrant agreeing to commit $40,000 of its funds to the joint venture. The chief executive officer and principal stockholder of ALC is Jones, a member of the board of directors of Y Corporation and President of A Corporation, the Regional Corporation for the district in which V, W, X, Y, and Z are located. Y has five persons on its board, including, in addition to Jones, Smith, a minority stockholder of ALC. The board of directors of each ANCSA Registrant makes the determination, based in part upon information furnished by ALC, that participation by such Registrant in the proposed joint enterprise would be fair and reasonable and would not involve any overreaching of its shareholders. This determination was made, in the case of W, X and Z, by majority vote of the directors; in the case of Y, a favorable determination was made by two of the three disinterested directors, as well as by Jones and Smith, so that the proposal received the requisite approval by Y. In the case of V Corporation, the board of directors of which includes Wilson, whose paving company has contracted with ALC to build access roads through the timber lands, the approval was obtained by a 2 to 1 majority of the three disinterested directors. Because not all of the directors of Y and V are disinterested directors, the proposed joint enterprise would need the approval of the disinterested directors of A, the Regional Corporation, which has five men, including Smith and Wilson on its board, each man representing one of the five villages in the region. This approval is obtained, notwithstanding the fact that one of the three disinterested directors votes against the proposal on the grounds that the joint venture would be undercapitalized unless A committed at least $50,000 of its funds to the enterprise. A, of course, would be precluded from participating in the transaction because Jones, Smith and Wilson each has a financial interest in the proposed transaction.

Thus, in the hypothetical situation described above, the proposed joint enterprise could be undertaken without obtaining a Commission exemptive order pursuant to Section 17(b) (15 U.S.C. 80a–17(b)) or Rule 17d–1. However, if each of the five directors of A had a financial interest in the joint enterprise, the transaction would not be exempt and could not be consummated without a Commission order. The transaction might be exempt under Rule 17a–6 and Rule 17d–1(d)(5), as modified by the Rule and explained hereinafter, provided that A Corporation owned no securities of any of the Village ANCSA Registrants and any director owning any such securities was disqualified from voting on the transaction.

Rule 6c–2 would provide additional freedom to ANCSA Registrants to deal with each other by expanding for transactions involving ANCSA Registrants the automatic exemptions now provided by Rules 17a–6 and 17d–1(d)(5) (17 C.F.R. 270.17a–6 and 270.17d–1(d)(5)). Rule 17a–6 and 17d–1(d)(5) presently provide automatic exemptions for transactions otherwise prohibited, respectively, by Sections 17(a) and 17(d) of the Act and Rule 17d–1 thereunder, where the likelihood of overreaching or disadvantage to the investment company is reduced by the condition that no person in a position to influence the decisions of the registered investment company ("upstream affiliate") is a party to the transaction or has a financial interest in a party to the transaction (other than the registered investment company).[16] Rule 6c–2 would enlarge these exemptions in three ways. First, it would extend to transactions involving ANCSA Registrants the relief which paragraph (a) of Rule 17a–6 provides only for transactions involving licensed Small Business Investment Companies ("SBICs") and venture capital companies. Thus, Rule 6c–2 would eliminate, for purposes of transactions involving ANCSA Registrants, the distinction drawn by paragraph (b) of Rule 17a–6 between public and "non-public" companies,[17] so that if the basic conditions of Rule 17a–6 were met the automatic exemption would be triggered regardless of whether or not public or "non-public" companies were involved in such transactions. Joint transactions under Section 17(d) would, of course, be automatically exempted where the conditions of that rule, as modified by Rule 6c–2, were met, and no modification would be necessary with respect to the non-public company issue since Rule 17d–1(d)(5) makes no such distinction.

Second, Rule 6c–2 would widen the exemptions afforded by both Rule 17a–6 and 17d–1(d)(5) for transactions involving ANCSA Registrants by, in effect, removing from the upstream affiliate group persons directly or indirectly under common control with the ANCSA Registrant.[18] Thus the Rule would provide that, where two or more Village ANCSA Registrants are participating in a transaction and they would be deemed affiliated persons of each other only because they were in the same region, such Registrants would not be deemed affiliated

[14] In this connection, see Section 15(c) of the Act.

[15] The purpose of this requirement would be to assure that the affiliated persons, to whom the prohibitions of Sections 17(a), 17(d), and Rule 17d–1 run, receive notification that the determination required by the Rule had in fact been made prior to consummation of the transaction.

[16] Persons in the upstream affiliate category would include, for ANCSA Registrant purposes, the officers, directors, employees, investment adviser, and controlling persons of the ANCSA Registrant, owners of more than 5% of the outstanding shares of the company, persons under common control with the company, except as explained infra, p. 21, or any affiliated persons of these persons.

[17] Paragraph (b) of Rule 17a–6 provides the same exemption which paragraph (a) provides for transactions involving SBICs and venture capital companies for transactions involving all other types of investment companies except that under paragraph (b) any controlled or affiliated companies involved must be "non-public," i.e., their outstanding securities must be beneficially owned by not more than 100 persons.

[18] The provisions which would in effect be nullified for transactions involving ANCSA Registrants are paragraphs (4) and (D) of Rules 17a–6(a) and 17d–1(d)(5), respectively, which include among the upstream affiliate group persons directly or indirectly controlled by the registered investment company (except persons who, if they were not directly or indirectly controlled by the registered investment company, would not be directly or indirectly under the control of a person who controls the registered investment company).

persons provided that (A) their Regional Corporation did not own any securities issued by either of them, and (B) any director of the Regional Corporation who owned any securities issued by such Village ANCSA Registrants would be disqualified from voting on the proposed transaction. This modification would allow co-operative ventures between and among Village ANCSA Registrants in the region to occur without the necessity of a Section 17 application, notwithstanding an affiliation between the village entities based upon the controlling influence which the Regional Corporations may have over the Village Corporations pursuant to certain provisions of the Settlement Act. The conditions which the Rule would impose upon the availability of this relief are designed to reduce the likelihood of overreaching in such transactions by requiring that the Regional Corporation not own any securities issued by the Village Corporations and by stipulating that, if any director of the Regional Corporation owns any securities issued by the Village Corporations, such director would be ineligible to vote upon the proposed transaction.

Third, Rule 6c–2 would eliminate for ANCSA Registrants the requirement that a registered investment company not commit more than 5 percent of its assets to a proposed joint enterprise exempted from Section 17(d) by Rule 17d–1(d)(5). This modification is deemed appropriate because the possibility that public shareholders of companies controlled by ANCSA Registrants would be disadvantaged in joint transactions would appear to be minimal.

The effect of the foregoing exemption may be illustrated by the following hypothetical transaction:

The X, Y and Z Village Corporations are ANCSA Registrants situated in the A Region, for which the A Corporation, also a registered investment company, is the Regional Corporation. X, Y and Z enter into an agreement with the Alaska Construction Company ("ACC") to build a dam across a certain river within the region, and it is estimated that the project will cost approximately $3 million. X, Y and Z each agree to commit $500,000 to the enterprise, and A agrees to provide the remaining $1.5 million. Wilson, a director of A, is a resident of X and as such is a stockholder of X Corporation; Jones, a director of A, is a resident of Y and as such is a stockholder of Y Corporation; Smith, a director of A, is a resident of Z and as such is a stockholder of Z Corporation. It is clear that this transaction would not qualify for the minimum dollar amount exemption described above. However, it is also apparent that, in the absence of additional circumstances, the transaction would qualify, regardless of whether public or non-public companies are involved, for the expanded relief provided by Rules 17a–6 and 17d–1(d)(5). The participation by X, Y and Z in the enterprise would not destroy the exemption afforded by these rules even though they may be deemed persons under common control by A because Rule 6c–2 eliminates this class of persons from the category of upstream affiliates for purposes of transactions involving ANCSA Registrants. Each of the companies involved can commit more than 5% of its assets to the transaction without destroying the exemption. Wilson, Jones and Smith did not participate in the vote by directors of A on the transaction; the remaining seven directors, each representing a village in the A Region, and none of whom had a financial interest in the enterprise, approved the transaction. Thus, the joint enterprise could be effected without a Commission order pursuant to Section 17(b) or Rule 17d–1. If, however, the circumstances were to change so that a person in the prohibited category became a party to the transaction, or acquired a financial interest in the transaction, or the Regional Corporation owned securities issued by any of the Village Corporations participating in the transaction, the automatic exemption would not be available. For example, assuming the basic set of facts set forth above, suppose that Brown, the treasurer of X, decides three months after the joint enterprise has commenced to buy shares of the common stock of ACC. In so doing, Brown would be acquiring a financial interest in a party to the joint enterprise, and because he is not a non-executive employee the transaction would not qualify for the exemptions afforded by Rules 17a–6 and 17d–1(d)(5) by reason of subparagraphs (c)(1)(iv) and (iii)(d), respectively, of those rules.[19]

The foregoing illustration shows the effect upon ANCSA Registrants of Rules 17a–6 and 17d–1(d)(5) as modified by the proposed Rule. The modifications are designed to give ANCSA Registrants the freedom to deal with each other in the manner contemplated by the Settlement Act under conditions which make it unlikely that overreaching of or disadvantage to the ANCSA Registrant would be involved.

Section 20(a) of the Act (15 U.S.C. 80a-20a) and the rules thereunder are included among the provisions of the act from which ANCSA Registrants of a certain size would not be exempted in order to insure that the larger ANCSA Registrants make full disclosure of relevant facts to their shareholders if and when they solicit proxies in connection with the election of directors and other matters requiring shareholder approval.[20]

The Rule would exempt ANCSA Registrants having fewer than 500 shareholders and less than a million dollars in total assets from these requirements on the grounds that ANCSA Registrants ought not to be subjected to a greater burden of compliance with respect to proxy solicitation than non-investment companies.

Section 21(b) (15 U.S.C. 80a–21b) of the Act prohibits a registered investment company from making loans to persons who control the registered company or who are under common control with such company. The applicability of this section (ANCSA Registrants would be exempted from Section 21(a)) would prohibit, for example, loans between Village ANCSA Registrants in the same region, and loans from a Village ANCSA Registrant to its Regional Corporation. These prohibitions would apply, notwithstanding the relief afforded by the Rule for affiliated transactions under Section 17.

ANCSA Registrants having 500 or more shareholders and more than a million dollars in total assets would be required to file an annual report with the Commission, pursuant to Section 30(a) of the Act (15 U.S.C. 80a–30a) and Rule 30a–1 thereunder (17 CFR 270.30a–1). Smaller ANCSA Registrants would be exempt from these provisions but would instead be required to file copies of the audit reports required by the Settlement Act, as presently provided by Rule 6c–2(T).[21] The basis for applying Section 30(a) to ANCSA Registrants having 500 or more shareholders and more than a million dollars in total assets is again the criteria established by the Exchange Act, which limits its periodic reporting requirements to issuers of this size.[22] Smaller ANCSA Registrants would be exempt from Section 30(a) and Rule 30a–1 thereunder but would instead be required to file with the Commission copies of the Settlement Act reports.[23]

To simplify the annual reporting process for the larger ANCSA Registrants, the Rule would instruct such Registrants to answer the items on Form N–5R, the annual report form used by SBICs registered under the Act rather than Form N–1R, the form generally prescribed for annual reports of registered management companies. Form N–5R would be more suitable for ANCSA Registrants than Form N–1R because virtually all the items on Form N–5R would be applicable to ANCSA Registrants and would call for nearly all the information the Commission would want with respect to them, whereas at least thirty-two[24] of the seventy-one items, nearly half, of Form N–1R would not apply to ANCSA Registrants. The Rule would instruct ANCSA Registrants to disregard the Instructions as to Financial State-

[19] Both of these provisions include within the upstream affiliate category employees of the registered investment company. Subparagraph (c)(1)(iv) of Rule 17a–6 and subpargaraph (iii)(d) of Rule 17d–1(d)(5) both define the term "financial interest," as used in the rules to exclude an interest of a "non-executive" employee. However, the treasurer of a corporation would not be deemed a "non-executive" employee.

[20] Rule 20a–1 under Section 20(a) (17 CFR 270.20a–1) requires that proxy solicitation respecting a security issued by a registered investment company be effected in compliance with Rules 20a–2 and 20a–3 under the Act (17 CFR 270.20a–2 and 270.20a–3), and with all rules and regulations adopted pursuant to Section 14(a) of the Securities Exchange Act (15 U.S.C. Chapter 2B).

Rule 20a–2 requires that the proxy statement contain specified information in addition to that required by the proxy rules under the Exchange Act, if action is to be taken with respect to (1) the selection of directors and the solicitation is by or for management or by or for an investment adviser, or (2) an investment advisory contract. Rule 20a–3 requires disclosure in the proxy statement regarding the material interests of officers, directors, and nominees for election as directors of registered investment companies under certain circumstances enumerated in Item 7 of Schedule 14A under the Exchange Act or if action is to be taken with respect to an investment advisory contract.

[21] See Investment Company Act Release No. 8251, February 26, 1974.

[22] See Sections 12(g) and 13(a) of the Exchange Act.

[23] See Sections 7(O) and 8(c) of the Settlement Act [43 U.S.C. § 1606(O) and § 1607(c) (1970 Ed., Supp. III)].

[24] See items 1.02, 1.03, 1.06, 1.07, 1.11, 1.18, 1.19, 1.29, 1.34–1.39, 2.01, 2.03, 2.04, 2.05, 2.06, 2.13, 2.14, 2.15, 2.16, 2.23–2.29, 2.31, and 2.32 of Form N–1R.

ments provided on Form N–5R and to follow in lieu thereof the instructions the Rule itself provides with respect to financial statements. Those instructions are based on the requirements of Form N–1R and would require an ANCSA Registrant to file as part of its annual report the following financial statements, all in accordance with the requirements of Regulation S–X (17 CFR Part 210): (1) a certified balance sheet as of the close of the fiscal year; (2) certified statements of income and expense, realized and unrealized gain or loss on investments, and changes in net assets, each as required by Rules 6–04, 6–05, 6–06, and 6–08 of Regulation S–X, respectively (17 CFR 210.6–04, 210.6–05, 210.6–06, and 210.6–08); (3) a certified consolidated balance sheet of the ANCSA Registrant and its subsidiaries as of the close of the fiscal year of the registrant, in accordance with Rule 6–02 (17 CFR 210.6–02) of Regulation S–X; (4) certified consolidated statements of income and expense, realized and unrealized gain or loss on investments, and changes in net assets for the ANCSA Registrant and its subsidiaries, consolidated for the fiscal year, each as specified in Rules 6–04, 6–05, 6–06, and 6–08 of Regulation S–X, respectively; and (5) the financial statements for each subsidiary not consolidated which would be required if the subsidiary were itself an ANCSA Registrant.[25]

All ANCSA Registrants regardless of size would be exempt from the requirement of filing quarterly reports with the Commission provided by Section 30(b)(1) of the Act (15 U.S.C. 80a–30(b)(1)). This exemption results from the fact that the express purpose of the quarterly reporting requirement is to keep current the information and documents contained in the registration statement of the registered investment company; since ANCSA Registrants would be exempted under the Rule from the registration statement requirement of Section 8(b) of the Act (15 U.S.C. 80a–8b), they would thereby be exempt from the quarterly reporting requirements of Section 30(b)(1).

The proposed Rule would exempt ANCSA Registrants from the requirements of Section 30(d) of the Act (15 U.S.C. 80a–30(d)), and Rule 30d–1 thereunder (17 CFR 270.30d–1), to the extent that such section, together with such rule, requires reports to be transmitted to shareholders more than once annually. The basis for this exemption is again the principle that ANCSA Registrants should not be burdened with a greater reporting requirement than that which is imposed upon non-investment companies by the Exchange Act. The Exchange Act does not require reports to shareholders more than once annually, in conjunction with the proxy solicitation requirements of Section 14 of the Exchange Act. Annual reports to Alaska Native shareholders should be sufficient to provide them with the information they need to vote intelligently on matters of corporate policy and management.

Rule 30d–1 requires such reports to contain a balance sheet accompanied by a statement of the aggregate value of investments on the date of such balance sheet, a list showing the amounts and values of securities owned on the date of such balance sheet, a statement of income for the period covered by the report, a statement of surplus, a statement of the aggregate remuneration paid by the company during the reporting period to management and a statement of the aggregate dollar amount of purchases and sales of investment securities.

As now proposed, the Rule would subject ANCSA Registrants having more than one million dollars in total assets and 500 or more shareholders to the recordkeeping requirements of Section 31(a) and 31(b) of the Act (15 U.S.C. 80a–31a and 80a–31b). Smaller ANCSA Registrants would be required to maintain and preserve the records underlying the audit reports required by Sections 7(o) and 8(c) of the Settlement Act. The Act's recordkeeping requirements would supplement the Rule's reporting requirements and would provide a more effective means of preventing misuse of the liquid assets held by the larger companies than the recordkeeping provisions of the Settlement Act. The Act's recordkeeping requirements are fairly extensive, but they should serve a useful purpose, not only in assisting the Commission's regulatory function but in educating the managers of ANCSA Registrants in financial recordkeeping practices.

Section 31(a), in pertinent part, requires every registered investment company and its investment adviser to maintain and preserve accounts, books and other documents constituting the financial record of the investment company. Section 31(b) requires that all records maintained pursuant to Section 31(a) be subject to examination by the staff of the Commission. Rule 31a–1 under the Act describes those records which must be maintained by registered investment companies, certain majority-owned subsidiaries thereof, and other persons having transactions with investment companies.

Paragraph (a) under the rule requires that the accounts, books, and other documents relating to the investment company's business, which constitute the record forming the basis for financial statements and auditor certificates required to be filed with the Commission, be maintained and kept current. Paragraph (b) of the rule itemizes the records that must be maintained and specifies the information that they should reflect. Paragraphs (c), (d), (e), and (f) describe the accounts, books, records, and documents that are required to be maintained by certain other related persons.

Rule 31a–2 describes those records which are required to be preserved by registered investment companies, certain majority-owned subsidiaries thereof, and other persons having transactions with registered investment companies. The rule specifies the periods for which various records should be preserved, and the form (i.e., microfilm, etc.) in which they may be stored.

Rule 31a–3 (17 CFR 270.31a–3) states that if records required to be maintained and preserved pursuant to Rules 31a–1 and 31a–2 are maintained or preserved by persons other than the persons required to maintain or preserve such records, a written agreement is necessary. Where a bank or member of a national securities exchange acts as custodian, transfer agent, or dividend disbursing agent, such bank or exchange member must agree in writing to make any records relating to such service available upon request and to preserve records required by Rule 31a–1 so as to conform with Rule 31a–2. Parties other than banks or exchange members performing custodian, transfer agent, or dividend disbursing services must agree in writing that the related records are the property of the person required to maintain and preserve such records and will be surrendered promptly upon request.

Section 32(a)(1) (15 U.S.C. 80a–32(a)(1)) of the Act prohibits a registered investment company from filing with the Commission any certified financial statement without the independent accountant having been selected by majority vote of the company's independent directors. However, the Rule exempts ANCSA Registrants from the further requirements of Section 32(a) that the selection be ratified by the shareholders, that the accountant's tenure be terminable at the will of a majority of the shareholders, and that the accountant's certificate be addressed to both the directors and the security holders. The Commission believes that these additional requirements would not be meaningful in the case of ANCSA Registrants.

Section 33 (15 U.S.C. 80a–33) of the Act requires registered investment companies and affiliated persons who are defendants in civil actions brought by the investment company or by a security holder in a derivative capacity against an officer, director, investment adviser, trustee, or depositor of the company to file wtih the Commission copies of all papers filed in such proceedings. The application of Section 33 of the Act will alert the Commission to the initiation, development and results of litigation involving the ANCSA Registrants and their insiders, which might in turn have implications under the securities laws.

The foregoing paragraphs provide an outline of the major substantive provisions of the Act which would be made applicable to ANCSA Registrants as a result of amendments to the proposed rule. Interested persons are referred to the notice [26] originally proposing Rule 6c–2 for further textual explanation of the purposes of the Rule and of subjecting ANCSA Registrants to Sections 9, 17, 36,

[25] This requirement would be subject to Rules 4–03 and 6–02–3 of Regulation S–X (17 CFR 210.4–03 and 210.6–02–3) regarding group statements of unconsolidated subsidiaries.

[26] Investment Company Act Rel. No. 8251, February 26, 1974.

and 37. Interested persons are reminded of the fact that the present proposed version of the Rule would embrace a number of other sections of the Act, some of which could have a substantive impact upon ANCSA Registrants,[27] but most of which are either enabling sections,[28] empowering the Commission to take certain measures to enforce the Act, or general procedural[29] sections which are appropriate to the overall administration of the Act. The applicability of these sections to ANCSA Registrants and to matters pertaining to ANCSA Registrants should not place additional burdens of a significant nature upon the Alaska Native shareholders or affiliated persons of ANCSA Registrants.

Rule 6c–2 is proposed pursuant to Sections 6(c), 38(a), and 39 of the Act. Section 6(c) of the Act provides that the Commission by rule, regulation, or order may conditionally or unconditionally exempt any person, security, or transaction or any class of persons, securities, or transactions from any provision or provisions of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes intended by the policy and provisions of the Act. Section 38(a) states, in part, that the Commission shall have the authority from time to time to make, issue and amend such rules and regulations as are necessary or appropriate to the exercise of powers conferred upon the Commission elsewhere in the Act. Section 39 states in part that, subject to the Federal Register Act, rules and regulations of the Commission under the Act shall be effective upon publication in the manner prescribed by the Commission.

COMMISSION ACTION

Pursuant to the authority in sections 6(c), 38(a) and 39 of the Investment Company Act of 1940, the Securities and Exchange Commission proposes to amend § 270.6c–2 of Chapter II of Title 17 of the Code of Federal Regulations by changing the present temporary regulation thereunder to read as follows:

§ 270.6c–2 Exemption for corporations organized pursuant to the Alaska Native Claims Settlement Act of 1971.

Any corporation organized pursuant to the Alaska Native Claims Settlement Act of 1971 ("ANCSA Corporation" and "Settlement Act", respectively) shall be exempt from the following provisions of the Act: Sections 8(b), 11, 12, 13, 14, 15(b), 15(d), 16, 18, 19, 20(b), 20(c), 20(d), 21(a), 22, 23, 24, 26, 27, 28, 29, 30(b)(1), 30(c), 30(f), 32(a)(2), 32(a)(3), 32(a)(4), 35(a), 35(b), and 35(c), and any rules adopted by the Commission under such sections. Such exemptive relief shall be available to any ANCSA Corporation which registers with the Commission in the manner prescribed by Section 8(a) ("ANCSA Registrant") and shall take effect as of the date of such registration. In addition to the foregoing, the following special exemptions and instructions shall be applicable to ANCSA Registrants:

(a) ANCSA Registrants shall be exempt from the requirements of Section 15(a) of the Act to the extent that it provides for approval of advisory agreements by majority vote of shareholders.

(b) A transaction shall be exempt from the prohibitions of Sections 17(a) and 17(d), and Rule 17d–1 under Section 17(d), provided that:

(1) The amount of assets to be committed by each ANCSA Registrant which is a party to the transaction is less than $50,000 in value; and

(2) The board of directors of each ANCSA Registrant participating therein has determined that such participation will be fair and reasonable and does not involve any overreaching of its shareholders and such determination meets the following conditions:

(i) Where all members of the board of an ANCSA Registrant are disinterested directors, as defined in paragraph (c)(1) of this section, the determination shall be made by majority vote of such directors;

(ii) Where one or more members of the board of directors of such ANCSA Registrant is not a disinterested director, such determination shall be made by a vote of the majority of the disinterested directors of such ANCSA Registrant and approved by a vote of a majority of the disinterested directors of the regional corporation for such ANCSA Registrant, and such regional corporation shall not be a party to the transaction;

(iii) Where one or more members of a regional corporation is not a disinterested director, such corporation shall not be a party to a transaction exempted by this paragraph (b), notwithstanding the fact that every director of each village corporation participating in the transaction is a disinterested director; and further provided

(iv) (A) The directors of an ANCSA Registrant voting with respect to a proposed transaction pursuant to the terms of this paragraph (b) shall request from each affiliated person of any ANCSA Registrant, or from an affiliated person of such affiliated person, who is a party to such transaction such information as may reasonably be necessary to make the determination by each group of directors required by the terms of this section (b), and to evaluate such information prior to making such determination;

(B) Each such affiliated person, and each such affiliated person of such affiliated person, shall have received a certified copy of the determination made by each group of directors required by this paragraph (b) prior to consummation of the proposed transaction.

(c) For the purpose of determining the availability of the exemption provided by paragraph (b) of this section;

(1) The term "disinterested director" shall mean a director who has no direct or indirect financial interest in the proposed transaction for which the exemption is sought other than by reason of his interest as a shareholder in an ANCSA Registrant.

(2) The terms "village corporation" and "regional corporation" shall be as defined in the Settlement Act.

(d) For purposes of Rules 17a–6 and 17d–1(d)(5) under Section 17 of the Act, the following special provisions shall apply with respect to transactions involving ANCSA Registrants:

(1) The exemption provided by paragraph (a) of Rule 17a–6 shall be available as if the ANCSA Registrant which is a party to such transaction were a company principally engaged in the business of underwriting, furnishing capital to industry, financing promotional enterprises, purchasing securities of issuers for which no ready market is in existence, and reorganizing companies or similar activities;

(2) The exemption provided by Rule 17a–6 and 17d–1(d)(5) shall be available without regard to whether or not an ANCSA Registrant, or a company it controls, commits in excess of 5% of its assets to a proposed joint enterprise within the meaning of such rule;

(3) For purposes of both Rule 17a–6 and Rule 17d–1(d)(5), where two or more ANCSA Registrants which are village corporations are parties to a proposed transaction, and would be deemed affiliated persons of each other only because they are deemed controlled persons of the regional corporation for the region in which they are located, such ANCSA Registrants shall not be deemed affiliated persons of each other provided (i) that such regional corporation does not own any securities issued by such ANCSA Registrants and (ii) that any member of the board of directors of such regional corporation who owns any securities of such ANCSA Registrants is disqualified from voting upon the proposed transaction.

(e) An ANCSA Registrant which does not have total assets exceeding one million dollars and 500 or more shareholders shall be exempt from the requirements of Section 20(a) of the Act.

(f) An ANCSA Registrant which does not have total assets exceeding one million dollars and 500 or more shareholders shall be exempt from the requirements of Section 30(a) of the Act; however, such Registrants shall file with the Commission certified copies of the audit reports required to be filed by Sections 7(o) and 8(c) of the Settlement Act.

(g) An ANCSA Registrant having total assets exceeding one million dollars and 500 or more shareholders shall be subject to Section 30(a) of the Act and Rule 30a–1(a) thereunder; for purposes of complying with these requirements an ANCSA Registrant shall file its annual report with the Commission on Form N–5R, the form prescribed for small business investment companies, *provided, however,* That instructions provided on Form N–5R under the heading "Instructions As To Financial Statements" shall not apply to an ANCSA Registrant, and

[27] See, e.g., Sections 47–49 of the Act (15 U.S.C. 80a–47–80a–49).

[28] See, e.g., Sections 41, 42, 45 and 46 of the Act (15 U.S.C. 80a–41, 80a–42, 80a–45, and 80a–46).

[29] See, e.g., Sections 38–40, 43, 44, 46, and 50–53 of the Act (15 U.S.C. 80a–38–80a–40, 80a–43, 80a–44, 80a–46, and 80a–50–80a–53).

the following instructions shall be applicable in lieu thereof: An ANCSA Registrant subject to Section 30(a) of the Act shall file the following financial statements with its annual report on Form N–5R, all in accordance with the requirements of Regulation S–X: (1) a certified balance sheet or statement of assets and liabilities as of the close of the fiscal year; (2) certified statements of income and expense, realized and unrealized gain or loss on investments, and changes in net assets, each as required by Rules 6–04, 6–05, 6–06, and 6–08 of Regulation S–X, respectively: (3) a certified consolidated balance sheet of the ANCSA Registrant and its subsidiaries as of the close of the fiscal year of the registrant, in accordance with Rule 6–02 of Regulation S–X; (4) certified consolidated statements of income and expense, realized and unrealized gain or loss on investments, and changes in net assets for the registrant and its subsidiaries, consolidated for the fiscal year, each as specified in Rules 6–04, 6–05, 6–06, and 6–08 of Regulation S–X, respectively; and (5) the financial statements for each subsidiary not consolidated which would be required if the subsidiary were itself a registrant.

(h) All ANCSA Registrants shall be exempt from the requirements of Section 30(d) and Rule 30d–1 thereunder to the extent that such section, together with such rule, require reports to be transmitted to shareholders of an ANCSA Registrant more than once annually.

NOTE: Additional relief from the Act covering the period from December 18, 1971 until the adoption of the present rule is available pursuant to temporary Rule 6c–2(T) to any ANCSA Corporation which was registered in the manner prescribed by Section 8(a) and remained so registered during the effectiveness of such temporary rule.

(Sections 6(c), 38(a), 39, 54 Stat. 800, 841, 842, 15 U.S.C. 80a–6(c), 80a–38(a), 80a–39)

All interested persons are invited to submit views and comments with respect to proposed Rule 6c–2, in writing, to George A Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, on or before October 1, 1975. All communications with respect to this matter should refer to File No. S7–514. Such communications will be available for public inspection. Information on the Commission's adoption of temporary Rule 6c–2(T) is found elsewhere in this issue of the FEDERAL REGISTER.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

AUGUST 22, 1975.

[FR Doc.75–23848 Filed 9–8–75;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF DEFENSE

Department of the Army

ARMED FORCES EPIDEMIOLOGICAL BOARD

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following committee meeting:

An ad hoc Study Team operating as a subcommittee of the Armed Forces Epidemiological Board will meet 26 September 1975 in Room 1E235, Forrestal Building, Washington, D.C. from 0900 to 1600 hours. The purpose of the meeting is to review the current US Army Medical Department physical examination policy and to provide advice regarding the scope of periodic physical examinations for active duty Army personnel. The proposed agenda includes a discussion of current policy and procedures, proposed additional screening procedures and the development of improved health maintenance programs.

This meeting is open to the public, but limited by space accommodations.

Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, AFEB in writing, prior to the meeting, at the following address: Executive Secretary, AFEB, Room 1B472 Pentagon, Washington, D.C. 20310.

DUANE G. ERICKSON,
LTC, MSC, USA,
Executive Secretary.

AUGUST 28, 1975.

[FR Doc.75–23851 Filed 9–8–75;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[Dockets Nos. 161, 222, and 224]

YAKIMA TRIBES OF INDIANS OF THE YAKIMA RESERVATION

Notice of Public Hearing Regarding Use or Distribution of Indian Judgment Funds, Claims

SEPTEMBER 4, 1975.

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

Notice is hereby given in accordance with provisions of the Use or Distribution of Indian Judgment Funds Act of October 19, 1973 (Public Law 93–134), that a public hearing will be held beginning at 2 p.m. on September 27, 1975, at the Toppenish Community Center, Toppenish, Washington, on a proposed plan leading to a recommendation to be made to the Congress regarding the use and/or distribution of monies awarded to the Yakima Tribes of Indians of the Yakima Reservation in Dockets 161, 222, and 224.

A copy of the proposed plan for use and/or distribution of these judgment monies will be made available on request by the Area Director, Bureau of Indian Affairs, Portland Area Office, P.O. Box 3785, Portland, Oregon 97208, or the Superintendent, Bureau of Indian Affairs, Yakima Agency, P.O. Box 632, Toppenish, Washington 98948.

Individuals or organizations may express their oral or written views by appearing at this hearing, or they may submit written comments for inclusion in the official record of the hearing to the Area Director at the above address by October 4, 1975.

MORRIS THOMPSON,
Commissioner of Indian Affairs.

[FR Doc.75–23953 Filed 9–8–75;8:45 am]

Bureau of Land Management

ROSEBURG DISTRICT MULTIPLE USE ADVISORY BOARD

Meeting

Notice is hereby given that the Bureau of Land Management, Roseburg District Multiple Use Advisory Board will meet at 9 a.m., on October 2, 1975, at the Roseburg District Office, 777 NW. Garden Valley Boulevard, Roseburg, Oregon.

The agenda will include a review of the Advisory Board Charter, election of officers, status reports of major district programs and review of proposed SBA set-aside timber sale programs.

The meeting will be open to the public insofar as seating is available. Time will be available for brief statements from members of the public, but those wishing to make oral statements must inform the chairman in writing prior to the meeting. Interested persons may file a written statement with the Board for its consideration. They should be sent to Chairman, District Advisory Board, in care of the District Manager, Bureau of Land Management, 777 NW. Garden Valley Boulevard, Roseburg, Oregon 97470.

WILLIAM R. ROUSE,
Acting Roseburg District Manager.

AUGUST 27, 1975.

[FR Doc.75–23852 Filed 9–8–75;8:45 am]

Geological Survey

KNOWN GEOTHERMAL RESOURCES AREA

Vulcan Hot Springs, Idaho

Pursuant to the authority vested in the Secretary of the Interior by Sec. 21 (a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, and Conservation Division Supplement (Geological Survey Manual) 220.2.1 G, the following described lands are hereby defined as the Vulcan Hot Springs Known Geothermal Resources Area, effective February 1, 1974:

(12) IDAHO

VULCAN HOT SPRINGS KNOWN GEOTHERMAL RESOURCES AREA BOISE MERIDIAN, IDAHO

T. 14 N., R. 6 E.,
Sec. 1, SW¼;
Sec. 2, All;
Sec. 3, SE¼;
Sec. 9, All;
Sec. 10, All;
Sec. 11, All;
Sec. 12, W½;
Sec. 13, NW¼;
Sec. 14, N½;
Sec. 15, NE¼.

The area described aggregates 3,836.44 acres, more or less.

Dated: August 1, 1975.

WILLARD C. GERE,
Conservation Manager
Western Region.

[FR Doc.75–23920 Filed 9–8–75;8:45 am]

National Park Service

GATEWAY NATIONAL RECREATION AREA, BROOKLYN, NEW YORK

Notice of Meeting

Notice is hereby given that the process of developing a master plan for Gateway National Recreation Area will continue on Wednesday, October 1st at 7:30 p.m. with a workshop at Floyd Bennett Field. Bldg. 272, Flatbush Avenue, Brooklyn, New York. Additional Workshops will be held:

Saturday, October 4th—1:00 p.m.—Sandy Hook Chapel, Fort Hancock, Sandy Hook, N.J.

Wednesday, October 8th—7:30 p.m.—Staten Island Conf. Room, Great Kills Park, Staten Island, N.Y.

Thursday, October 9th—7:30 p.m.—Howard Johnsons, Route 1 & 9, Haynes Street, Newark, N.J.

Saturday, October 11th—1:00 p.m.—Fort Tilden Chapel Bldg., Breezy Point, N.Y.

Tuesday, October 14th—7:30 p.m.—City Univ. of New York, Graduate School, 33 West 42nd Street, New York City.

The workshops will provide an opportunity for public suggestions, ideas and comments on the management and development of the Recreation Area. The information gained from these workshops will be used by the National Park Service in preparing a draft master plan for Gateway. The public will be given additional opportunities for review as the plan develops.

Copies of basic information relating to Gateway National Recreation Area and a set of management objectives are available upon request from the Public Involvement Office, Gateway National Recreation Area, Floyd Bennett Field 11234. The Superintendent's telephone number is 212–252–8104.

Dated: August 19, 1975.

DENIS P. GALVIN,
Acting Regional Director,
North Atlantic Region.

[FR Doc.75–23928, Filed 9–8–75;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

VOTING RIGHTS ACT AMENDMENT OF 1975

Determinations Under Title III

In accordance with the requirements of Section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973, et seq., as amended by the Voting Rights Act Amendment of 1975, Public Law 94–73) the Bureau of the Census has determined that the political subdivisions in the following table have more than five percent of their citizen population of a specified language minority group and meet the requirement for coverage under Title III of the Act Amendment for that minority. Determinations for additional subdivisions in these and other States will appear in later issues of the FEDERAL REGISTER.

Dated: September 3, 1975.

VINCENT P. BARABBA,
Director,
Bureau of the Census.

STATES OR POLITICAL SUBDIVISIONS COVERED UNDER TITLE III, OF THE VOTING RIGHTS ACT AMENDMENT OF 1975

State or Political Subdivision	*Specified language minority* [1]
Alaska (statewide)	Native Alaskans.
Arizona (statewide)	Spanish.
Apache County	American Indian.
Cochise County	Spanish.
Coconino County	American Indian, Spanish.
Gila County	Do.
Graham County	Spanish.
Greenlee County	Do.
Maricopa County	Do.
Navajo County	American Indian, Spanish.
Pima County	Spanish.
Pinal County	American Indian, Spanish.
Santa Cruz County	Spanish.
Yuma County	Do.
California (Statewide)	Do.
Alameda County	Do.
Colusa County	Do.
Fresno County	Do.
Imperial County	Do.
Inyo County	American Indian.
Kern County	Spanish.
Kings County	Do.
Los Angeles County	Do.
Madera County	Do.
Merced County	Do.
Monterey County	Do.
Orange County	Do.
Riverside County	Do.
Sacramento County	Do.
San Benito County	Do.
San Bernardino County	Do.
San Diego County	Do.
San Francisco County	Spanish, Chinese.
San Joaquin County	Spanish.
San Luis Obispo County.	Do.
San Mateo County	Do.
Santa Barbara County	Do.
Santa Clara County	Do.
Stanislaus County	Do.
Tulare County	Do.
Tuolumne County	Do.
Ventura County	Do.
Yolo County	Do.
Colorado (Statewide)	Do.
Adams County	Do.
Alamosa County	Do.
Archuleta County	Do.
Bent County	Do.
Conejos County	Do.
Costilla County	Do.
Crowley County	Do.
Denver County	Do.
Eagle County	Do.
El Paso County	Do.
Fremont County	Do.
Huerfano County	Do.
Jackson County	Do.
Lake County	Do.
La Plata County	Do.
Las Animas County	Do.
Mesa County	Do.
Montezuma County	Do.
Montrose County	Do.
Morgan County	Do.
Otero County	Do.
Prowers County	Do.
Pueblo County	Do.
Rio Grande County	Do.
Saguache County	Do.
San Juan County	Do.
Weld County	Do.
Connecticut	
Bridgeport town	Spanish
Florida	
Dade County	Spanish
Hardee County	Do.
Hillsborough County	Do.
Monroe County	Do.
Louisiana	
St. Bernard Parish	Spanish
Minnesota	
Beltrami County	American Indian
Cass County	Do.
Mahnomen County	Do.
Mississippi	
Neshoba County	American Indian
New York	
Bronx County	Spanish
Kings County	Do.
New York County	Do.
North Carolina	
Hoke County	American Indian
Jackson County	Do.
Robeson County	Do.
Swain County	Do.
Oregon	
Jefferson County	American Indian
Malheur County	Spanish
Texas (statewide)	
Andrews County	Spanish
Aransas County	Do.
Atascosa County	Do.
Bailey County	Do.
Bastrop County	Spanish.
Bee County	Do.
Bell County	Do.
Bexar County	Do.
Blanco County	Do.
Borden County	Do.
Brazoria County	Do.
Brazos County	Do.
Brewster County	Do.
Briscoe County	Do.
Brooks County	Do.
Burleson County	Do.
Caldwell County	Do.
Calhoun County	Do.
Cameron County	Do.
Castro County	Do.
Cochran County	Do.
Coke County	Do.
Colorado County	Do.
Comal County	Do.
Concho County	Do.
Cottle County	Do.
Crockett County	Do.
Crosby County	Do.
Culberson County	Do.
Dallam County	Do.
Dawson County	Do.
Deaf Smith County	Do.
De Witt County	Do.
Dimmit County	Do.
Duval County	Do.
Ector County	Do.
Edwards County	Do.
Ellis County	Do.
El Paso County	Do.
Falls County	Do.
Fisher County	Do.
Floyd County	Do.
Foard County	Do.
Fort Bend County	Do.
Frio County	Do.
Gaines County	Do.
Galveston County	Do.
Garza County	Do.
Glasscock County	Do.
Goliad County	Do.
Gonzales County	Do.
Grimes County	Do.
Guadalupe County	Do.
Hale County	Do.
Hansford County	Do.
Harris County	Do.
Haskell County	Do.
Hays County	Do.
Hidalgo County	Do.
Hockley County	Do.
Howard County	Do.
Hudspeth County	Do.
Jackson County	Do.
Jeff Davis County	Do.
Jim Hogg County	Do.
Jim Wells County	Do.
Jones County	Do.
Karnes County	Do.
Kendall County	Do.
Kenedy County	Do.
Kerr County	Do.
Kimble County	Do.
Kinney County	Do.
Kleberg County	Do.
Lamb County	Do.
Lampasas County	Do.
La Salle County	Do.
Live Oak County	Do.
Lubbock County	Do.
Lynn County	Do.
McCulloch County	Do.
McMullen County	Do.
Martin County	Do.
Mason County	Do.
Matagorda County	Do.
Maverick County	Do.
Medina County	Do.
Menard County	Do.
Midland County	Do.

See footnote at end of table.

State or Political Subdivision	Specified language minority [1]
Milam County	Spanish
Mitchell County	Do.
Nolan County	Do.
Nueces County	Do.
Parmer County	Do.
Pecos County	Do.
Presidio County	Do.
Real County	Do.
Reeves County	Do.
Refugio County	Do.
Robertson County	Do.
Runnels County	Do.
San Patricio County	Do.
San Saba County	Do.
Schleicher County	Do.
Scurry County	Do.
Sherman County	Do.
Starr County	Do.
Sterling County	Do.
Sutton County	Do.
Swisher County	Do.
Taylor County	Do.
Terrell County	Do.
Terry County	Do.
Tom Green County	Do.
Travis County	Do.
Upton County	Do.
Uvalde County	Do.
Val Verde County	Do.
Victoria County	Do.
Ward County	Do.
Webb County	Do.
Wharton County	Do.
Willacy County	Do.
Williamson County	Do.
Wilson County	Do.
Winkler County	Do.
Yoakum County	Do.
Zapata County	Do.
Zavala County	Do.
Virginia (none)	
Washington	
Adams County	Do.
Columbia County	Do.
Ferry County	American Indian
Grant County	Spanish
Okanogan County	American Indian
Yakima County	Spanish
Wyoming	
Carbon County	Do.
Fremont County	American Indian
Laramie County	Spanish
Sweetwater County	Do.

[1] Generally jurisdictions in which more than 5 percent of the citizen population are members of a language minority and the illiteracy rate is greater than the national rate.

[FR Doc.75-23861 Filed 9-8-75;8:45 am]

Domestic and International Business Administration

IMPORTERS' TEXTILE ADVISORY COMMITTEE

Public Meeting

The Importers' Textile Advisory Committee will meet at 10:30 a.m. on October 16, 1975, in Room 6802, Department of Commerce, 14th & Constitution Avenue, N.W., Washington, D.C. 20230.

The Committee, which is comprised of 20 members, was established by the Secretary of Commerce on August 13, 1963 to advise U.S. Government officials of the effects on import markets of cotton, wool and man-made fiber textile agreements.

The agenda for the meeting is as follows:

1. Review of import trends.
2. Implementation of textile agreements.
3. Report on conditions in the domestic market.
4. Other business.

A limited number of seats will be available to the public. The public will be permitted to file written statements with the Committee before or after the meeting. To the exent time is available at the end of the meeting, the presentation of oral statements will be allowed.

Copies of the minutes of the meeting will be made available on written request addressed to the Office of Textiles, Room 2815, U.S. Department of Commerce, 14th & Constitution Avenue, N.W., Washington, D.C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, Main Commerce Building, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-967-5078.

Dated: August 20, 1975.

ALAN POLANSKY,
Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.75-23903 Filed 9-8-75;8:45 am]

MANAGEMENT-LABOR TEXTILE ADVISORY COMMITTEE

Public Meeting

The Management-Labor Textile Advisory Committee will meet at 2:00 p.m. on October 15, 1975 and November 19, 1975, in Room 6802, Department of Commerce, 14th & Constitution Avenue, N.W., Washington, D.C. 20230.

The Committee, which is comprised of 40 members, was established by the Secretary of Commerce on April 23, 1962 to advise U.S. Government officials on problems and conditions in the textile and apparel industry and furnish information on world trade in textiles and apparel.

The agenda for each meeting will be as follows:

1. Review of import trends.
2. Implementation of textile agreements.
3. Report on conditions in the domestic market.
4. Other business.

A limited number of seats will be available to the public. The public will be permitted to file written statements with the Committee before or after each meeting. To the extent time is available at the end of the meetings, the presentation of oral statements will be allowed.

Copies of the minutes of the meetings will be made available on written request addressed to the Office of Textiles, Room 2815, U.S. Department of Commerce, 14th & Constitution Avenue, N.W., Washington, D.C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, Main Commerce Building, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-967-5078.

Dated: August 20, 1975.

ALAN POLANSKY,
Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.75-23904 Filed 9-8-75;8:45 am]

National Bureau of Standards

FABRICS FOR BOOK COVERS

Voluntary Product Standard; Action on Proposed Withdrawal

In accordance with section 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10, as revised; 35 FR 8349 dated May 28, 1970), notice is hereby given of the withdrawal of Voluntary Product Standard PS 9-68, "Fabrics for Book Covers."

It has been determined that this standard is technically inadequate, no longer used by the industry and that revision would serve no useful purpose. The subject matter of PS 9-68 is adequately covered by Book Manufacturers' Institute BMI-675, "Fabrics for Book Covers." This action is taken in furtherance of the Department's announced intentions as set forth in the public notice appearing in the FEDERAL REGISTER of May 2, 1975 (40 FR 19225) to withdraw this standard.

The effective date for the withdrawal of this standard will be November 10, 1975. This withdrawal action terminates the authority to refer to this standard as a voluntary standard developed under the Department of Commerce procedures.

ERNEST AMBLER,
Acting Director.

SEPTEMBER 3, 1975.

[FR Doc.75-23827 Filed 9-8-75;8:45 am]

INSTANT NONFAT DRY MILK

Intent To Withdraw Voluntary Product Standard

In accordance with section 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10, as revised; 35 FR 8349 dated May 28, 1970), notice is hereby given of the intent to withdraw Voluntary Product Standard PS 37-70, "Package Quantities of Instant Nonfat Dry Milk."

It has been tentatively determined that the standard is no longer generally used by the industry and that revision of this Voluntary Product Standard would serve no useful purpose.

Any comments or objections concerning the intended withdrawal of this standard should be made in writing to the Standards Development Services Section, National Bureau of Standards, Washington, D.C. 20234, on or before October 9, 1975. The effective date of

withdrawal, if appropriate, will be not less than 60 days after the final notice of withdrawal. Withdrawal action terminates the authority to refer to a published standard as a voluntary standard developed under the Department of Commerce procedures from the effective date of withdrawal.

ERNEST AMBLER,
Acting Director.

SEPTEMBER 3, 1975.

[FR Doc.75-23856 Filed 9-8-75;8:45 am]

National Oceanic and Atmospheric Administration

MARINE PETROLEUM AND MINERALS ADVISORY COMMITTEE

Supplemental Notice of Open Meeting

As was previously announced the meeting of the Marine Petroleum and Minerals Advisory Committee (the "Committee"), which was planned for July 22-23, 1975, will be held from 9:00 a.m. until 4:30 p.m. on September 22, 1975 and from 9:00 a.m. until 12 noon on September 23, 1975 in Room 6802 of the Department of Commerce Building, 14th Street between E and Constitution Avenue NW., Washington, D.C.

The meeting will be open for public observation and approximately 35 seats will be available for the public on a first-come, first-served basis. Although advanced notification is not required, because of building security procedures the public is required to notify the Executive Secretary (whose name, address, and telephone number are given below) of their attendance plans by 4:00 p.m. on September 18, 1975 to facilitate access.

The Committee was established to advise the Secretary of Commerce on matters pertinent to the Department of Commerce's responsibilities related to marine petroleum and marine minerals resources, on means to facilitate cooperation between the private sectors and government in these matters, and on related Law of the Sea affairs. The members represent the industrial, labor, academic, legal, environmental and economic sectors concerned with the management, use, conservation and development of marine petroleum and marine minerals resources.

Included in the matters for consideration, and the approximate times for their consideration are as follows:

September 22, 1975

9:00—Welcoming Remarks, Announcements, and Chairman's Report on Actions Taken with Respect to the Committee's March Recommendations.
9:15—Law of the Sea and the Report of the Working Group on International Ocean Investment Conditions (including Discussion and Proposed Committee Actions).
10:00—Coffee Break.
10:15—Continue Consideration of the Topic.
11:30—Recess for Lunch.
1:00—Report of the Working Group on Impacts of Offshore Oil and Gas Development, Discussion, and Proposed Committee Actions.
2:30—Remarks to the Committee by the Secretary of Commerce.[1]
3:30—Resume Consideration of Working Group Report.
4:30—Adjourn for the Day.

SEPTEMBER 23, 1975

9:00—Opening Remarks and Announcements.
9:05—Report on the Deep Ocean Mining Environmental Study (DOMES).
—Introduction.
—DOMES Plans and Accomplishments.
—Discussions.
10:15—Coffee Break.
10:30—NOAA Marine Hard Minerals Initiative.[1]
11:15—Topics Suggested by Members and Plans for Next Committee Meeting.
12:00—Adjourn.

Interested persons may submit written statements relevant to the Committee's areas of interest before or after the meeting or by mailing such statements to the Executive Secretary at the address below.

Inquiries regarding the Committee or the meeting may be directed to the Executive Secretary, Amor L. Lane, National Oceanic and Atmospheric Administration (MR3), 6010 Executive Boulevard, Rockville, Maryland 20852 (Telephone: 301-496-8323).

T. P. GLEITER,
Assistant Administrator for Administration, National Oceanic and Atmospheric Administration.

SEPTEMBER 2, 1975.

[FR Doc.75-23826 Filed 9-8-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse and Mental Health Administration

EMPLOYEES OF THE LABORATORY OF SOCIO-ENVIRONMENTAL STUDIES, NATIONAL INSTITUTE OF MENTAL HEALTH, ET AL.

Research on the Use and Effect of Drugs; Authorization of Confidentiality

Pursuant to the authority vested in the Secretary of Health, Education, and Welfare by section 303(a) of the Public Health Service Act (42 U.S.C. 242a(a)) all persons who—

1. Are employed by the Laboratory of Socio-Environmental Studies, National Institute of Mental Health and the National Opinion Research Center of the University of Chicago, and

2. Have, in the course of such employment, access to information which would identify individuals who are the subjects of the research on the use of drugs conducted pursuant to the Department of Health, Education, and Welfare contracts numbered PHS-43-64-58 and HSM-42-73-202 (IR), pertaining to the study and follow-up study referred to as Social and Psychological Correlates of Occupational Positions or as Occupational Conditions and Psychological Functioning, are hereby authorized to protect the privacy of the individuals who are the subjects of such research by withholding from all persons not connected with the conduct of such research the names or other identifying characteristics of such individuals.

As provided in section 303(a) of the Public Health Service Act (42 U.S.C. 242a(a)):

Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals.

This authorization does not authorize employees of the National Opinion Research Center of the University of Chicago to refuse to reveal the names or other identifying characteristics of individuals who are the subjects of the research conducted pursuant to the Department of Health, Education, and Welfare contracts numbered PHS-43-64-58 and HSM-42-73-202 (IR) to qualified personnel of the Department of Health, Education, and Welfare for the purpose of management or financial audits or program evaluation. Such personnel will hold any identifying information so obtained strictly confidential in accordance with 42 CFR 1.103.

This authorization is applicable to all information obtained pursuant to DHEW contracts numbered PHS-43-64-58 and HSM-42-73-202 (IR) which would identify individuals who are the subjects of the research conducted under such contracts.

Dated: August 18, 1975.

BERTRAM S. BROWN,
Director, National Institute of Mental Health.

Dated: August 22, 1975.

ROBERT L. DUPONT,
Director, National Institute on Drug Abuse.

Dated: August 26, 1975.

ROBERT W. BROWN,
Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.75-23911 Filed 9-8-75;8:45 am]

Food and Drug Administration

PANEL ON REVIEW OF CARDIOVASCULAR DEVICES

Availability of Panel Report

In accordance with the provisions of a notice to manufacturers concerning medical device classification procedures, published in the FEDERAL REGISTER of May 19, 1975 (40 FR 21848), the Food and Drug Administration announces the availability of the Report of the Cardiovascular Panel's Classification Results. This report contains the tentative classification conclusions of the Cardiovascular Panel and includes a list of the products reviewed, the answers to the classification logic scheme questions, and the recommended classification for each product.

[1] Topic in addition to agenda published earlier.

Copies of this report are available upon request from the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852. In addition, this report has been placed on public display at the office of the Hearing Clerk and may be viewed at that office during working hours Monday through Friday.

Dated: September 2, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-23839 Filed 9-8-75;8:45 am]

PANEL ON REVIEW OF SEDATIVE, TRANQUILIZER, AND SLEEP AID DRUGS

Rescheduling

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration announced in a notice published in the FEDERAL REGISTER of August 20, 1975 (40 FR 36403) public advisory committee meetings and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act.

Notice is hereby given that the meeting of the Panel on Review of Sedative, Tranquilizer, and Sleep Aid Drugs scheduled for September 18 and 19, 1975, has been rescheduled for September 29 and 30, 1975, Conference Rm. L, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD, at 9 a.m.

Dated: September 2, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-23841 Filed 9-8-75;8:45 am]

Office of Education

COMMUNITY EDUCATION ADVISORY COUNCIL

Change of Site for Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92–463, the notice published on page 36414 of the FEDERAL REGISTER of August 20, 1975, is amended in the following manner. The public meeting of the Community Education Advisory Council will be held September 14 and 15, 1975, at the U.S. Office of Education, 400 Maryland Avenue SW., Room 4173, Washington, D.C., *except* for the Sunday meeting from 8:00 p.m. to 10:00 p.m., which will be held in the Ohio Room of the Statler Hilton, 16 and K Street NW., Washington, D.C. The remaining times and dates, and the meeting agenda will remain the same. All sessions are open to the public.

Signed at Washington, D.C., on September 3, 1975.

JULIE ENGLUND,
Director, Community Education Program.

[FR Doc.75-23867 Filed 9-8-75;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N–75–422]

AMERICAN CAPITAL LAND CORP.

Notice of Hearing

In the matter of American Capital Land Corporation d/b/a Gulf Park Estates OILSR No. 0–2756–28–49, Doc. No. 75–96–IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) Notice is hereby given that:

1. American Capital Land Corporation d/b/a Gulf Park Estates, D. C. Armbrust, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90–448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing issued July 16, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for American Capital Land Corporation, located in Jackson County, Mississippi, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received August 8, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered* that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on October 1, 1975, at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before September 17, 1975.

6. The Respondent is *hereby notified* that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an *order* Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.75-23912 Filed 9-8-75;8:45 am]

[Docket No. N–75–421]

GROVELAND HIGHLANDS

Notice of Hearing

In the matter of Groveland Highlands, OILSR No. 0–1419–09–402 Doc. No. Y–919–IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) Notice is hereby given that:

1. Groveland Highlands, Oscar Burstein, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90–448) (15 U.S.C. 1701 *et seq.*), was served a Notice of Proceedings and Opportunity for Hearing issued July 22, 1975, which was published in the FEDERAL REGISTER July 29, 1975, pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Groveland Highlands, located in Polk County, Florida, contain untrue statements of material fact or omit to state material facts required to be stated therein as necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received August 8, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered* that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on October 10, 1975, at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before October 3, 1975.

6. The Respondent is *hereby notified* that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an *order* Suspending the Statement of Record, herein identified, shall

be issued pursuant to 24 CFR 1710.45 (b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: September 2, 1975.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.75-23913 Filed 9-8-75;8:45 am]

[Docket No. N-75-424]

HORIZON CITY SUBDIVISION

Notice of Hearing

In the matter of Horizon City Subdivision, OILSR No. 0-0034-49-1, 0-0552-49-17, 0-0734-49-24, 0-0851-49-29, 0-0034-49-1(A-L), Doc. No. 75-104-IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) Notice is hereby given that:

1. Horizon Properties Corporation, Sidney Nelson, President, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701 *et seq.*), received a Notice of Procedings and Opportunity for Hearing issued July 1, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706 (d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Horizon City Subdivision, located in El Paso County, Texas, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed a Motion for More Definite Statement received July 11, 1975, in response to the Notice of Proceedings and Opportunity for Hearing. On July 18, 1975, the undersigned ordered, among other things, that the Secretary furnish the Respondent with a More Definite Statement. Accordingly, on July 29, 1975, a More Definite Statement was issued and duly served on Respondent. The Respondent filed an Answer, received August 11, 1975, in response to the More Definite Statement.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *It is hereby ordered* that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on October 2, 1975, at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before September 18, 1975.

6. The Respondent is *hereby notified* that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an *order* Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 28, 1975.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.75-23914 Filed 9-8-75;8:45 am]

[Docket No. N-75-423]

PADRE ISLAND CORPUS CHRISTI

Notice of Hearing

In the matter of Padre Island Corpus Christi, OILSR No. 0-0043-49-2(B), Docket No. ED-75-12.

Pursuant to 15 U.S.C. 1706(b) and 24 CFR 1720.155(b). Notice is hereby given that:

1. Padre Investment Corporation, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701, *et seq.*), received a Notice of Suspension dated July 18, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(b) and 24 CFR 1710.45(a) informing the developer that its Statement of Record submitted June 20, 1975, for Padre Island Investment Corporation, Padre Island Corpus Christi located in Corpus Christi, Texas, was not effective pursuant to the Act, and the regulations contained in 24 CFR Part 1710.

2. The Respondent filed an Answer dated August 1, 1975, in answer to the allegations of the Notice of Suspension dated July 18, 1975.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Suspension.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(b) and 24 CFR 1720.155(b), *it is hereby ordered* that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Suspension will be held before James W. Mast, Administrative Law Judge, in Room 7146, Department of HUD Building, 451 7th Street, S.W., Washington, D.C., on September 24, 1975, at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before September 19, 1975.

5. The Respondent is *hereby notified* that failure to appear at the above scheduled hearing shall be deemed a default and the suspension of the Statement of Record, herein identified, shall continue until vacated by order of the Secretary, pursuant to 24 CFR 1720.155.

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated: August 28, 1975.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.75-23915 Filed 9-8-75;8:45 am]

[Docket No. N-75-426]

PARADISE ACRES

Notice of Hearing

In the matter of Paradise Acres, OILSR No. 0-2456-09-733 Doc. No. 75-108-IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) Notice is hereby given that:

1. Equitable Development Corporation, Bernard H. Horowitz, President and Director, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing issued July 18, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Paradise Acres, located in Broward County, Florida, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received August 11, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered* that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, SW., Washington, D.C., on October 9, 1975, at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C., 20410 on or before September 25, 1975.

6. The Respondent is *hereby notified* that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an *order* Suspending the Statement of

Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.75-23916 Filed 9-8-75;8:45 am]

[Docket No. N-75-425]

PARADISE LAKES AND HIGHLANDS PARK ESTATES

Notice of Hearing

In the matter of Paradise Lakes and Highlands Park Estates, OILSR No. 0-2563-09-765, 0-3328-09-901, Doc. No. 75-107-IS.

Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1720.160(d) Notice is hereby given that:

1. Equitable Development Corporation, Bernard H. Horowitz, President and Director, its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing issued July 18, 1975, which was sent to the developer pursuant to 15 U.S.C. 1706(d), 24 CFR 1710.45(b)(1) and 1720.125 informing the developer of information obtained by the Office of Interstate Land Sales Registration alleging that the Statement of Record and Property Report for Paradise Lakes and Highlands Park Estates, located in Broward County, Florida, contain untrue statements of material fact or omit to state material facts required to be stated therein or necessary to make the statements therein not misleading.

2. The Respondent filed an Answer received August 11, 1975, in response to the Notice of Proceedings and Opportunity for Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(d), *it is hereby ordered* that a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Judge James W. Mast, in Room 7146, Department of HUD, 451 7th Street, S.W., Washington, D.C., on October 9, 1975, at 10:00 a.m.

The following time and procedure is applicable to such hearing: All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410 on or before September 25, 1975.

6. The Respondent is *hereby notified* that failure to appear at the above scheduled hearing shall be deemed a default and the proceedings shall be determined against Respondent, the allegations of which shall be deemed to be true, and an *order* Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

By the Secretary.

JAMES W. MAST,
Administrative Law Judge.

[FR Doc.75-23917 Filed 9-8-75;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 27738]

AVIACION Y COMERCIO, S.A. FOREIGN CHARTER PERMIT RENEWAL (SPAIN-U.S.)

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on October 22, 1975 (40 F.R. 29562, July 14, 1975) at 10:00 a.m. (local time) in Room 503, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., before the undersigned Administrative Law Judge.

For information with respect to the issues and other pertinent information, interested persons are referred to the prehearing conference report served on July 25, 1975, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., September 3, 1975.

[SEAL] RICHARD M. HARTSOCK,
Administrative Law Judge.

[FR Doc.75-23899 Filed 9-8-75;8:45 am]

[Docket No. 28196]

CALIFORNIA-ALBERTA ROUTE PROCEEDING

Notice of Change in Prehearing Conference Date

Notice is hereby given that the date of the prehearing conference herein, heretofore scheduled for October 28, 1975, at 10:00 a.m. (local time), in Room 1031, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C. (40 F.R. 39922, August 29, 1975), is hereby changed to October 29, 1975.

Dated at Washington, D.C., September 3, 1975.

[SEAL] HENRY WHITEHOUSE,
Administrative Law Judge.

[FR Doc.75-23900 Filed 9-8-75;8:45 am]

[Docket No. 27432]

SPANTAX, S.A. FOREIGN CHARTER PERMIT AMENDMENT AND RENEWAL (SPAIN-U.S.)

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on October 20, 1975 (40 F.R. 29562, July 14, 1975) at 10:00 a.m. (local time) in Room 503, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., before the undersigned Administrative Law Judge.

For information with respect to the issues and other pertinent information, interested persons are referred to the prehearing conference report served on August 7, 1975, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., September 3, 1975.

[SEAL] RICHARD M. HARTSOCK,
Administrative Law Judge.

[FR Doc.75-23901 Filed 9-8-75;8:45 am]

[Dockets Nos. 26494, 27573; Order 75-9-9]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to Currency Matters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 3rd day of September 1975.

Docket 26494, Agreement C.A.B. 25352, R-1 through R-5.

Docket 27573, Agreement C.A.B. 25338, R-1 through R-4.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreements, adopted by mail vote, have been assigned the above C.A.B. agreement numbers.

The agreements propose currency-related discounts for passenger and cargo air transportation originating in Lebanon. Insofar as they directly affect air transportation as defined by the Act, the agreements would apply a discount of 15 percent on North and Mid-Atlantic normal fares, as well as on cargo rates. Fares and rates from Lebanon are presently established by conversion from specified U.S. dollar fares/rates at the IATA exchange rate of 3.10 Lebanese pounds=$1.00, whereas the current market rate is about 2.29 Lebanese pounds=$1.00. The subject agreement would bring cargo rates from Lebanon into much closer alignment with current exchange rates, and will be approved consistent with our action approving similar discounts from strong-currency European countries.

Pursuant to the Federal Aviation Act of 1958 and particularly sections 102, 204(a) and 412 thereof, the Board does not find that the following resolutions, incorporated in the agreements indicated, are adverse to the public interest or in violation of the Act:

Agreement CAB	IATA Resolution
25338:	
R–1	JT12 (Mail 870) 022ii.
R–2	JT12 (Mail 871) 022jj'
R–3	200 (Mail 258) 022kk.
R–4	JT23 (Mail 361) 022mm, JT123 (Mail 756) 022mm.

Agreement CAB	IATA Resolution
25352:	
R–1	200 (Mail 255) 022dd.
R–2	JT23 (Mail 359) 022v, JT 123 (Mail 754) 022v.
R–3	JT12 (Mail 868) 022w.
R–4	JT12 (Mail 868) 022y.
R–5	JT12 (Mail 868) 022z.

Accordingly, it is ordered, That:

Agreements C.A.B. 25338, R–1 through R–4, and C.A.B. 25352, R–1 through R–5, be and hereby are approved.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75–23902 Filed 9–8–75;8:45 am]

COMMISSION ON CIVIL RIGHTS

MARYLAND STATE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission Civil Rights, that a factfinding meeting of the Maryland State Advisory Committee (SAC) to this Commission will convene at 10:00 a.m. and end at 6:00 p.m. on October 1, 1975 and convene again on October 2, 1975 at 10 a.m. and end at 6:00 p.m., at G. H. Fallon, Federal Building, Room 1208, Baltimore, Maryland.

Persons wishing to attend this meeting should contact the Commission Chairperson, or the Mid-Atlantic Regional Office of the Commission, Room 510, 2120 L Street, N.W., Washington, D.C. 20037.

The purpose of this factfinding meeting is to discuss an Urban Disinvestment Hearing.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 4, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75–23932 Filed 9–8–75;8:45 am]

OHIO STATE ADVISORY COMMITTEE

Cancellation of Meeting

Notice is hereby given, pursuant to the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Ohio State Advisory Committee (SAC) to this Commission originally scheduled for September 27, 1975 has been cancelled.

Dated at Washington, D.C., September 4, 1975.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.75–23933 Filed 9–8–75;8:45 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Legislation (Education), Office of the Secretary.

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

[FR Doc.75–23834 Filed 9–8–75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Commissioner, Assistance Payments Administration, Social and Rehabilitation Service.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commisioners.

[FR Doc.75–23835 Filed 9–8–75;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 428–1, PP4G1470/T8]

CHEVRON CHEMICAL CO.

Renewal of Temporary Tolerance; Diquat (6,7-dihydrodipyrido (1,2-a:2',1'-c)pyrazidiinium)

On August 6, 1974, the Environmental Protection Agency (EPA) gave notice (39 FR 28316) that Chervon Chemical Co., 940 Hensley St., Richmond CA 94804, had been granted a temporary tolerance for residues of the herbicide and plant regulator diquat (6,7-dihydrodipyrido (1,2-a: 2',1'-c) -pyrazidiinium) derived from application of the dibromide salt and calculated as the cation in or on potatoes at 0.2 part per million. This tolerance expired July 31, 1975.

The petitioner has requested a 1-year renewal of the temporary tolerance to permit continued testing to obtain additional data and to permit the marketing of potatoes treated in accordance with an experimental use permit that is being issued concurrently to Chevron Chemical Co. under the Federal Insecticide, Fungicide, and Rodenticide Act.

Based on data submitted in the petition and other relevant material, it is concluded that the renewal of the temporary tolerance will protect the public health. The temporary tolerance, therefore, is being renewed for diquat for distribution under the Chevron Chemical Co. name and on condition that the pesticide be used in accordance with the experimental use permit with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Chevron Chemical Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires September 2, 1976. Residues not in excess of this temporary tolerance remaining in or on the above raw agricultural commodity after the expiration of this tolerance will not be considered actionable if the pesticide is legally applied during the term and in accordance with the provisions of the experimental use permit and temporary tolerance.

(Section 408(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(j)])

Dated: September 2, 1975.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.75–23821 Filed 9–8–75;8:45 am]

[FRL 421–3]

MINNESOTA

Marine Sanitation Device Standard

On April 7, 1975, notice was published that the State of Minnesota had petitioned the Administrator, Environmental Protection Agency, by regulation, to completely prohibit the discharge from a vessel of any sewage (whether treated or not) into the waters of the Great Lakes within Minnesota pursuant to section 312(f)(4) of Pub. L. 92–500 (40 FR 15439, April 7, 1975).

Comments in opposition to the petition were received from the U.S. Coast Guard, the Maritime Administrator of the U.S. Department of Commerce, Lauderdale Marina, Inc., of Fort Lauderdale, Florida, Boat Owners Association of the United States, Great Lakes Cruising Club, Lake Carriers' Association, the Co-Chairman of the Boating Pollution Control Committee, National Boating Federation, Hyde Products, Inc., of Westlake, Ohio and Hubbard Broadcasting, Inc., of St. Paul, Minnesota.

The petition from the State of Minnesota and all comments received have been carefully considered by the Environmental Protection Agency. The petition is denied on the ground that no substantiating information has been submitted showing that the designated waters require water quality protection greater than that afforded by the Federal standard.

The Environmental Protection Agency supports fully the complete prohibition

of the discharge from all vessels of any sewage, whether treated or not, into waters where it can be determined that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available, or into specified waters where the protection and enhancement of water quality are shown to require such action.

Should the State of Minnesota resubmit a petition under section 312(f)(3) of Pub. L. 92–500, or for specified waters under section 312(f)(4), the information and comments filed pursuant to the April 7 notice will be incorporated by reference into any such petition.

Dated: September 2, 1975.

RUSSELL E. TRAIN,
Administrator.

[FR Doc.75-23813 Filed 9-8-75;8:45 am]

[FRL 427-7; PP 5G1617/T7]

MOBAY CHEMICAL CORP.

Establishment of a Temporary Tolerance; O-Ethyl S,S-Diphenyl Phosphorodithioate

Chemargo Agricultural Div., Mobay Chemical Corp., PO Box 4913, Kansas City MO 64120, submitted a pesticide petition (PP 5G1617) to the Environmental Protection Agency (EPA). This petition requested that a temporary tolerance be established for residues of the fungicide *O*-ethyl *S,S*-diphenyl phosphorodithioate in or on rice grain at 0.1 part per million.

This temporary tolerance would permit the marketing of the rice grain when treated in accordance with an experimental use permit which is being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act. (A related document concerning establishment of a feed additive tolerance also appears in today's FEDERAL REGISTER.)

The data submitted in the petition and other relevant material have been evaluated, and it has been determined that the tolerance is adequate to cover residues resulting from proposed experimental use and that such tolerance will protect the public health. Therefore, the temporary tolerance is established as requested for the fungicide for distribution under the Mobay Chemical Corp. name with the following provisions:

1. The total amount of the active fungicide to be used must not exceed the quantity authorized by the experimental use permit.

2. Mobay Chemical Corp. must notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or Food and Drug Administration.

3. Rice straw treated under this experimental use permit must not be used for feed purposes. The rice straw must remain in the field and be plowed under.

The temporary tolerance expires on July 24, 1976. Residues not in excess of this temporary tolerance remaining in or on the above raw agricultural commodity after expiration of the tolerance will not be considered actionable if the pesticide is legally applied during the term and in accordance with the provisions of the experimental use permit and temporary tolerance. The temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

Section 408(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(j)].

Dated: September 2, 1975.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.75-23819 Filed 9-8-75;8:45 am]

[FRL 424-3]

NEW STATIONARY SOURCES OF AIR POLLUTION

Standards of Performance; Opacity Provisions: Response to Public Comments

On April 22, 1975 (40 FR 17778), the Environmental Protection Agency (EPA) published a notice inviting comments from all interested persons on amendments to 40 CFR 60.11 and Reference Method 9 of Appendix A to Part 60 which were published on November 12, 1974 (39 FR 39872). Comments were requested also on the report entitled "Reevaluation of Opacity Standard of Performance for Asphalt Concrete Plants." A total of 75 comment letters was received, 30 of which came from the asphalt concrete industry, 13 from State and local air pollution control agencies, 4 from Federal agencies, and the remainder from miscellaneous industries and interested individuals.

All comments have been carefully considered, and EPA has determined that no revisions should be made to the provisions of § 60.11, Reference Method 9, or to the opacity standard of performance for asphalt concrete plants. The Freedom of Information Center, Room 202 West Tower, 401 M Street, S.W., Washington, D.C., has copies of the comment letters received and a summary of the issues and Agency responses available for public inspection. In addition, copies of the issue summary may be obtained upon written request from the EPA Public Information Center (PM-215), 401 M Street, S.W., Washington, D.C. 20460 (specify—Public Comment Summary: Opacity Provisions Under Standards of Performance for New Stationary Sources of Air Pollution).

The most significant comments are summarized and discussed below.

ASPHALT OPACITY STANDARD

On March 8, 1974 (39 FR 9308), EPA promulgated standards of performance with respect to particulate matter emissions of new asphalt concrete plants. These standards limited emissions to less than 90 mg/dscm (milligrams per dry standard cubic meter) and to less than 20 percent opacity. Petitions for review were brought by two parties in the U.S. Court of Appeals for the District of Columbia Circuit, challenging, among other things, the opacity standard, *National Asphalt Pavement Association et al.* v. *Train*, Nos. 74–1332, 74–1388. At the same time there was pending before that Court an action in which the opacity requirement of an earlier standard of performance had been challenged on many of the same grounds, *Portland Cement Association* v. *Ruckelshaus*, No. 72–1073. On June 29, 1973, the Court had remanded to EPA for further consideration several issues, including the issue of whether opacity observations could be made with reasonable accuracy, *Portland Cement Association* v. *Ruckelshaus*, 486 F.2d 375, 401. EPA's response to that remand, filed with the Court on November 5, 1974 and published on November 12, 1974 (39 FR 39872), stated EPA's findings on the matters remanded for consideration. In light of the importance of those findings to the asphalt concrete plant opacity standard, EPA undertook a reappraisal of the opacity standard. These findings were reported in "Reevaluation of Opacity Standard of Performance for Asphalt Concrete Plants," November 1974, which was made available for public reading on January 3, 1975 (40 FR 831).

In response to the April 22, 1975, notice inviting public comment, EPA received comments to the effect that: 1) opacity observations are too inaccurate to be used in enforcement of standards, 2) the level of 20 percent is not appropriate, and 3) the opacity standard has not previously been applied to fugitive emissions.

1. *Inaccuracy of opacity observations.* EPA's response to the remand in the Portland cement case discusses in great detail the various arguments that have been advanced to support this position, as well as recent EPA data showing that out of 769 opacity observations, 763 (99.3 percent) were performed with an error not exceeding +7.5 percent based on single sets of the average of 24 readings. No new evidence was presented by these comments. The U.S. Court of Appeals for the D.C. circuit on May 22, 1975, upheld EPA's position that opacity observations can be made within reasonable accuracy, *Portland Cement Association* v. *Ruckelshaus*, 513 F. 2d 506, 508. EPA believes that opacity observations taken in accordance with Reference Method 9 are sufficiently accurate to be used as a valid means of enforcing opacity standards.

2. *Level of the opacity standard.* One local air pollution control agency stated that the level of the standard is too high because asphalt concrete plants can achieve no visible emissions (zero percent opacity). Commentators from the asphalt concrete industry argued that 20 percent opacity cannot be achieved by asphalt concrete plants using best adequately demonstrated control technology. These comments challenged the validity of EPA's analysis which indicated that the opacity standard was established at a level which required proper operation and maintenance of best demonstrated control technology. None of the commentators provided any data

which showed EPA's analysis to be in error. EPA believes that the opacity standard should not be increased since the data support the conclusion that asphalt concrete plants which achieve the concentration standard will also achieve the 20 percent opacity standard. Further, because of opacity levels which may be encountered at plants with large diameter stacks or with atypically small diameter particulate matter, the level of the opacity standard should not be decreased as suggested by the local air pollution control agency. The tests and studies EPA has conducted support this analysis and the opacity standard will not be revised.

3. *Fugitive emissions.* Three commentators believed that the reevaluation report was the first time EPA had indicated that the opacity standard is applicable to fugitive emission sources. Both as proposed and promulgated, the regulation prohibits the discharge from any affected facility any gases which exhibit 20 percent opacity or greater. The regulation defines "affected facility" as any combination of the following: dryers; systems for screening, handling, storing, and weighing hot aggregate; systems for mixing asphalt concrete; and the loading, transfer, and storage systems, associated with emission control systems. (The proposed regulation was applicable to the same systems in an asphalt concrete plant, but the systems were specified in a slightly different manner.) The purpose of applying the opacity standard to all of these components in an asphalt concrete plant is to require proper ducting and control of all emissions whether from the control device or any other part of the plant. A standard of performance for asphalt concrete plants applicable to a control device would be meaningless if significant quantities of emissions were allowed to by-pass the air pollution control device. EPA has clearly evidenced its intent to regulate fugitive emissions and shall continue to apply the opacity standard to fugitive emissions.

Reference Method 9

The revisions to Reference Method 9 that were the subject of this comment period were promulgated on November 12, 1974 (39 FR 39872), having been proposed on September 11, 1974 (39 FR 35852). Several comments were received after completion of the November 12, 1974 (39 FR 39872), changes to Reference Method 9 and 40 CFR 60.11. These late comments were considered with the comments received in response to the April 22, 1975 (40 CFR 17778), notice. Most commentators on Method 9 took the opportunity to challenge not only the revisions but the previously promulgated provisions of Method 9, and such general comments were also considered by EPA.

Comments on Reference Method 9 were generally of the following nature: 1) concern over the possibility that observations made under non-ideal conditions could result in an apparent violation of the opacity standard, and 2) concern over the possibility of applying the method in such a way as to deny due process of law.

1. *Non-ideal viewing conditions.* Several commentators suggested that Reference Method 9 should be amended further to expressly prohibit taking opacity observations under certain extreme conditions. As with all reference methods of Appendix A to Part 60, the requirements of Reference Method 9 were established to ensure obtaining data with minimum error. Consequently, the reference methods do not discuss procedures that deviate from the requirements for obtaining data with an acceptable error tolerance. As pointed out by the commentators, observations made under certain extreme and unusual conditions might incorrectly indicate a violation of the applicable opacity standard. However, Reference Method 9 requires sufficient documentation of conditions that, should an observation be made under such conditions, and should an enforcement action be brought, the court hearing the case could make an independent assessment as to the validity of the observation. EPA has determined that Reference Method 9 is sufficiently valid and reliable for determining compliance with opacity standards.

2. *Due process of law.* Several commentators argued that the opacity observations could be performed in such a way as to deny due process of law. Some commentators argued specifically that they should be notified before observations are made. EPA does not agree with the commenators that due process requires that notice be given before tests are made. It is essential as a matter of law that a party against whom a violation is alleged have an opportunity to review the evidence against him. Meaningful review means that the party must be able to assess the evidence and present his own evidence as to the validity of the opacity observation. As written, the method does not deny him that opportunity.

It is EPA's practice to notify plant operators in advance of an opacity observation unless there is reason to believe that such notification may result in modification of emissions. The normal procedure followed in an opacity observation is to request entry to the facility in order to conduct a complete inspection. If the operations of the source are such that emissions cannot be modified to be nonrepresentative of actual emissions or if the layout of the facility requires inspection from within the facility, then the owner or operator is notified prior to observation. If there is reason to believe that prior notification could result in nonrepresentative emissions, notification is provided by the inspector immediately following completion of the observation. EPA believes this procedure will provide for effective enforcement and will not deny any party the right of due process of law. In any individual case the judgment as to whether the party had adequate opportunity to rebut the evidence would be made on the record by a court.

40 CFR 60.11

EPA amended 40 CFR 60.11 on November 12, 1974 (39 FR 39872), to account for two points which arose during the *Portland* remand considerations. Recognizing that anomalous situations may present a possibility of a plant complying with a mass or concentration emission standard while violating the opacity standard, EPA amended § 60.11 (e) to allow an owner or operator of any such facility to apply to the Administrator for establishment of a special ocapity standard. Section 60.11(b) was amended to allow results of continuous monitoring by transmissometers to be used as probative but not conclusive evidence of the actual opacity of an emission.

Most comments on § 60.11(e) centered around the propriety or impropriety of allowing some sources to meet different standards than others and the administrative problems of implementing this procedure. EPA's extended study on opacity has indicated that no plant operating within the known range of applicable variables will need to request a special opacity standard. However, it is desirable to allow flexibility to deal with an anomalous case, such as a plant with a significantly larger than expected stack diameter. Regardless of establishment of any special opacity standard, the emissions from the source must be reduced to the level of the applicable concentration or mass standard. Thus, the special opacity standard will not be a waiver or a license to pollute. Nor will there be enough of these petitions to make special opacity standards a burden to administer.

Comments on § 60.11(b) dealt with the question of whether visual or instrumental opacity observations should be given precedence. EPA believes that the accuracy of Reference Method 9 has been sufficiently demonstrated that it should remain the primary and accepted means for determining compliance with opacity standards. However, it is reasonable to allow a source to present transmissiometer data as evidence of opacity in cases where visual observations indicate a violation. Consequently, EPA will not revise § 60.11(b) at this time.

Dated: September 2, 1975.

Russell E. Train,
Administrator.

[FR Doc.75-23825 Filed 9-8-75;8:45 am]

[FRL 427-8; PP3G1381/T9]

ROHM AND HAAS CO.

Renewal of Temporary Tolerance; 2,4-Dichlorophenyl P-Nitrophenyl Ether

On October 11, 1974, the Environmental Protection Agency (EPA) gave notice (39 FR 36638) that Rohm and Haas Co., Independence Mall West, Philadelphia PA 19105, had been granted a temporary tolerance for combined negligible residues of the herbicide 2,4-dichlorophenyl p-nitrophenyl ether and its metabolites containing the diphenyl ether linkage in or on wheat grain and

straw at 0.1 part per million. This tolerance will expire October 4, 1975.

The petitioner has requested a 1-year renewal of the temporary tolerance to permit continued testing to obtain additional data and to permit the marketing of wheat grain and straw treated in accordance with an experimental use permit that is being issued concurrently to Rohm and Haas Co. under the Federal Insecticide, Fungicide, and Rodenticide Act.

Based on data submitted in the petition and other relevant material, it is concluded that the renewal of the temporary tolerance will protect the public health. The temporary tolerance, therefore, is being renewed for 2,4-dichlorophenyl *p*-nitrophenyl ether and its metabolites containing the diphenyl ether linkage for distribution under the Rohm and Haas Co. name and on condition that the pesticide be used in accordance with the experimental use permit with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Rohm and Haas Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or Food and Drug Administration.

This temporary tolerance expires October 4, 1976. Residues not in excess of this temporary tolerance remaining in or on the above raw agricultural commodities after expiration of this tolerance will not be considered actionable if the pesticide is legally applied during the term and in accordance with the provisions of the experimental use permit and temporary tolerance.

(Section 408(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(j)].)

Dated: September 2, 1975.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.75-23820 Filed 9-8-75;8:45 am]

[FRL 427-4; PP5G1623/T10]

UPJOHN CO.

Establishment of a Temporary Tolerance; N'-(2,4-dimethylphenyl) - N - [[(2,4 - dimethylphenyl)imino]methyl] - N-methylmethanimidamide

The Upjohn Co., Agricultural Div., Kalamazoo MI 49001, submitted a pesticide petition (PP 5G1623) to the Environmental Protection Agency (EPA). This petition requested that a temporary tolerance be established for residues of the insecticide N'-(2,4-dimethylphenyl) - N - [[(2,4 - dimethylphenyl) imino] - methyl]-N-methylmethanimidamide and its metabolites N'-(2,4-dimethylphenyl) - N-methylmethanimidamide and N-(2,4-dimethylphenyl) formamide in or on the following raw agricultural commodities: grapefruits, lemons, oranges, and tangerines at 1 part per million (ppm); in meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.05 ppm; and in milk at 0.01 ppm.

The original petition included the citrus fruit tangelos, but in accordance with 40 CFR 180.1(h), this commodity is included under the general raw agricultural commodity category tangerines.

This temporary tolerance will permit the marketing of the above raw agricultural commodities when treated in accordance with an experimental use permit which is being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act. (A related document concerning establishment of a feed additive tolerance also appears in today's FEDERAL REGISTER.)

The data submitted in the petition and other relevant material have been evaluated, and it has been determined that the tolerances are adequate to cover residues resulting from the proposed experimental use, and that such tolerances will protect the public health. The temporary tolerances are, therefore, established for the insecticide for distribution under the Upjohn Co. name with the following provisions:

1. The total amount of the active insecticide to be used must not exceed the quantity authorized by the experimental use permit.

2. The Upjohn Co. must notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire September 2, 1976. Residues not in excess of this temporary tolerance remaining in or on the above raw agricultural commodities after expiration of these tolerances will not be considered actionable if the pesticide is legally applied during the term and in accordance with the provisions of the experimental use permit and temporary tolerances. The temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health.

(Section 408(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(j)])

Dated: September 2, 1975.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.75-23816 Filed 9-8-75;8:45 am]

[FRL 427-5; OPP-33000/313]

NOTICE OF RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by each applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East Tower, 401 M Street, SW, Washington DC 20460.

On or before November 10, 1975, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street, SW, Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after November 10, 1975.

Dated: September 2, 1975.

JOHN B. RITCH, Jr.,
Director, Registration Division.

APPLICATIONS RECEIVED

EPA File Symbol 37177-R. AFC Co., PO Box 207, Edison CA 93220. A F C COMPANY TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 8773-RT. American Fertilizer & Chemical Co., PO Box 98, Henderson CO 80640. AMERICAN TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA Reg. No. 4-131. Bonide Chem. Co., Inc., 2 Wurz Ave., Yorkville NY 13495. CAPTAN-50% WP A FUNGICIDE FOR PLANT DISEASE CONTROL. Active Ingredients: Captan N-(trichloromethylthio)-4-cyclohexene-1,2-dicarboximide 50%. Method of Support: Application proceeds under 2(c)

of interim policy. Republished Added uses. PM21

EPA File Symbol 11373–R. Brown & Bryant, Inc., PO Bin T, Shafter CA 93263. BROWN & BRYANT, INC. TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 912–TO. Cenex Farmers Union Central Exchange, Inc., Box "G", Saint Paul MN 55165. CENEX TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 1526–LNG. Chemical Distributors d.b.a. Arizona Agrochemicals Co., PO Box 21537, Phoenix AZ 85036. ARIZONA AGROCHEMICAL COMPANY TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA Reg. No. 239–1869. Chevron Chemical Co., Ortho Div., 940 Hensley St., Richmond CA 94804. TRIOX LIQUID VEGETATION KILLER. Active Ingredients: Prometone 1.86%; pentachlorophenol 0.68%; other chlorinated phenols 0.08%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Formulation change; updating precautionary labeling. PM25

EPA File Symbol 8469–RG. Coastal Ag-Chem., PO Box 1307, Oxnard CA 93032. COASTOX TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 1990–GTI. Farmland Industries, Inc., PO Box 7305, Kansas City MO 64116. CO-OP TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 10914–U. Feed Service, PO Box 482, Caldwell ID 83605. FEED SERVICE TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 11261–A. Gasser & Dunham, Inc., PO Box 527, Merrill OR 97601. GASSER & DUNHAM, INC. TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 8399–A. The Great Western Sugar Co., PO Box 5308 T.A., Denver CO 80217. GW TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 11684–G. Jirdon Agri. Chemicals, Inc., PO Box 516, Morrill NB 69358. JIRDON AGRI CHEMICALS, INC., TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 35552–R. Nexus Ag. Chemicals, Inc., Box 67, Quincy WA 98848. NEXUS AG CHEMICALS, INC. TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 11116–R. Orchard Supply Co. of Sacramento, PO Box 956, Sacramento CA 95804. ORCHARD SUPPLY COMPANY OF SACRAMENTO TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 483–RAL. Pacific Supply Cooperative, PO Box 3588, Portland OR 97208. PACIFIC TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 5131–T. Parkhurst Farm & Garden Supply, 301 N. White Horse Pike, Hammonton NJ 08037. PARKHURST'S G–2 CAPTAN DUST. Active Ingredients: O,O-dimethyl-S-(4-oxo - 1,2,3 - benzotriazin-3-(4H-ylmethyl)-phosphorodithioate 2%; captan - N-(trichloromethyl)thio)-4-cyclohexene-1,2-dicarboximide 7.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM12

EPA File Symbol 1202–GNI. PureGro Co., 1052 W. 6th St., Los Angeles CA 90017. PUREGRO TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 35550–R. Quincy Farm Chem., Inc., PO Box 307, Quincy WA 98848. QUINCY FARM CHEMICALS, INC. TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA Reg. No. 373–69. Residex Corp., 225 Terminal Ave., Clark NJ 07066. RESIDEX MALATHION 5 LB. EMULSIFIABLE CONCENTRATE. Active Ingredients: Malathion 57%; xylene 35%. Method of Support: Application proceeds under 2(c) of interim policy. PM16

EPA File Symbol 10226–LU. Rockwood Chemical Co., PO Box 34, 47 W. Rutherford Rd., Brawley CA 92227. ROCKWOOD CHEMICAL COMPANY TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 36020–R. Schmiedt's Soil Service, 20696 S. Manteca Rd., Manteca CA 95336. SSS TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 11335–L. Schulte Paint & Lacquer Mfg., Co., 6930 E. Holley Ave., St. Louis, MO 63147. SCHULTE WATER REPELLENT PENTA A NON-STAINING WOOD PRESERVATIVE. Active Ingredients: Pentachlorophenol concentrate (41.0% technical pentachlorophenol) 13.2%; mineral spirits 86.8%. Method of Support: Application proceeds under 2(c) of interim policy. PM22

EPA File Symbol 6023–GL. Stoker Co., PO Box 2010, El Centro CA 92243. STOKER COMPANY TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 7729–A. John Taylor Fertilizers Co., PO Box 15289, Sacramento CA 95813. JOHN TAYLOR CHEMICALS TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 6735–EGT. Tide Products, Inc., 800 N. Closner, PO Box 1020, Edinburg TX 78539. TIDE TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 35296–R. Toxo Spray-Dust, Inc., PO Box 321, Tustin CA 92680. TOXO SPRAY-DUST, INC. TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 11220–R. Trical, Inc., PO Box 2, Morgan Hall CA 9037. TRICAL, INC. TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 550–RNG. Van Waters & Rogers, PO Box 3200, San Francisco CA 94119. GUARDSMAN TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 8526–U. Western Farmers Association, 201 Elliott Ave. W., Seattle WA 98119. WESTERN FARMERS ASSOCIATION TELONE II SOIL FUMIGANT. Active Ingredients: 1,3-dichloropropene 92%. Method of Support: Application proceeds under 2(c) of interim policy. PM21

EPA File Symbol 20954–U. Zoecon Corp., 975 California Ave., Palo Alto CA 94304. ZOECON ENSTAR 5E INSECT GROWTH REGULATOR. Active Ingredients: [2-propynyl (2*E*,4*E*)-3,7-11-trimethyl-2,4-dodecadienoate] 65.3%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

[FR Doc.75–23817 Filed 9–8–75;8:45 am]

FEDERAL MARITIME COMMISSION

ATLANTIC GULF SERVICE, A.B. ET AL.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 29, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

ATLANTIC GULF SERVICE, A.B.
COMBI LINE
THOS. & JAS. HARRISON LIMITED
LYKES BROS. STEAMSHIP CO., INC.
SEA-LAND SERVICE, INC.
and
SEATRAIN INTERNATIONAL, S.A.

Notice of Agreement Filed by:

Howard A. Levy, Esquire, Suite 727, 17 Battery Place, New York, New York 10004.

Agreement No. 10178 would establish a discussion agreement among the above named carriers to be known as the U.S. Gulf/North Europe Discussion Agreement in the trade between the Gulf Coast of the United States and North Europe (i.e., Bayonne/Hamburg; UK/Eire and Scandinavia/Baltic ranges). It provides that the parties may meet from time to time to discuss cargo movements and traffic flows and matters relating to the level, frequency and mode of common carrier transportation services required by shippers in the trade and the effective use and employment of vessels and carrier equipment including LASH/SEABEE barges, containers and other intermodal facilities.

By Order of the Federal Maritime Commission.

Dated: September 4, 1975.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc.75-23936 Filed 9-8-75;8:45 am]

CANADIAN AMERICAN DISCUSSION AGREEMENT

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 29, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Howard A. Levy, Esquire, Suite 727, 17 Battery Place, New York, New York 10004.

Agreement No. 10057-2, among the member lines of the above named agreement, is an agreement to extend the approval of the basic agreement permanently or for a minimum period of 18 months.

By Order of the Federal Maritime Commission.

Dated: September 4, 1975.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc.75-23935 Filed 9-8-75;8:45 am]

NEW YORK TERMINAL CONFERENCE, ET AL.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 19, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Thomas D. Wilcox, Esq., Attorney at Law, 919 Eighteenth Street, N.W., Washington, D.C. 20006.

Agreement No. T-3156, between the New York Terminal Conference (NYTC), and Australia/Eastern U.S.A. Shipping Conference, Iberian/U.S. North Atlantic Westbound Freight Conference, Marseilles/North Atlantic U.S.A. Freight Conference, North Atlantic Mediterranean Freight Conference, U.S. Atlantic & Gulf/Australia New Zealand Conference, West Coast of Italy, Sicilian and Adriatic Ports/North Atlantic Range Conference, North Atlantic Westbound Freight Association, Continental North Atlantic Westbound Freight Conference, and Scandinavia-Baltic/U.S. North Atlantic Westbound Freight Conference (Steamship Conferences), represents an Interim Settlement Agreement to resolve certain conflicts concerning the establishment of free time and demurrage practices and charges at the Port of New York, which are at issue in Docket No. 74-45.

The agreement provides that: (1) the NYTC will adopt and publish the presently existing free time and demurrage rules and charges of the Steamship Conferences; (2) effective with (1) above, each steamship conference will cancel its presently existing free time and demurrage rules and charges, and provide in its ocean tariff that NYTC's free time and demurrage rules and charges shall be observed by each steamship conference; (3) the Steamship Conferences and the NYTC agreed to meet and discuss free time and demurrage practices applicable at the Port of New York for the purpose of establishing, with the approval of the Federal Maritime Commission, uniform rules and charges governing free time and demurrage, especially in the matter of container and containerized cargoes; (4) unless ordered to do so by the Federal Maritime Commission, no changes will be made in the present rules or charges by any party until the parties establish uniform free time and demurrage rules and charges; and (5) the NYTC and the Steamship Conferences agree to apply jointly for the indefinite postponement of FMC Docket No. 74-45.

By Order of the Federal Maritime Commission.

Dated: September 3, 1975.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc.75-23934 Filed 9-8-75;8:45 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by Section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46, CFR.

Certificate No.	*Owner/operator and vessels*
01011---	Aktieselskabet det Ostasiatiske Kompagni: *Camara.*
01028---	Flensburger Schiffsparten-Vereinigung AG.: *Stern Saturn.*
01169---	Oriens Societa di Navigazione P.A.: *Mare Boreale.*
01428---	Ocean Transport & Trading Ltd.: *Automedon, Stentor.*
01761---	Union Steam Ship Co. of NZ Ltd.: *Union Melbourne.*
01877---	Carbocoke Societa di Navigazione SPA.: *Pertusola.*
01891---	Canal Barge Co. Inc.: *CBC-651, CBC-602, CBC-603, CMS-112, HJL-113, CMS-711, Bill Andrews.*
02198---	Peninsula & Oriental Steam Navigation Co.: *Strathcannan, Stratcarrol.*
02893---	Schellen Scheepvaart en Bevrachting B.V.: *Tell.*

Certificate No.	Owner/operator and vessels
02902---	Alamo Chemical Transportation Co.: *Big Ed.*
02917---	Scherkate Sahami Keschtirani Melli Arya: *Arya Rokh, Arya Neda, Arya Kay.*
02947---	Walker Towing Corp.: *Agnes Mae.*
02975---	Venture Shipping (Managers) Ltd.: *Intermarine Venture, Chase Venture.*
02977---	J. Ray McDermott & Co., Inc.: *McDermott Lay Barge No. 29.*
03436---	Iino Kaiun K.K.: *Shuho Maru.*
03471---	Nippo Kisen Kabushki Kaisha: *Hoan Maru.*
03484---	Sanko Kisen K.K.: *Khark.*
03614---	A/S Kristian Jebsens Rederi: *Bellnes.*
03716---	Dunbar & Sullivan Dredging Co.: *Derrick Sioux, Crane Scow No. 968, Crane Scow No. 969.*
03735---	Penrod Drilling Co.: *Penrod 72.*
04037---	C. F. Bean Corp.: *Tide Mar XXI.*
04623---	Seaspan International Ltd.: *Seaspan 201.*
04679---	Ratnakar Shipping Co. Ltd.: *Ratna Shobhana.*
04883---	Bumble Bee Seafoods, a Division of Castle & Cookie Inc.: *Atlantis, Bold Venture, Bold Contender, Cape Cod. City of San Diego, Cape San Vincent, Captain Vincent Gann, Mariner, Pacific Queen, Polaris, San Juan, Sea Treasure.*
05012---	Tynedale Shipping Co. Ltd.: *Atlantic Phoenix.*
05199---	Prekookeanska Plovidba: *Sutomore.*
05468---	Luna IV Compania Naviera S.A. Panama: *Kanaris.*
05577---	Far Eastern Shipping Co.: *Kapitan Dublitskiy, Kapitan Lyutikov, Sergey Yesenin.*
05736---	Flota Cubana de Pesca: *Rio Almendares, Rio Agabama.*
05792---	Korea Wonyang Fisheries Co. Ltd.: *Seolagsan.*
05892---	Luedtke Engineering Co.: *Wellston.*
05991---	Fukukyu Gyogyo Kabushiki Kaisha: *Fukuku Maru No. 18.*
06806---	Korea Marine Transport Co., Ltd.: *Royal Ruby.*
M-06946	Bath Iron Works Corp., a Subsidiary of Congoleum Corp.: Vessels not exceeding 30,000 gross tons.
07255---	Teh Tung Steamship Co., Ltd.: *Constellation.*
07341---	Christianson Construction Co., Inc.: *Bernacle.*
07545---	Compania Topacio Navegacion S.A.: *Nagata.*
08119---	Mediteranska Plovidba: *Voce.*
08344---	Hammerton Shipping Co. S.A.: *Eastern Lake.*
08530---	Prompt Shipping Corp., Ltd.: *Flores Career.*
08642---	Shinwa Steamship Co. (H.K.), Ltd.: *World Pageant.*
08818---	Venus Carriers Corp. S.A.: *Rose Acacia.*
08955---	Lonborg Shipping A/S: *Amigo Clipper, Gerda Lonborg.*
08990---	Compagnie Navale des Petroles: *Vega.*
09148---	Grand Domain Transport, Inc.: *Unibulk Pine.*
09156---	Smego Marine Transport, Inc.: *SMT 409, SMT 410, SMT 411, SMT 412.*
09244---	System Fuels, Inc.: *SFI 61, SFI 64.*
09468---	Puerto Rico Maritime Shipping Authority: *Borinquen.*
09552---	Aeron Marine Shipping Co.: *Golden Monarch.*
09621---	Gatx Bulkcarriers Belgium N.V.: *Yaffa.*
09760---	Amoco Transport Co.: *Amoco Cadiz, Amoco Tehran, Amoco Shigapore, Amoco Milford Haven.*
09792---	United Fair Agencies Ltd.: *Opal City, Sun Castor.*
09874---	Gulf Caribbean Navigation Co., Ltd.: *Katya M.*
10065---	San Shin Navigation Co. Ltd.: *Pacific Ace.*
10224---	Mercury Towing Co., Inc.: *Lois Vivian.*
10225---	Gemini Towing Co., Inc.: *Jer'e Ann.*
10242---	Industrial Tanker Corp.: *Nicila Prosperity.*
10270---	State Economic Enterprise Okeanski Ribolov: *Sagita, Kaprela.*
10290---	Nautical Investment Co., Inc.: *S to S.*
10327---	James Griffiths & Sons, Inc.: *Silver Bay.*
10398---	Wheeling-Pittsburgh Steel Corp.: *RP-905-B.*
10399---	Fortuity Shipping Corp.: *Mpenitses.*
10400---	Odeco Inc.: *Odeco Seven, Ocean Explorer, Ocean Driller, Margaret, Ocean Queen, Barge A, Ocean Traveler, Ocean Pioneer, John Hayward, St. Louis, Rimtide, Mr. Charlie, Ocean Pride, Ocean Patriot, Ocean Leader, Ocean 66, Ocean Scout, Ocean Chief, Ocean Ruler, El Dorado, Ocean Star, Typhoon, Hurricane, Ocean King.*
10402---	S & E Shipping Corp.: *Ben Moreell, George D. Goble, A. T. Lawson, George E. Seedhouse, C. L. Austin, Frank R. Denton, Kinsman Enterprise, Henry Steinbrenner, Chicago Trader, Paul L. Tietjen, Harry L. Allen, George M. Steinbrenner, Peter Robertson.*
10404---	Oceanic Crest Shipping Co. Ltd.: *Oceanic Crest.*
10406---	Hoyo Kaiun Sangyo K.K.: *Hoh Ei Maru.*
10408---	Goofy Lake Maritime Corp. S.A.: *Pangueon.*
10490---	Oy Gustav Paulig AB.: *Paola.*
10415---	Bold Producer Joint Venture: *Bold Producer.*
10419---	Armonikos Shipping Corp.: *Armonikos.*
10426---	Garden Gemini Shipping Ltd.: *Garden Gemini.*
10427---	United Towing (Ocean Tugs) Ltd.: *Lloydsman, Statesman I, Euroman, Englishman.*
10428---	Garden Saturn Shipping Ltd.: *Garden Saturn.*
10429---	Ogden Tiber Transport, Inc.: *Ogden Tiber.*
10430---	Cambros Compania Naviera S.A.: *Kotsos M.*
10432---	Shizuoka Ken: *Fuji Maru.*
10434---	Chelsea Navigation Co. Inc.: *Chiqui.*
10436---	Alexandra Shipping Corp.: *Sivana.*
10437---	Antonio Vaqueiro Hermelo: *Loxe Dos Picos.*
10438---	Oriental Pioneer Line S.A.: *Musashi.*
10440---	Frota Amazonica, S.A.: *Santo Amaro, Santo Andre, Solimoes, Tapajos, Tocantins.*
10441---	Ekali Shipping Co. Ltd.: *Irenes Trust.*
10442---	P. T. Indobaruna Bulk Transport: *Ujung Kulon.*
10444---	King Fook Navigation Ltd.: *Eastern Pearl.*
10447---	Taconic Transport Inc.: *Rio San Juan, Rio Grande.*

By the Commission.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc.75-23938 Filed 9-8-75;8:45 am]

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below indicated vessels, pursuant to part 542 of Title 46 CFR and Section 311(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	Owner/Operator and Vessels
01003---	Skibs A/S Excelsior: *Benami.*
01010---	Dampskibsaktieselskabet Produce (The Steamship Company Produce, Ltd.): *Anna Odland.*
01228---	A/S Consensio: *James Stove.*
01251---	Aktieselskapet Havprins: *Havbjorn.*
01254---	Aktieselskapet Havbor: *Havbor.*
01330---	Shell tankers (U.K.) Ltd.: *Hyria Hemiglypta.*
01716---	Achille Lauro-Perskall: *Valparaiso.*
01722---	Transworld Carriers, Inc.: *Rio Macareo.*
01723---	Transorge, Inc.: *Rio Grande, Rio San Juan.*
01854---	Southern Towing Co.: *STC-2001.*
01893---	Silver Line, Ltd.: *Silver Shore.*
02015---	Meco Compania Naviera S.A. Panama: *Stolt Mariner, Kef Peter.*
02198---	The Peninsular & Oriental Steam Navigation Company: *Strathellon, Strathell.*
02304---	Coates Shipping Co.: *Benjamin Coates.*
02551---	Ellerman Lines Ltd.: *City of Oxford, City of Leeds, City of Izmir.*
02862---	Ocean Shipping & Enterprises, Ltd.: *Ocean Retia.*
02889---	Showa Kaiun K.K.: *Pacific Maru.*
02911---	Sig. Bergesen D.Y. & Company: *Berge Bergsen.*
02934---	Industriale Marittima S.P.A. Genoa (Italy): *Portoria.*
02980---	Rederi A/S Mimer and A/S Norfart: *Anne.*
03245---	Rederiaktieselskabet Dannebrog: *Weco Offshore II.*
03329---	Hudson Waterways Corporation: *Seatrain Washington.*
03413---	Baba-Daiko Shosen K.K.: *Bombay Maru.*
03501---	Osaka Shosen Mitsui Senpaku K.K.: *Tegurasan Maru, Tokiwasan Maru.*
03530---	Yashima Kaiun K.K.: *Sakurashima Maru.*
03641---	Hendy International Company: *David E. Day.*
03715---	Santa Fe Pomeroy, Inc.: *YC-1384, YFN 1161.*
03952---	World Magnate Shipping Co. Ltd.: *World Soya.*

Certificate No.	Owner/operator and vessels
03971---	Korea Shipping Corporation, Ltd.: *Inchon.*
04172---	Eklof Marine Corporation: *E–17.*
04404---	Lars Rej Johansen: *Jofrigo, Jopulp.*
04424---	International Navigation Corporation: *Edgewater.*
04455---	Balboa Navigation Lines, S.A.: *San Jose.*
04564---	Yamashita-Shinnihon Kisen Kaisha: *Yamamizu Maru.*
04583---	Gatx Oswego Corporation: *Oswego Guardian.*
04768---	Texaco Overseas Tankship, Ltd.: *Texaco Saigon.*
04769---	Texaco Norway A/S: *Texaco Nueva Granada.*
05287---	CWC Fisheries, Inc.: *Dipper.*
05298---	Erich Drescher: *Ede Witorf, Ede Sottorf.*
05345---	L. Figueiredo Navegacao S/A.: *Jurua, Solimoes, Tapajos, Tocantins, Santo Amaro, Santo Andre.*
05577---	Far-Eastern Shipping Company: *Sergey Essenin.*
05598---	Pateras Bros. Ltd.: *Armar.*
05743---	Reederi Barthold Richters: *Muggenburg.*
05846---	Nordsee Deutsche Hochseefischerei G.m.b.H.: *Frankfurt Am Main, Kassel, Altona, Erlangen, Freiburg I. Br., Heidelberg, Tubingen, Othmarschen, Marburg.*
05991---	Fukukyu Gyogyo Kabushiki Kaisha: *Fukukyu Maru No. 1.*
05998---	Navarino Shipping & Transport Company, Ltd.: *Prosperity.*
06287---	Gates Equipment Corporation: *Prock 19.*
06320---	Shinnaka Kaiun Kabushiki Kaisha: *Meiho Maru, Eiko Maru.*
06356---	Federal Commerce & Navigation Company, Ltd: *Federal Hudson.*
06420---	Partenreederei MS Hendrik, Emden Margerance S.A.: *Hendrik.*
06496---	Whaling City Dredge & Dock Corporation: *No. 657.*
06563---	Ragnar Johansen & Co. A/S: *Adajo.*
06615---	Oswego Shipping Corporation: *Oswego Courage.*
06742---	Naviera De Cargas Pesadas, S.A.: *Navipesa Dos.*
06775---	Whitco (Marine Services) Ltd.: *Newcastel Clipper.*
06790---	Lycavittos Compania Naviera S.A.: *Lycavittos.*
06896---	Halidon Canada, Ltd.: *Ro-Ro Newfoundland.*
07237---	Southern Barge Inc.: *Hollywood 2501, Hollywood 1502, Hollywood 1501.*
07469---	Bulk Carriers International, Inc.: *Stolt Merrick.*
07537---	Marreina Armadora S.A.: *Malvina.*
07635---	Helmos Shipping Inc.: *Courier.*
07718---	Tokyo Teion Senpaku K.K.: *Wakagi Maru.*
07931---	General Steamship Navigation, Inc.: *Maria Rubicon.*
07933---	Marshall Navigation Company, Inc.: *Ingramar.*
07946---	Midway Operations, Inc.: *MMS–102, MMS–101.*
08064---	Santa Fe-Pomeroy Marine Services Co.: *Pima.*
08188---	Caribbean Marine Service Company, Inc.: *Pacific Queen, Mariner, Sea Treasurer, San Juan, Polaris, City of San Diego, Cap San Vincent, Captain Vincent Gann, Cape Cod, Bold Venture, Bold Contender.*
08307---	Alexander E. De Renzy: *Marysville.*
08420---	Assistance, Inc.: *Coos Bay.*
08427---	Naviera Joaquin Davila & Co., S.A.: *Borna.*
08489---	Valia Oceanica Armadora S.A.: *Lord Byron.*
08541---	Pioneer Merchant Marine Inc.: *Pioneer Merchant.*
08716---	Eirene Maritime Company, Ltd.: *St. Eirene.*
08747---	Anassa Navigation Co. Ltd.: *Drymos.*
08808---	Weathers Towing, Inc.: *Patrick houn Jr.*
08913---	Prince Navigation Corporation: *Salute.*
08955---	Lonborg Shipping A/S: *Amigo Express.*
09279---	Transmarittima Sarda Italnavi Flotte Riunite S.P.A.: *Aspra.*
09360---	Anchortank Transportation, Inc.: *Anchortank I.*
09601---	Foster Shipping Co., Ltd.: *Lumber Trader.*
09611---	Bruce Bay Shipping Company, Ltd.: *Bruce Bay.*
09770---	Siora Milia Shipping Co. Ltd.: *Emilia Loverdos.*
10336---	Lumin Compania Naviera S.A.: *Lucona.*

By the Commission.

JOSEPH C. POLKING,
Assistant Secretary.

[FR Doc.75–23937 Filed 9–8–75;8:45 am]

FEDERAL POWER COMMISSION

[Docket Nos. CP69–41]

ALGONQUIN GAS TRANSMISSION CO.

Petition To Amend

SEPTEMBER 2, 1975.

Take notice that on August 15, 1975, Algonquin Gas Transmission Company (Petitioner), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket Nos. CP69–41 a petition to amend the order issuing a certificate of public convenience and necessity in said docket pursuant to Section 7(c) of the Natural Gas Act by authorizing Petitioner to sell natural gas to Philadelphia Electric Company (Philadelphia), Pottsville Gas Company, et al. (Pottsville), and South Jersey Gas Company (South Jersey) through April 15, 1976 pursuant to Rate Schedule SNG–1, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioner proposes to sell for resale to Philadelphia, Pottsville and South Jersey, from October 16, 1975, through April 15, 1976, approximately 10,805 million Btu per day of gas pursuant to Rate Schedule SNG–1. Petitioner states that the gas that would be sold is expected to be needed to alleviate the expected curtailments to Philadelphia, Pottsville and South Jersey by Transcontinental Gas Pipe Line Corporation and Texas Eastern Transmission Corporation. Petitioner states that it would sell gas to Philadelphia, Pottsville and South Jersey on exactly the same terms and conditions and at the same rates as it will be made available to Petitioners' other customers of the service.

Petitioner states that the following quantities of SNG–1 gas would be sold:

Company:	*Volume (million Btu per day)*
Philadelphia	4,500
Pottsville	1,800
South Jersey	4,505

Petitioner states that it proposes in the instant petition to amend to render the proposed service on the same terms and conditions as SNG–1 service is rendered to customers who have contracted for the service pursuant to long-term contracts. Petitioner states further that it is proposing a firm, not a best efforts, service and that existing and the proposed service would be subject to ratable curtailment.

Petitioner states that other customers under its Rate Schedule SNG–1 have not contracted for the full plant outputs to be produced at its subsidiary, Algonquin SNG, Inc.'s Freetown, Massachusetts, plant, so that it offered SNG–1 service to buyers on a temporary basis. Petitioner further states that it expects that all SNG–1 gas will be sold to basic customers in the 1976–1977 heating season.

It is indicated in the petition to amend that the temporary customers, Philadelphia, Pottsville and South Jersey, contracted for SNG–1 service which, at the time they executed the contracts, was sold in the range of $5.50 per million Btu. It is stated that utilizing the rate filed in Docket No. RP75–88 for the SNG service and on the basis of an approximate 85 percent level of service, the deliveries and revenues for the three temporary customers would be as follows:

	Philadelphia	Pottsville	South Jersey	Total
Contract demand total (1,000,000 Btu)	684,000	273,600	684,760	1,642,360
Demand revenues at $1.494/1,000,000 Btu	$1,021,896	$408,758	$1,023,031	$2,453,685
Commodity revenues at $3.853/1,000,000 Btu	2,240,134	896,054	2,242,623	5,378,811
Total revenues	3,262,030	1,304,812	3,265,654	7,832,496

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 24, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a

party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-23871 Filed 9-8-75;8:45 am]

[Docket Nos. CI75-201, CI75-529, CI75-530, CI75-531, CI75-532, CI75-533, CI75-534, CI75-557]

ATLANTIC RICHFIELD CO., ET AL.

Order To Show Cause Setting Date for Formal Hearing Consolidating Proceedings and Prescribing Formal Procedures

SEPTEMBER 2, 1975.

On September 30, 1974, Atlantic Richfield Company (Atlantic) filed in Docket No. CI75-201 an Application pursuant to Section 7(b) of the Natural Gas Act; on February 28, 1975, the Altex Corporation (Altex) and Jewel Osborn now Storey, W. B. Osborn, Jr., Executor of the Estate of W. B. Osborn, Deceased, Charlotte Osborn Barrett, Betty Osborn Biedenharn, and W. B. Osborn, Jr., (all hereinafter known as Osborns) filed in Docket Nos. CI75-529, CI75-530, CI75-531, CI75-532, CI75-533, and CI75-534, respectively, applications pursuant to Section 7(b) of the Natural Gas Act and on March 20, 1975, STENTEX, Inc., (Stentex) filed in Docket No. CI75-557 an application pursuant to Section 7(b) of the Natural Gas Act.

All the applications, save the one by Altex, ask for permission and approval to abandon the sales of natural gas to Altex for resale in interstate commerce to Tennessee Gas Pipeline Company (TGP) from the Alice, East Alice and Tom Graham Fields located in Jim Wells County, Texas. Altex's application is for permission and approval to abandon the resale of natural gas in interstate commerce to TGP.

Atlantic requests abandonment of its sale from the Tom Graham Field to Altex, which sale was made pursuant to a contract dated February 27, 1957, and authorized in Docket No. G-3894. Atlantic indicated that no sales have been made to Altex under Atlantic's FPC Rate Schedule No. 22 since 1963, that the contract expired on its own terms on July 3, 1970, and that the lands covered under its Rate Schedule No. 22 have been assigned to W. H. Doran on January 12, 1961.

The Osborns request authorization to abandon gas sales to Altex from the Alice and East Alice Fields, which sales were made pursuant to a contract dated December 10, 1953, under W. B. Osborn, Jr.'s small producer certificate in Docket No. CS71-126. In support of their application, the Osborns allege that their wells are depleted, and production ceased on September 20, 1974, and that efforts to restore production have failed.

Stentex requests authorization to abandon a sale of gas to Altex from the Tom Graham Field, which sale was made under a contract dated December 11, 1953, authorized by Stentex's small producer certificate in Docket No. CS75-14. In support of its abandonment application, Stentex alleges that Altex has abandoned its gathering system and lines due to depletion and uneconomic conditions.

Altex requests authorization to abandon its sale of gas to TGP covered under a contract dated December 11, 1953, on file as Altex's FPC Gas Rate Schedule No. 1 previously authorized in Docket No. G-4102. Altex indicates that all wells dedicated under its supply contracts ceased to produce and last production was delivered on September 20, 1974.

On April 18, 1975, TGP filed a petition to intervene in opposition to Altex's application for abandonment. TGP stated that it had verbally requested Altex to supply its release of acreage if, in fact, all wells have been plugged and abandoned but as of the date of its petition TGP had received no copy of such a release. TGP's petition indicates that TGP was receiving approximately 161 Mcf of gas per day until September 1974 from Altex, and that later Altex advised TGP that production ceased on September 20, 1974, and all wells were plugged and abandoned. Finally, TGP's petition indicates that the estimated remaining recoverable reserves dedicated to it from the wells which have supplied Altex to be approximately 2 Bcf. Because TGP has opposed Altex's application and because TGP's participation may be in the public interest we will grant its intervention since no other party can adequately represent its interest.

We note that TGP's petition to intervene raises serious questions beyond TGP's position of protecting its supply of dedicated gas, in that it raises grave issues with regard to Applicants' proposed abandonment of gas sales. TGP alleges that Altex indicated that the wells supplying it were plugged and that further reserves of gas are estimated by TGP to be dedicated to it from the wells subject to the applications. It appears, therefore, to us that quantities of gas which have been dedicated to the interstate market may have been removed without Commission approval pursuant to Section 7(b) of the Natural Gas Act. As it is well established that there can be no withdrawal of gas once dedicated to the interstate market from continued interstate movement without approval of the Commission under Section 7(b) [1], the sales proposed to be abandoned by Applicants may only lawfully be terminated after such Commission approval. This order will, therefore, direct that a hearing be convened to ascertain facts and circumstances underlying the jurisdictional operations of all the hereinabove mentioned Applicants pursuant to the Natural Gas Act, 15 U.S.C. 717, et seq. with regard to all the dedications of natural gas to Altex and to the interstate market by Altex to TGP hereinbefore mentioned.

In view of the foregoing, we are directing the Applicants in this proceeding to show cause why they or any one of them should not be found in violation of Section 7(b) of the Natural Gas Act and the Commission's Regulations thereunder for not having first secured the requisite authorization before abandoning jurisdictional sales of natural gas.

The Commission finds:

(1) It may be that some or all of the Applicants hereinabove mentioned are in violation of the Natural Gas Act and the Commission's Regulations thereunder.

(2) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that a public hearing be held on the matters involved and issues presented in these proceedings as hereinbefore described.

(3) Due to the related nature of the applications and since there may be common questions of law or fact involved, it is appropriate to consolidate the proceeding in Docket Nos. CI75-201, CI75-529, CI75-530, CI75-531, CI75-532, CI75-533, CI75-534, and CI75-557.

(4) Participation by TGP in this proceeding may be in the public interest.

The Commission orders:

(A) All Applicants hereinbefore described shall show cause, if any there be, at the hearing directed in paragraph (D) below, why they or each of them should not be held in violation of Section 7(b) of the Natural Gas Act and the Commission's Regulations thereunder for not having obtained authorization before abandoning jurisdictional sales and related facilities as hereinbefore described.

(B) The proceedings in Docket Nos. CI75-201, CI75-529, CI75-530, CI75-531, CI75-532, CI75-533, CI75-534, and CI75-557 are consolidated for the purposes of hearing and decision since there are common questions of law and fact involved.

(C) Pursuant to the authority of the Natural Gas Act, particularly Sections 7, 14, 15, and 16 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Natural Gas Act [18 CFR, Chapter I], a public hearing concerning the matters involved and the issues presented in these proceedings as hereinbefore set forth will be held in a hearing room of the Federal Power Commission, Washington, D.C., commencing at 10:00 a.m. (EDT) on October 7, 1975. All Applicants in this proceeding shall file with the Secretary of the Commission and serve upon the Presiding Administrative Law Judge, the Commission Staff, and all other parties, testimony and exhibits addressing the specific issues set forth in this order, including, but not limited to, evidence of the price which would be necessary for each of the Applicants, which allege economic hardship, to continue the production of gas from the reserves which are the subject of their abandonment applications, as well as, any other testimony and exhibits, which they propose to offer at the hearing, on or before September 23, 1975.

(D) The case of TGP on all issues in this proceeding, inclusive of those specified in this order, shall be filed and served

[1] Atlantic Refining Co., v. P.S.C.N.Y., 360 U.S. 378, 389 (1954); Sunray Mid-Continent Oil Co. v. FPC, 364 U.S. 136, 156 (1960).

on all parties, the Commission Staff and the Presiding Administrative Law Judge on or before September 23, 1975.

(E) An Administrative Law Judge to be designated by the Chief Administrative Law Judge for the purpose [See Delegation of Authority, 18 CFR 3.5(d)], shall preside at the hearing in this proceeding and shall prescribe relevant procedural matters not herein provided.

(F) Tennessee Gas Pipeline Company is permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission: *Provided, however,* that the participation of such intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in the petition to intervene, and *Provided, further,* that admission of said intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in this proceeding.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-23872 Filed 9-8-75;8:45 am]

[Docket No. RP75-99]

COLUMBIA GAS TRANSMISSION CORP.

Order Denying Motion for Reconsideration and Rescheduling Procedural Dates

SEPTEMBER 2, 1975.

On August 4, 1975, Columbia Gas Transmission Corporation (Columbia) filed a motion for reconsideration of our order issued July 29, 1975, which order set for hearing Columbia's request (pursuant to Section 154.38(d)(5)(a) of the Regulations) for advance Commission approval for accounting and rate treatment for a proposed R&D project. Columbia's proposed project involves a determination of reservoir and production characteristics achieved through the application of existing and new stimulation techniques on gas shales of the Upper and Middle Devonian Age Formations in the Appalachian Basin.

Columbia's application indicates that the Public Service Commission of the State of New York (New York) initially requested a hearing on the matter but has now agreed to withdraw its request for a hearing. We note that by letter to the Secretary filed August 4, 1975, New York indicated that it now supported Columbia's proposal and that:

> . . . [s]ince it would appear that New York was the only intervenor who requested a hearing and that this fact may be responsible for the Commission's order of July 29, 1975, we would appreciate your bringing this to the immediate attention of the Commission.

In light of the above, Columbia requests that the Commission terminate the proceedings and approve Columbia's request for approval of the project.

In our July 29, 1975, order we indicated the following:

> Our review of Columbia's request indicates that the proposed project may not be in the nature of research and development. Accordingly, we shall establish hearing procedures to determine the propriety of granting or denying Columbia's request for accounting and rate approval of its proposed project.

Thus while we considered the views of New York in setting this matter for hearing, such views were not determinative. We found upon our own review that a hearing on this matter was necessary, to protect the public interest by assuring that Columbia's rates are just and reasonable.

Accordingly, we shall deny Columbia's Motion for Reconsideration of our July 29, 1975, order and re-schedule the procedural dates accordingly.[1]

The Commission finds:

Good cause exists to deny Columbia's August 4, 1974, Motion for Reconsideration of our July 29, 1975, order in this proceeding, as hereinafter ordered.

The Commission orders:

(A) Columbia's August 4, 1975, Motion for Reconsideration of our July 29, 1975, order is denied.

(B) On or before September 9, 1975, Columbia shall present its direct case in this proceeding. The Commission Staff or any intervenors shall serve prepared testimony and exhibits on September 23, 1975. Any rebuttal evidence by Columbia shall be served on or before October 3, 1975. The public hearing herein ordered shall convene on October 15, 1975, at 10:00 A.M. Initial briefs shall be filed on November 14, 1975. The Initial Decision shall be issued on or before November 30, 1975.

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

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-23873 Filed 9-8-75;8:45 am]

[Docket No. CP75-262]

COLUMBIA GULF TRANSMISSION CO. AND TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO, INC.

Extension of Time

SEPTEMBER 3, 1975.

By order issued July 21, 1975, the Commission directed a prehearing conference in the above docket on September 10, 1975, and submission of flow diagrams and gas supply data on or before August 25, 1975.

Columbia Gulf Transmission Company filed a telegram on August 20, 1975, requesting an indefinite suspension of the requirements of the Commission's July 21 order pending the filing of appropriate amendments in Docket Nos. CP75-262 and CP75-359. Columbia Gulf states that interveners have filed to withdraw petitions for interventions as continued exploration has added significantly to the available gas supply in the area.

United Gas Pipeline Company and Sea Robin Pipeline Company filed a joint petition for extension of time on August 18, pending action by the Commission on their notices of withdrawal of intervention.

Take notice that the dates for prehearing conference and filing of data as set forth in the Commission's order of July 21, 1975, ordering paragraph (B) and (C) are hereby extended to the following dates:

Prehearing conference November 11, 1975:

Filing of data on or before October 23, 1975.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-23874 Filed 9-8-75;8:45 am]

[1] By Notice issued August 7, 1975, the procedural dates in this proceeding were suspended pending Commission action on Columbia's Motion.

[Docket Nos. RP72-155, RP73-104, RP74-22, RP74-23, RP74-57 and CP74-314 PGA 75-2]

EL PASO NATURAL GAS CO.

Modification of Date of Hearing

AUGUST 29, 1975.

On August 13 and 14, 1975, El Paso Natural Gas Company (El Paso) and Pennzoil Producing Company (Pennzoil) filed motions to extend the procedural dates fixed by order issued July 16, 1975, in the above matter. By notice issued August 18, 1975, the date for filing direct testimony was extended but action on the motion to extend the date of the hearing was deferred.

On August 21, 1975, Beren Corporation filed an answer to the above-designated motions of El Paso and Pennzoil requesting that the date of hearing in this proceeding be extended to September 30, 1975. The answer states that all parties have been notified and have no objection.

Notice is hereby given that the date of hearing in the above matter is modified to September 30, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-23875 Filed 9-8-75;8:45 am]

[Docket No. CI76-117]

FLORIDA GAS EXPLORATION CO. (OPERATOR), ET AL.

Notice of Application

SEPTEMBER 3, 1975.

Take notice that on August 22, 1975, Florida Gas Exploration Company (Operator), et al. (Applicant) Post Office Box 44, Winter Park, Florida 32789, filed in Docket No. CI76-117 and application for a certificate of public convenience and necessity pursuant to Section 7 of the Natural Gas Act and Section 2.75 of the Commission's Rules of Practice and Procedure to authorize Applicant to sell natural gas from the Ichibon (Hockley) Field, Bee County, Texas to Florida Gas Transmission Company. Applicant proposes to sell its share of gas to Florida Gas Transmission Company (Florida Gas). Also Applicant states that it will deliver such gas into the facilities of United Gas Pipe Line Company (United) at a point on United's existing pipeline

and United will redeliver such gas to Florida Gas.

Applicant is seeking a rate of 54.95 cents per Mcf with a 1 cent escalation at the end of each year of term plus tax reimbursement of all "additional tax" assessed by State or Federal Government which is greater than those levied on the date of the contract, plus Btu adjustment.

Applicant states that it is affiliated with the purchaser, Florida Gas.

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 Sections 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 September 24, 1975. 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.75-23876 Filed 9-8-75;8:45 am]

[Docket No. E-8843]

HOLYOKE WATER POWER CO. AND HOLYOKE POWER AND ELECTRIC CO.

Filing of Settlement Agreement

SEPTEMBER 2, 1975.

Take notice that on August 27, 1975 Holyoke Water Power Company, Holyoke Power and Electric Company, the City of Chicopee, and the Town of South Hadley filed a proposed settlement agreement together with supporting material. The settlement agreement purports to settle all issues in Docket No. E-8843.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before September 19, 1975. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-23877 Filed 9-8-75;8:45 am]

[Docket No. RP75-96]

MICHIGAN-WISCONSIN PIPELINE CO.

Extension of Procedural Dates

AUGUST 29, 1975.

On August 14, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued May 19, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates for all parties in the above matter are modified as follows:

Service of Staff Testimony, November 19, 1975.
Service of Intervenor Testimony, December 3, 1975.
Service of Company Rebuttal, December 17, 1975.
Hearing, January 6, 1976 (10:00 a.m. EST).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-23878 Filed 9-8-75;8:45 am]

[Docket Nos. E-9502 and E-9499]

MINNESOTA POWER AND LIGHT CO.

Order Denying Application for Rehearing

SEPTEMBER 2, 1975.

By order issued July 18, 1975, the Commission rejected in part a filing made by Minnesota Power and Light Company (MP&L or the Company) on June 18, 1975, in the instant docket. Minnesota's filing consisted of proposed increases in its rates and charges to seventeen municipal customers, one privately-owned electric system customer, and two rural electric cooperative customers. In addition, MP&L filed for an increase in the transmission service rates applicable to its three transmission service customers, and filed notice of cancellation pursuant to its contract with two of its wheeling customers.

On July 8, 1975, a pleading in the instant docket was filed by 17 wholesale customers (Petitioners) requesting, inter alia, leave to intervene, rejection of the tendered rate schedules applicable to them or, in the alternative, requesting a full 5 month's suspension of the filings as to them. Two of the arguments raised by Petitioners were (1) that the filing of increased rates as to Standby Service to the Village of Hibbing (Hibbing), the City of Two Harbors (Two Harbors), and the City of Virginia (Virginia) should be rejected as violative of the fixed-rate, fixed-term contracts relating to the service with these customers, and (2) the filing wrongfully included Construction Work In Progress (CWIP) in rate base.

On July 11, 1975, MP&L filed a response to Petitioners pleading. As to the above arguments of Hibbing, Virginia, and Two Harbors, MP&L stated that the proposed revised riders for Standby Service to these three customers, is similar to that filed in Docket No. E-8494; however, it has not been collecting increased rates from them for Standby Service.[1]

The Commission in its Order issued July 18, 1975 (Order) in Docket E-9502, rejected in part and accepted for filing and suspended in part Minnesota's filing. Two parts of the filing rejected by the Commission were (1) MP&L's rate filing as it applies to Standby Service to Hibbing, Virginia, and Two Harbors (Paragraph C of Order), and (2) MP&L's inclusion of CWIP in its rate base, (Paragraph F of Order).

On August 4, 1975, Minnesota filed an Application for Rehearing of the Commission's July 18, 1975 order. MP&L cites as grounds for its application the two arguments previously cited, namely, (1) the Commission's rejection of the rate increase to Hibbing, Virginia, and Two Harbors, and (2) the Commission's exclusion of Construction Work In Progress (CWIP) in rate base. For the reasons hereinafter stated, we shall deny rehearing of our July 18, 1975 order.

Minnesota's first argument regarding the Standby Service to Hibbing, Virginia, and Two Harbors is similar to the arguments made by Minnesota in Docket No. E-8494 with respect to that issue. In Docket No. E-8494,[2] as well as in our July 18, 1975, order in this proceeding, we found that Minnesota had no right to file a unilateral rate change for Standby Service to Hibbing, Virginia, and Two Harbors since the contractual terms governing such service were fixed-rate and fixed term in nature. The fact that Minnesota has appealed this issue in Docket No. E-8494 to the United States Court of Appeals for the District of Columbia Circuit[3] is not persuasive. In light of the fact that Minnesota has raised no facts or principles of law which require modification of our finding regarding the Standby Service issue in our July 18, 1975, order, we shall deny Minnesota's application for rehearing regarding this issue.

MP&L's second ground for rehearing is its allegation that Construction Work In Progress (CWIP) was wrongfully excluded from rate base.[4] MP&L states that the Green Mountain case,[5] upon which intervenors relied in making their objection to MP&L's inclusion of CWIP in rate base, "is unsound law and contrary to past Commission practice." MP&L states further that the Commission's electric rate regulations do not prohibit the inclusion of CWIP in rate base, and MP&L cites two cases where the Commission has allowed CWIP to be included in rate base.[6]

The *Green Mountain* case does not establish new law, rather, that holding is consistent upon our established policy of refusing to grant final authorization for the inclusion of CWIP in any Company's rate base. The *Green Mountain*

[1] By Order issued Apr. 29, 1974, in Docket No. E-8494, similar revised riders for Standby Service to the same customers were rejected by the Commission.

[2] Minnesota Power & Light Company, 51 FPC 1422 (1974); rehearing denied ------ FPC -------- issued June 17, 1974, in Docket No. E-8494; reconsideration denied ------ FPC ------ issued September 3, 1974, in Docket No. E-8494.

[3] Minnesota Power & Light Company v. Federal Power Commission, Case No. 74-1796.

[4] CWIP as used herein refers to costs associated with facilities which will not be constructed and in operation before the end of the test period.

[5] Green Mountain Power Company, Docket No. E-9446 (June 13, 1975).

[6] New England Power Service Co., Docket Nos. E-9136 and E-9140 (December 31, 1974) and Georgia Power Co., Docket No. E-9091 (December 26, 1974).

order has precedent value in stating a continuing legal policy in this respect. In response to MP&L's questioning of our authority to make such exclusion where the electric regulations do not prohibit CWIP in rate base, we have already addressed ourselves to this argument in the *Green Mountain* case. Also, the order issued December 31, 1974, in *New England Power Service Co.* and relied on by MP&L, was modified on August 5, 1975, by Commission's order in the same docket ". . . Granting Motion For Summary Disposition And Ordering Refunds." This order was issued in response to a Motion for Reconsideration filed by Municipal Customers and it stated that "that portion of NEPCO's filing reflecting the inclusion of CWIP in rate base is severed from this docket and dismissed." Similarly, the order issued December 26, 1974, in *Georgia Power Co.* and relied on by MP&L, was also modified by Commission order issued August 5, 1975, in response to appropriate motions by Staff and Intervenors. This order amended the December 26, 1974, order by stating that "That portion of Georgia Power's filing . . . that reflects the inclusion of CWIP in rate base is severed from this docket and dismissed." Accordingly, neither case cited by MP&L supports the position that CWIP should be allowed in rate base, and therefore the cases cited are not supportive of MP&L's argument.

Accordingly, we shall reaffirm our initial position as stated in paragraph (c) of order issued July 18, 1975, in Docket Nos. E-9499 and E-9502.

The Commission finds:

MP&L's August 4, 1975, Application for Rehearing of our July 18, 1975, order in these dockets presents no facts or principles of law which would provide an appropriate basis for modification of said order.

The Commission orders:

(A) MP&L's Application for Rehearing of our July 18, 1975, order in these dockets is hereby denied.

(B) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-23879 Filed 9-8-75;8:45 am]

[Docket No. E-9502]

MINNESOTA POWER & LIGHT CO.

Order Granting Untimely Petition To Intervene

SEPTEMBER 2, 1975.

On June 18, 1975, the Minnesota Power & Light Company (MP&L), tendered for filing proposed increases in its rates and charges to seventeen municipal customers, one privately-owned electric system customer, and two rural electric cooperative customers. Notice of MP&L's filing was issued on June 24, 1975, with comments, protests, or petitions to intervene due on or before July 18, 1975.

On August 7, 1975, the Public Service Commission of Wisconsin (Public Service) filed out of time a petition to intervene in the above-captioned proceeding. Public Service states that it did not seek timely intervention in this proceeding because of the heavy workload under which it is now operating. Public Service states further that its intervention will not interfere with the procedural dates already scheduled in this proceeding.

The Commission finds:

Participation of The Public Service Commission of Wisconsin in this proceeding may be in the public interest.

The Commission orders:

(A) The Public Service Commission of Wisconsin is hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission; *Provided, however,* that participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further,* that the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of this proceeding.

(C) The Secretary shall cause prompt publication of this order in the Federal Register.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-23880 Filed 9-8-75;8:45 am]

[Docket No. RP75-20]

MISSISSIPPI RIVER TRANSMISSION CORP.

Further Extension of Procedural Dates

AUGUST 29, 1975.

On August 28, 1975, Mississippi River Transmission Corporation filed a motion to extend the procedural dates fixed by order issued October 31, 1974, as most recently modified by notice issued June 30, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Intervenor, Testimony, October 3, 1975.
Service of Company, Rebuttal, October 24, 1975.
Hearing, November 4, 1975 (10:00 a.m. EST).

By direction of the Commission.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-23881 Filed 9-8-75;8:45 am]

[Docket No. CP75-333]

NORTHERN NATURAL GAS CO.

Order Granting Intervention, Setting Date for Formal Hearing and Prescribing Procedures

SEPTEMBER 3, 1975.

On May 9, 1975, Northern Natural Gas Company (Northern) filed in Docket No. CP75-333 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain sales measuring station facilities and the sale and delivery of natural gas in the states of Kansas, Oklahoma and Texas.

Northern proposes to construct and operate 53 delivery stations to sell and deliver through its Peoples Natural Gas Division (Peoples) [1] natural gas in the states of Kansas, Oklahoma and Texas and to sell certain volumes of natural gas to Southern Union Gas Company (Southern Union) and West Texas Natural Gas Company (West Texas) for resale to certain of Northern's pipeline right-of-way grantors.[2] Northern estimates that the total cost of all proposed facilities is $54,977 and that the total sales volume involved is 177,134 Mcf of gas.

The application by Northern was noticed on May 20, 1975, with protests or petitions to intervene due by June 12, 1975. On June 12, 1975, Terra Chemicals International, Inc. (Terra) filed a petition to intervene in opposition to the application. Terra which operates an ammonia plant in which large quantities of natural gas are utilized purchases its gas on a firm contract basis from a distributor supplied by Northern. Terra stated it is opposed to Northern providing additional service or service of any amount to new customers, other than right-of-way grantors who may compel service under state law, when Northern is in curtailment and requested a formal hearing. However, on August 5, 1975, Terra filed a motion to withdraw its request for a formal hearing and expressed its current view that a hearing is unnecessary based on assurances given by Northern that the supply-demand projections set forth in Northern's recent curtailment case in Docket No. RP74-102 will not be affected by the instant application.

No other protest or petitions to intervene have been filed.

Northern is presently experiencing serious curtailment on its system and

[1] Northern proposes to install and operate 35 delivery stations in Kansas and one in Texas to make direct sales of natural gas to customers through Peoples. Northern alleges that the firm volumes to be so delivered will be provided from Peoples' presently authorized contract demand or from capacity of existing pipeline facilities in the producing areas where contract demand rate schedules are not applicable.

[2] Northern proposes to construct minor sales measuring stations and to sell gas for resale to Southern Union to serve 14 right-of-way grantors in Oklahoma. Northern also proposes to sell gas for resale to West Texas to serve three right-of-way grantors located in Texas.

grant of the instant application may place additional burdens on Northern's existing customers. We believe that a formal hearing should be convened to develop a complete record in this proceeding. Such proceeding should develop, inter alia, a record regarding:

1. The specific end use involved in each of the primary end use categories (Crop Drying, Irrigation, Feed Lot, Commercial and Domestic Heat) proposed to be served as a result of this application including their relationship as to priority of use as set forth in § 2.78 of the Commission's General Policy and Interpretations;

2. The availability of alternate fuels to serve these requirements.

3. A detailed description of how Northern proposes to supply natural gas for the proposed new and additional sales and the source of such gas supply.

4. The impact of serving new and additional sales on Northern's existing customers; and

5. How the public convenience is advanced by adding additional service while existing customers are being curtailed.

The Commission finds:

(1) It is necessary and appropriate that the proceeding in Docket No. CP75–333 be set for formal hearing.

(2) Participation by Terra Chemicals International, Inc., in Docket No. CP75–333 may be in the public interest.

The Commission orders:

(A) Northern Natural Gas Company, and all supporting intervenors, shall file testimony and exhibits comprising their case in chief on or before September 17, 1975.

(B) A formal hearing shall be convened in the proceeding in Docket No. CP75–333 in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426 on October 8, 1975 at 10:00 a.m. (EDT). The Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for the purpose—see Delegation of Authority 18 C.F.R. 3.5(d)—shall preside at the hearing in this proceeding and shall prescribe relevant procedures not herein provided.

(C) Terra Chemicals International, Inc. is permitted to intervene in Docket No. CP75–333, subject to the rules and regulations of the Commission; *Provided, however,* that participation of such intervener shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further,* that admission of such intervener shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in Docket No. CP75–333.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-23882 Filed 9-8-75;8:45 am]

[Docket Nos. CP75–294, CP75–296]

NORTHWEST PIPELINE CORP. AND MOUNTAIN FUEL SUPPLY CO.

Order Providing for Hearing, Denying Request for Temporary Authorization, Consolidating Proceedings, Granting Interventions and Establishing Procedures

AUGUST 29, 1975.

On April 10, 1975, in Docket No. CP75–294, Northwest Pipeline Corporation (Northwest) filed 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 to, the transportation for, and exchange of natural gas from the Barrel Springs Area of Carbon County, Wyoming, with Mountain Fuel Supply Company (Mountain Fuel).

On April 11, 1975, in Docket No. CP75–296, Mountain Fuel filed an application pursuant to Section 7 (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange with and transportation of natural gas for Northwest as well as the construction and operation of certain facilities necessary therefor. Additionally, it requests the issuance of a temporary certificate authorizing commencement of the aforesaid transportation and exchange of natural gas by May 1, 1975.

Northwest has acquired a new source of gas supply in the Barrel Springs Area of Carbon County, Wyoming, located approximately 92 miles from the nearest point on its transmission system. In order to make the volumes of natural gas purchased by it in the Barrel Springs Area available to its transmission system, Northwest consummated a Gas Purchase, Transportation and Exchange Agreement dated February 17, 1975 with Mountain Fuel. The agreement is for a primary term of five years following the initial deliveries of natural gas thereunder and on a year to year basis thereafter.

During the term of the above-mentioned agreement, Northwest proposes to deliver to Mountain Fuel all volumes of natural gas purchased by it from producers in the Barrel Springs Area, which are estimated to aggregate 6,000 Mcf per day initially, at a point on Mountain Fuel's existing 10-inch line also located in Carbon County. Northwest proposes to construct pursuant to its 1975 budget-type certificate in Docket No. CP75–107 at an estimated cost of $1,471,730 and to operate the necessary gathering system in the Barrel Springs Area as well as approximately 24 miles of 8⅝ inch O.D. lateral connecting the gathering system to the aforementioned delivery point on Mountain Fuel's 10-inch transmission line. Mountain Fuel proposes to install and connect metering facilities at a cost of about $11,900 for the purpose of receiving the gas proposed to be delivered by Northwest at this point.

Mountain Fuel has the option to purchase 25 percent of the volumes of natural gas delivered by Northwest for exchange, which option Northwest believes will be exercised by Mountain Fuel. The charges for such gas to Mountain Fuel would include, in addition to the cost of the gas, Northwest's cost of service, embracing a return on its investment in the gathering, compressor and treating facilities and the lateral line. The proposed initial rate for such cost-of-service is 16½ cents per Mcf.

Mountain Fuel will redeliver to Northwest the remainder of the exchange gas after exercising its option to purchase a portion thereof at an existing point of interconnection between the facilities of the two companies west of Green River in Sweetwater County, Wyoming, where Northwest is currently authorized to sell and deliver natural gas to Mountain Fuel. The volumes of gas delivered and received for exchange will be balanced on a Btu basis. Mountain Fuel's initial transportation charge for the gas to be redelivered will be 4 cents per Mcf.

Notice of Northwest's application in Docket No. CP75–294 was published on April 29, 1975, in the FEDERAL REGISTER, setting May 14, 1975, as the date by which any protests or petitions for leave to intervene were to be filed. A timely petition for leave to intervene was filed by Cascade Natural Gas Corporation, and Washington Natural Gas Company filed a petition for leave to intervene out of time. Neither of them requests a formal hearing.

Notice of Mountain Fuel's application in Docket No. CP75–296 was published on April 30, 1975, in the FEDERAL REGISTER, also requiring that any protests or petitions for leave to intervene be filed on or before May 14, 1975. Northwest filed a timely petition for leave to intervene; and Colorado Interstate Gas Company (CIG), a Division of Colorado Interstate Corporation, and Western Transmisssion Corporation (Western) filed a joint petition for leave to intervene in opposition to both subject applications and request a formal hearing. On May 29, 1975, Northwest filed an answer opposing the joint petition by CIG and Western and requesting that their petition be denied, or, alternatively, their request for a hearing be denied on the ground that there are no facts in issue.

In their petition, CIG and Western allege inter alia that the central point of the Barrel Springs location is within 7.5 miles of Western's existing 12-inch pipeline, which has unused capacity and interconnects with CIG's pipeline facilities at a point about 26 miles northward. They further allege that since CIG's pipeline facilities now interconnect with those of Northwest at Green River in Sweetwater County, they could transport the Barrel Springs gas to Northwest without duplication of existing facilities and thereby provide the service at an overall greater economy.

In its answer, Northwest asserts that it evaluated CIG's written proposal relating to transportation and exchange of the Barrel Springs gas prior to its elec-

tion to contract with Mountain Fuel because of the overall superiority of the latter's proposal. Northwest further asserts that no duplication of facilities will result from implementing the Mountain Fuel arrangement because it anticipates a future gas development in the southerly direction along the route of its proposed gathering line and away from the facilities of Western.

Although Northwest urges that the request by CIG and Western to hold a formal hearing on the subject applications should be denied, we are of the view that the matters raised in the abovementioned pleadings require determination on the basis of an evidentiary record. Accordingly, we shall schedule hearing procedures pursuant to which the applicants and other parties may submit testimony and exhibits in support of their respective positions. Inasmuch as the applications in Docket No. CP75–294 and Docket No. CP75–296 involve similar questions of law and fact, they should be heard and decided on the basis of a consolidated hearing record.

In view of the lack of a clear showing of a current emergency on the Mountain Fuel system and the contested nature of these applications, we shall deny Mountain Fuel's request for temporary authorization.

The Commission finds:

(1) Good cause exists to consolidate the proceedings in Docket Nos. CP75–294 and CP75–296 for purposes of hearing and decision, to set the consolidated proceeding for formal hearing, and to establish procedures for that hearing.

(2) Good cause exists to deny the request contained in Northwest's answer filed on May 29, 1975, i.e. to deny the joint petition for leave to intervene by CIG and Western or, alternatively, deny their request for hearing.

(3) Although the petition of Washington Natural Gas Company was not timely filed, good cause exists for permitting its intervention.

(4) The participation of each of the above-named petitioners in the consolidated proceeding may be in the public interest.

(5) Good cause has not been shown for the issuance of the requested temporary authorization to Mountain Fuel.

The Commission orders:

(A) The proceedings in Docket Nos. CP75–294 and CP75–296 are hereby consolidated for purposes of hearing and decision.

(B) Pursuant to the provisions of the Natural Gas Act, particularly Sections 4, 5, 7, and 15 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Natural Gas Act, a public hearing shall be held on October 2, 1975, at 10:00 a.m. (EDT) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning the issue of whether certificates of public convenience and necessity should be granted as requested by the applicants and the issue of the justness and reasonableness of the transportation rates to be charged.

(C) The request contained in Northwest's answer filed on May 29, 1975, as hereinbefore noted is denied.

(D) Mountain Fuel's request for temporary authorization hereby is denied.

(E) On or before September 11, 1975, Northwest, Mountain Fuel, and those in support shall serve with the Commission and upon all other parties to the proceeding their testimony and exhibits in support of the applications, including support by Northwest and Mountain Fuel for their respective proposed transportation rates to be charged.

(F) On or before September 23, 1975, all other parties desiring to present their views shall serve with the Commission and upon all other parties to the proceeding their testimony and exhibits in support of their position.

(G) An Administrative Law Judge to be designated by the Chief Administrative Law Judge—See Delegation of Authority, 18 CFR 3.5(d)—shall preside at, and control, this consolidated proceeding in accordance with the policies expressed in the Commission's Rules of Practice and Procedure and the purposes expressed in this order.

(H) Each of the above-named petitioners is hereby permitted to intervene in this consolidated proceeding subject to the Rules and Regulations of the Commission: *Provided, however,* that the participation of such interveners shall be limited to matters affecting asserted rights and interests specifically set forth in their petitions to intervene: and, *provided, further,* that the admission of such interveners shall not be construed as recognition by the Commission that they or any of them might be aggrieved by any order or orders entered in this proceeding.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-23883 Filed 9-8-75;8:45 am]

[Docket No. CP76-59]

NORTHWEST PIPELINE CORP.

Notice of Application

SEPTEMBER 2, 1975.

Take notice that on August 20, 1975, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP76–59 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 of natural gas to be received from November 1, 1976, through April 30, 1976, on a best efforts basis for exchange from Pacific Gas Transmission Company (PGT), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it has entered into a emergency exchange agreement with PGT and Pacific Gas and Electric Company (PG&E) dated August 1, 1975. Applicant further states that pursuant to this agreement, PG&E would deliver on a best efforts basis natural gas in addition to those volumes to which Applicant is presently receiving through the facilities of PGT. Applicant states further that deliveries would be made at existing points of interconnection between Applicant and PGT at Stanfield, Oregon, and at Spokane, Washington, and that the volumes that PGT would deliver under the emergency agreement would not exceed 150,000 Mcf of gas per day and 1,200,000 Mcf over the term of the agreement. It is stated that PGT would commence deliver of gas on the later of either the date of issuance of the necessary regulatory authorization or November 1, 1975, and would continue deliveries through April 30, 1976. Deliveries would be made to Applicant if and to the extent that PG&E, a customer of PGT, determines that it can temporarily postpone the reception of such volumes from PGT.

Applicant requests authorization for the sale of the exchange gas under proposed Rate Schedule ES–1, on a day-to-day basis, to customers receiving service under Rate Schedules ODL–1 and DS–1. The proposed service would be for the protection of firm priority 1 and 2 customers as defined in Section 2.78 of the Commission's General Policy and Interpretations (18 CFR 2.78), and would be in lieu of requesting protection from Applicant's general pipeline system supply.

Applicant proposes to charge those customers purchasing gas under the proposed Rate Schedule ES–1 31.29 cents per therm for all gas delivered plus their pro rata share of any additional amounts which PGT might charge Applicant in accordance with the August 1, 1975, agreement.

For the forthcoming heating season it is stated Applicant is projecting a peak day shortfall in its gas supply of 350,000 Mcf of gas per day and a seasonal (October through April) shortfall of approximately 240,000 Mcf per day. In addition to the shortfall in available gas supply, Applicant's LNG facility which was scheduled for operation during the 1975–76 heating season will not be fully operational, Applicant states as originally proposed, the LNG facility was to have a vaporization capacity of 150,000 Mcf of gas per day and a seasonal storage capacity of 1,200,000 Mcf. Applicant currently projects that the LNG facility will be complete in late November 1975, but expects that such service as may be available from the LNG facility will be extremely limited during the 1975–76 heating season. The application states that the volumes of natural gas to be made available to Applicant's customers as a result of the grant of the authorization requested herein will, when available, substantially reduce the impact of curtailment on priority 1 and 2 consumers within the market areas served by Applicant's distributor customers.

Applicant proposes to provide service under Rate Schedule ES–1 only to the extent PGT can deliver exchange gas from November 1, 1975, through April 30, 1976. Applicant will, to the extent PGT

and PG&E can accept volumes of exchange gas from May 1, 1976, through September 30, 1976, redeliver all exchange volumes received from PGT. The volumes so redelivered would be purchased primarily from Westcoast Transmission Company. Applicant states that it currently schedules its gas supply so as to minimize takes from domestic sources during the summer period and maximize takes from its Canadian supply to meet its off-peak summer requirements. Therefore, to the extent Applicant's requirements during the summer of 1976 are increased as a result of having to redeliver exchange volumes to PGT, Applicant expects that such increased requirement will be satisfied from Canadian supply sources. Based upon present projections, Applicant expects to be able to redeliver the volumes to PGT without curtailment of its customers during the summer period.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 25, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

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.75-23884 Filed 9-8-75;8:45 am]

[Docket Nos. E-9497, E-9068, E-9118]

OHIO EDISON CO., ET AL.

Order Consolidating Proceedings for Purposes of Investigation, Hearing, and Decision

SEPTEMBER 3, 1975.

On October 15, 1974, the City of Cuyahoga Falls, Ohio, filed in Docket No. E-9068 a complaint against the rates of its wholesale electric supplier, Ohio Edison Company (Ohio Edison), and requested that the company's rates be investigated. The complaint was accompanied by a petition with the signatures of approximately 3,500 residents of the Cuyahoga Falls area.

Notice of the complaint was issued on November 19, 1974, providing for written comments to be submitted on or before December 9, 1974. On December 2, 1974, Ohio Edison filed an answer to the complainant alleging the inadequacy of Cuyahoga Fall's submittal as constituting a complaint within the meaning of the Commision's rules of practice, and further alleging that its charges are in strict accordance with its applicable FPC rate schedule and the Commission's regulations. Ohio Edison concludes its answer by requesting that the complaint be dismissed.

On February 5, 1975, Cuyahoga Falls submitted a letter to the Commission's Secretary in which it stated the following:

> The specific complaint pertains to the fact that industrial users within the City of Cuyahoga Falls which is governed by the PUCO receives a rate much less than the wholesale electric rate for the City of Cuyahoga Falls. The City of Cuyahoga Falls could be saving approximately $20,000 per month if they were not discriminated against by Ohio Edison. The discrimination comes into effect when Ohio Edison is able to offset the differences between the consumption of municipality and an industrial user by stating that one is under the jurisdiction of PUCO and the other is under the Federal Power Commission.

On November 11, 1974, the City of Galion, Ohio filed in Docket No. E-9118 a complaint against Ohio Edison similar to that previously filed by Cuyahoga Falls. The complaint was accompanied by a petition signed by a number of residents of the Galion, Ohio area. Notice of Galion's complaint was issued on December 4, 1974, providing for comments to be filed on or before January 4, 1975. On January 6, 1975, Ohio Edison answered Galion's complaint. Ohio Edison's answer follows in both form and content its answer of December 2, 1974, to the complaint of Cuyahoga Falls.

On February 13, 1975, Ohio Edison filed separately in each complaint docket (1) a notice of withdrawal of its prior answer to the complaint, (2) a motion for dismissal of the petition (complaint), and (3) a memorandum in support of the motion to dismiss. Ohio Edison argues that the individuals signing the Cuyahoga Falls and Galion petitions have no standing because they are not themselves customers of Ohio Edison, but are instead customers of the respective Cuyahoga Falls and Galion muncipal electric distribution systems. Ohio Edison further argues that the complaints do not meet the requirements of the Commission's rules and regulations, and that in fact the cities have failed to allege any complaint against the company.

We disagree with Ohio Edison concerning the issue of standing. We conclude that the complaints here at issue were made by the Cities of Cuyahoga Falls and Galion, each of which is a wholesale customer of Ohio Edison. This conclusion is not changed by the fact that the complaints were supported and accompanied by petitions signed by users of electricity in the cities. We believe the signatory petitioners likewise have standing to complain since they are directly affected by Ohio Edison's wholesale rate to the cities. If Ohio Edison's wholesale rates to Cuyahoga Falls and Galion were in fact excessive, (a finding we do not make and which we postulate solely for purposes of illustration), the excessive charges may be borne by the ultimate consumers within the cities' service areas.

The issue of whether a valid complaint has been filed is more difficult. As to the issue of form, Section 1.6 of the Commission's Rules of Practice and Procedure provides only that a complaint may be made by letter or other writing and that it contain the name and address of the complainant and the party against whom the complaint is directed. These very general and liberal standards have been substantially complied with. As to the question of substance, however Section 1.6 requires that there be submitted "a statement of the facts forming the basis for the conclusion that there has been a violation of an act administered by this Commission or of a rule, regulation, or order issued by the Commission."

With the exception of the alleged rate discrimination issue raised by Cuyahoga Falls, which is discussed below, the complaints here at issue are very general in nature. On June 13, 1975, Ohio Edison filed with the Commission in Docket No. E-9497 an application for a general increase in rates to its wholesale customers including Cuyahoga Falls and Galion. On August 5, 1975, the Commission suspended the company's proposed rate increase, and ordered that a hearing be held to determine the justness and reasonableness of the proposed rates. Cuyahoga Falls and Galion were permitted to intervene in the proceeding.

It appears that the existing rate proceeding in Docket No. E-9497 encompasses all of the issues raised or presumed to be raised in the complaints of Cuyahoga Falls and Galion, including, inter alia the reasonableness of Ohio Edison's claimed investments and expenses, including fuel costs. It therefore appears reasonable to consolidate these complaints with the pending general rate proceeding in Docket No. E-9497 for purposes of investigation, hearing and decision.

With respect to Cuyahoga Falls' claim of alleged rate discrimination, this same argument was raised in Docket No. E-9497. The cities there argued that they could face a "price squeeze" in competing with Ohio Edison for industrial customers. However in its August 5, 1975, suspension order, the Commission stated:

> The Commission must utilize a cost plus fair return standard for establishing the justness and reasonableness of wholesale rates and does not have the authority under the Federal Power Act to set wholesale rates predicated upon retail rates over which we have no jurisdiction.[3] We shall therefore limit this proceeding so as to exclude consideration of the price squeeze issue. We are aware of

Cities' reliance upon Conway Corporation v. F.P.C., 510 F. 2d 1264 (1975). However the court in Conway stayed its mandate pending appeal by the Commission. Accordingly, Cities may renew its request for consideration of the price squeeze issue when and if the Conway decision becomes final. (Footnote omitted)

We find that for the reasons expressed in the above-quoted order, the complaint proceedings should and will be subject to the same exclusion of the "price squeeze" issue.

In view of the action being taken with respect to the subject complaints, Ohio Edison's motions for dismissal of the said complaints have become moot.

The Commission finds:

It is necessary and proper in the public interest and in carrying out the provisions of the Federal Power Act that the complaints filed herein by the cities of Cuyahoga Falls and Galion, Ohio be consolidated with the proceeding in Docket No. E–9497 for purposes of investigation, hearing and decision.

The Commission orders:

(A) The complaints filed by the City of Cuyahoga Falls, Ohio in Docket No. E–9068 and the City of Galion, Ohio in Docket No. E–9118 are hereby consolidated with the proceeding in Docket No. E–9497 for purposes of investigation, hearing, and decision.

(B) The procedural schedule established in the order of August 5, 1975, in Docket No. E–9497 shall govern the consolidated proceedings.

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

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75–23885 Filed 9–8–75;8:45 am]

[Docket Nos. E–9409 and E–9410]

OKLAHOMA GAS AND ELECTRIC CO.

Filing of Revised Fuel Adjustment Clause

SEPTEMBER 2, 1975.

Take notice that on August 15, 1975, the Oklahoma Gas and Electric Company tendered for filing a revised fuel adjustment clause in each of the above-referenced dockets. These clauses were filed in response to a letter from the Secretary of the Commission which stated that the previous clauses did not conform to Section 35.14 of the Commission's Regulations as amended by Order No. 517. The instant filings purport to cure this deficiency.

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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 19, 1975. 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.75–23886 Filed 9–8–75;8:45 am]

[Docket No. E–7777 (Phase II)]

PACIFIC GAS AND ELECTRIC CO.

Extension of Time

AUGUST 29, 1975.

On August 27, 1975, Southern California Edison Company filed a motion to extend the time within which to respond to the amended petitions to intervene filed on August 15, 1975 by the Cities of Anaheim, Riverside, Banning, Colton and Azura, California (Cities) and Anza Electric Power Cooperative, Inc. (Anza), in the above-designated matter.

Upon consideration, notice is hereby given that the time within which to respond to the amended petitions to intervene filed on August 15, 1975 by Cities and Anza is extended to and including September 17, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75–23887 Filed 9–8–75;8:45 am]

[Docket No. ER 76–91]

PACIFIC POWER & LIGHT CO.

Modification of Rate Schedule

SEPTEMBER 3, 1975.

Take notice that Pacific Power & Light Company (Pacific) on August 28, 1975, tendered for filing, in accordance with Section 35.13 of the Commission's Regulations, a new rate schedule for power and energy sales to City of Powell, Wyoming (City). This rate schedule supersedes Pacific's existing rate schedule designated FPC No. 90.

The proposed rate schedule provides for a change in structure of the rate charged City by Pacific. Pacific states that this proposed change in rate structure is to conform to the high voltage rate charged to larger customers in the State of Wyoming. Pacific states that to be consistent with this rate structure results in an approximate 15 percent increase in the cost of electric service to City. In addition, since City has elected to use Pacific's transformation facilities a use-of-facilities charge has been included by Pacific.

Pacific requests waiver of the Commission's notice requirements to permit the new rate schedule to become effective June 1, 1975, which it claims is the date of commencement of service.

A copy of this filing was supplied to the Wyoming Public Utility Commission.

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 September 18, 1975. 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.75–23888 Filed 9–8–75;8:45 am]

[Docket Nos. RI76–8, RI76–10]

PENNZOIL PRODUCING CO. AND SHELL OIL CO.

Order Denying Petitions for Special Relief, Setting Date for Hearing on Applications for Abandonment, and Consolidating Filings

AUGUST 29, 1975.

On July 1, 1975 and July 18, 1975, Pennzoil Producing Company (Pennzoil) and Shell Oil Company (Shell), respectively, filed petitions in Docket Nos. RI76–8 and 76–10 for special relief from the just and reasonable rates under Opinion Nos. 598 and 699, as amended. The relief sought was for certain gas from the Gibson Field, Terrebonne Parish, Louisiana, under lease from Williams, Inc. et al, (Williams) and which is being sold to United Gas Pipe Line Company under FPC Gas Rate Schedule Nos. 234 (Pennzoil) and 202 (Shell). In the alternative, both petitioners requested authorization to abandon the royalty share of gas, effective January 1, 1974, but no later than October 1, 1975.

The gas is produced from acreage covered by leases with Williams dated August 29, 1934, and July 24, 1952. The 1934 lease provides that Pennzoil and Shell make royalty payments on the gas production thereunder equal to ⅛ of the market value prevailing at the well. The 1952 lease between Williams and Shell provides for royalty equal to ¼ of that value. In letters dated June 7, 1973, the March 27, 1974, Williams demanded increased payments based on the market value clauses in the leases. His demands unmet, Williams declared both leases terminated on June 5, 1974. A lawsuit ensued out of which a settlement agreement dated June 18, 1975, was signed. That agreement provides that the instant petitions would be filed with the Commission seeking authorization for either of the following:

(A) Payment of royalty on each Mcf produced from the 1934 lease equal to ⅛, and from the 1952 lease equal to ¼ of the total of:

(1) the higher of
(A) the base royalty rate or
(B) the base alternative rate, plus
(2) 7¢ per Mcf or the full amount of the Louisiana severance tax, plus
(3) any Btu adjustments from 1000 Btu's

The "base royalty rate" is 78¢ per Mcf for 1975 and will increase 1.5¢ per Mcf annually beginning January 1, 1976. "Base alternative rate" is 150% of the highest area or national rate permitted or, in the case of deregulation, is the average of the three highest prices provided in sales for resale in the South Louisiana area; or

(B) Abandonment of that share of the gas sold under the leases attributable to Williams' royalty interests.

Should we take the course outlined in (A), Petitioners and United would amend their 1959 contract to provide for increased royalty payments by United which payments they request be made effective January 1, 1974, but no later than October 1, 1975. Petitioners' filing for the royalty increase will also contain a surcharge for royalty on volumes delivered between January 1, 1974, and the date of the Commission's final order.

In the event we authorized (B), United agreed to amend the 1959 contract to reflect the release of the royalty portion of the gas from the contract. A further proviso to the settlement agreement would permit cancellation of the agreement by either party should we not grant authorization prior to February 1, 1976. Due to the time limitation stated above, Petitioners also requested accelerated procedures, including the waiver of the intermediate decision, if a formal hearing were held.

The basic thrust of Petitioners' argument is that, pursuant to Placid Oil Co. et al. v. F.P.C., 483 F. 2d 880 (5th Cir. 1973), the Commission may grant special relief where higher than average royalties make a rate charged inappropriate. Petitioners state that United Gas Pipe Line Company, to whom they sell the gas, is in severe curtailment and is willing to pay the higher prices to keep the gas in its systems. Therefore, Petitioners argue, the public convenience and necessity warrants United's retaining this gas at the higher prices rather than risking termination of the leases in question and the possible diversion of the gas thereunder to the intrastate market.

The Commission finds:

(1) There is no justification for allowing a producer to pass through higher royalty costs to the consumer without a showing that Petitioners' overall costs are higher than those reflected in our opinion No. 699–H.

(2) There is no basis for allowing a temporary surcharge for the purpose of permitting a producer to recover retroactive royalty payments.

(3) It is in the public interest that the petitions, insofar as they request abandonment of the gas subject to the royalty owner's interest, be set for hearing.

(4) Inasmuch as the petitions of Shell and Pennzoil involve identical issues and parties, the public interest will be served by disposing of these matters in the same hearing.

(5) The requested shortened hearing procedures with respect to accelerated dates is hereby granted. However, no good cause exists for granting the request for waiver and omission of the intermediate decision.

The Commission orders:

(A) Those portions of the petitions (A) filed by Pennzoil and Shell in Docket Nos. RI76–8 and RI76–10 relating to a request for rate increases due to increases in royalty payments are hereby denied.

(B) Those portions of the petitions relating to temporary surcharges for back royalty payments by Shell and Pennzoil are hereby denied.

(C) Pursuant to the Natural Gas Act, particularly Sections 4, 5, 7, 15, and 16 thereof, the Commission's Rules of Practice and Procedure, and the regulations under the Act (18 CFR, Chapter I), those portions of the Shell-Pennzoil petitions relating to the abandonment of the gas associated with royalty owners' interests are set for the purpose of hearing and disposition.

(D) The portion of the petitions to abandon sales of royalty volumes filed by Pennzoil and Shell in Docket Nos. RI76–8 and RI76–10, respectively, are hereby consolidated for the purpose of hearing and disposition.

(E) A public hearing on the issues presented by the portion of the petitions to abandon sales of royalty volumes shall be held commencing September 23, 1975, at 10:00 A.M. (EDT) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5 (d)), shall preside at the hearing in this proceeding pursuant to the Commission's Rules of Practice and Procedure. The Presiding Administrative Law Judge shall issue his initial decision on or before November 26. 1975.

(G) Applicants and any intervenor supporting the application shall file their direct testimony and evidence on or before September 9, 1975. All testimony and evidence shall be served on the Presiding Administrative Law Judge, the Commission Staff, and all other parties to the proceeding.

(H) The Commission Staff and all intervenors opposing the application shall file their direct testimony and evidence on a date to be fixed by further order of the Presiding Administrative Law Judge. All such testimony and evidence shall be served upon the Presiding Administrative Law Judge and all other parties.

(I) Any party or Staff Counsel desiring to oppose any filed exceptions shall file such objections on or before December 19, 1975.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75–23889 Filed 9–8–75;8:45 am]

[Docket No. E–9508]

PUBLIC SERVICE CO. OF NEW MEXICO

Filing of Supplemental Data

SEPTEMBER 2, 1975.

Take notice that on August 25, 1975, Public Service Company of New Mexico tendered supplemental data intended to make complete its original filing of June 23, 1975. This action is in response to a deficiency letter issued by the Secretary of the Federal Power Commission.

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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 16, 1975. 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.75–23890 Filed 9–8–75;8:45 am]

[Docket No. E–9509]

PUBLIC SERVICE CO. OF NEW MEXICO

Filing of Supplemental Data

SEPTEMBER 2, 1975.

Take notice that on August 25, 1975, Public Service Company of New Mexico tendered supplemental data intended to make complete its original filing of June 23, 1975. This action is in response to a deficiency letter issued by the Secretary of the Federal Power Commission.

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 Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 16, 1975. 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.75–23891 Filed 9–8–75;8:45 am]

[Docket No. F–9530]

PYRAMID LAKE PAIUTE TRIBE OF INDIANS V. SIERRA PACIFIC POWER CO.

Extension of Time

SEPTEMBER 2, 1975.

On August 28, 1975, Sierra Pacific Power Company (Sierra Pacific) filed a motion to extend the time to answer a complaint and petition for rehearing, filed on July 1, 1975 by the Pyramid Lake Paiute Tribe of Indians (the Tribe), in the above-designated matter.

Notice is hereby given that the time within which Sierra Pacific must answer

the complaint and petition for rehearing filed by the Tribe on July 1, 1975, is extended for September 12, 1975 to and including October 13, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-23892 Filed 9-8-75;8:45 am]

[Docket No. RP75-84]

SOUTHERN NATURAL GAS CO.

Extension of Procedural Dates

AUGUST 29, 1975.

On August 14, 1975, Staff Counsel filed a motion to extend the procedural dates fixed by order issued May 15, 1975, in the above-designated matter.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff Testimony, November 24, 1975.
Service of Intervenor Testimony, December 8, 1975.
Service of Company Rebuttal, December 22, 1975.
Hearing, January 13, 1976 (10:00 a.m. EST).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-23893 Filed 9-8-75;8:45 am]

[Docket No. E-8514]

SOUTHERN SERVICES, INC.

Further Extension of Time

SEPTEMBER 2, 1975.

On August 4, 1975, The Water, Light and Sinking Fund Commission of the City of Dalton, Georgia filed a motion to extend the procedural dates fixed by order issued May 8, 1974, as most recently modified by notice issued June 17, 1975, in the above designated matter.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Intervenor Testimony, November 10, 1975.
Service of Staff Testimony, December 1, 1975.
Service of Company Rebuttal, December 8, 1975.
Hearing, December 29, 1975 (10:00 a.m. EST).

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-23894 Filed 9-8-75;8:45 am]

[Docket No. CP76-57]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Application

SEPTEMBER 2, 1975.

Take notice that on August 15, 1975, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP76-57 an application pursuant to Section 7 (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Lukens Steel Company, Vistron Corporation, and unspecified industrial consumers for high priority uses,[1] all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it is presently curtailing customers at the rate of 700,000 Mcf of gas per day or 25.2 percent of its customers' requirements. Applicant further states that in the period from November 1, 1975, through April 1, 1976, that it estimates that the curtailment level will average approximately 773,000 Mcf of gas per day or approximately 28 percent of requirements. Applicant alleges that it has little hope of purchasing any meaningful additional gas supplies during the coming heating season and that there is the possibility of ameliorating the impact of such estimated shortages on high priority industrial and commercial users of gas by transporting gas produced from onshore and offshore non-federal domain for high priority users to offset the curtailments imposed upon such users. Applicant states that in its opinion significant volumes of natural gas are available in the onshore Gulf Coast area for direct, nonjurisdictional sales for high priority industrial and commercial consumption.

Applicant states that Lukens Steel Company (Lukens) and Vistron Corporation (Vistron) are industrial consumers with high priority industrial requirements of gas. Applicant further states that Lukens and Vistron have contracted with Mobil Oil Corporation (Mobil) for the purchase of gas during the 1975-76 heating season to offset curtailments by their suppliers Columbia Gas of Pennsylvania, Inc., and Columbia Gas of Ohio, respectively, for such high priority usage.[2] It is stated that the price that Lukens and Vistron pay Mobil for such gas in each instance would be determined on the basis of the arithmetical average of Mobil's prices in effect for the period from initial delivery to January 1, 1976, and from January 1, 1976, to April 1, 1976, under Mobil's presently existing two highest volumes gas sales contracts for gas sales in Jefferson and Orange Counties, Texas, involving comparable quality gas. It is further stated that the average price of such gas is currently $1.90 per million Btu. The gas which would be purchased is said to be limited to direct industrial consumption and would, on a daily basis, be transported and delivered to replace volumes curtailed by the distributor suppliers of Lukens and Vistron.

Applicant states that it has agreed to transport the volumes purchased by Lukens and Vistron, limited in volume to those amounts required to make up the volumes of gas curtailed for high priority usage. The transportation would be on an interruptible basis to assure that the pipeline capacity for high priority uses is not preempted. For the transportation service Applicant proposes to charge an amount equal to Applicant's rate for deliveries in the particular zone at which the proposed delivery would be made at 100 percent daily contract quantity load factor level, less Applicant's purchased gas costs and less Applicant's fuel cost. Applicant further states that it would reduce the delivery volume by 3 percent to offset volumes used by Applicant in the performance of the proposed transportation service and to assure that higher priority customers are not adversely affected.

Applicant proposes to transport up to 20,000 Mcf of gas per day for Lukens up to 40,000 Mcf of gas per day for Vistron. Applicant states that the gas would be delivered to Columbia Gas Transmission Corporation at existing delivery points by means of existing facilities for redelivery to Lukens and Vistron.

Applicant further requests in the instant application that the Commission grant a blanket authorization to transport gas for its indirect industrial and commercial users for high priority purposes under he terms, conditions and procedures hereinafter stated and to install any tap and metering facilities necessary to institute the proposed service. Said service is proposed to be offered and rendered under the following circumstances and conditions:

(1) Applicant would transport gas under the terms and conditions of Rate Schedules TS and such transportation and would be limited to gas produced from onshore and offshore non-federal domain areas which generally is not otherwise available for purchase on a jurisdictional basis.

(2) The proposed procedure would be effective through the end of 1975-1976 heating season and would cover contracts which provide for initial deliveries for high priority industrial and commercial use in this period.

(3) Applicant would file with the Commission a copy of each service agreement made between it and the industrial or commercial purchaser, together with a copy of the gas sales contract between the purchaser and the seller of gas, and a statement which would set forth the following facts:

(a) That gas to be transported would only be used to offset curtailments of high priority industrial or commercial uses by Applicant's customers;

(b) That Applicant has the capacity to so transport the gas through its existing system that no additional facilities are required except taps and meters to receive gas from the producers involved, and that the transportation would not preempt capacity needed for Applicant's firm requirements;

[1] High priority use is stated to be those users set forth in Section 2.78 of the Commission's General Policy and Interpretations (18 CFR 2.78), priority category 2 and priority category 3 which would have been priority category 2 had the gas been purchased on a firm basis.

[2] Lukens Steel Company is said to use gas in the manufacture of carbon and alloy steel plates and associated heavy plate products. Vistron Corporation is said to use gas in the production of ammonia for industrial and agricultural purposes.

(c) Whether or not the gas to be transported is believed to be available for sale to Applicant or any other pipeline for resale in interstate commerce; and

(d) Whether the price paid for such gas is comparable to and consistent with prices being paid by intrastate buyers for gas similarly situated.

(4) Service of such filings would be made on all Applicant's customers and interested state commissions. Applicant proposes that if the Commission does not reject or disapprove the filing by Applicant of the service agreement and related information within 30 days, the service agreement would become effective and Applicant would commence the service. Applicant proposes that if the Commission should reject any such filing, Applicant would not be authorized to commence the service proposed and that such filing could be withdrawn without prejudice to refiling by Applicant for separate authorization.

Applicant states that under its proposal to render the unspecified transportation services, high priority industrial and commercial consumers could have the full benefit of gas which would otherwise not be available in interstate commerce. Applicant further alleges that even though the Commission could not regulate directly the end use of gas so transported, through the mechanism for review and approval or disapproval of the transportation arrangements, it could attract gas to the interstate market for the stated high priority uses and thus improve the overall nationwide use factor of natural gas.

Applicant states that the authorization proposed herein for the unspecified services is experimental in nature and would be limited to contracts which involve initial deliveries during the 1975–1976 heating season.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 22, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

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.75-23895 Filed 9-8-75;8:45 am]

[Docket Nos. RP74-48 and RP75-3; AP76-1]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Order Rejecting Advance Payments Tracking Filing and Granting Intervention

AUGUST 29, 1975.

On July 16, 1975, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing seven revised tariff sheets to its FPC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2.[1] This filing is made, Transco states, in accordance with Section 6 of Article III of the "Agreement as to Rates of Transcontinental Gas Pipe Line Corporation" (Agreement). Said Agreement, representing a settlement of all but three issues in Docket Nos. RP74-48 and RP75-3, was certified to the Commission for approval on May 16, 1975, by Presiding Administrative Law Judge Isaac D. Benkin.

According to Transco, the purpose of the filing is to increase its rates to reflect the inclusion in rate base of advance payments in the amount of $6,863,293, which amount has not previously been included in rate base.

The proposed revised tariff sheets also reflect additional advance payments made by Transco in the amounts of $32,287,081 and $14,442,642. Those amounts were the subject of previous advance payment tracking filings made by Transco on May 16, 1975 (AP75-1), and June 16, 1975 (AP75-2), respectively.[2]

Transco proposes that the instant filing be made effective September 1, 1975, subject to Commission approval of the Agreement.

Public notice of the subject filing was issued on June 24, 1975, with comments, protests and petitions to intervene due on or before August 8, 1975. A timely petition for leave to intervene was filed by Sun Oil Company. Good cause appearing, said petition shall be granted, as hereinafter ordered and conditioned.

As noted above, the instant advance payments tracking filing is made pursuant to a provision in the settlement agreement in the captioned dockets. This provision would permit, subject to certain conditions, the tracking of advances from Transco to producers of natural gas. However, because we have not yet taken any action on said settlement agreement, Transco, as of this date, has no authority to track the advance payments here in question. Accordingly, the instant filing must be rejected as premature. This rejection is, however, without prejudice to Transco's right to make advance payments tracking filings in the event the tracking provision is approved at a later date.

The Commission finds:

(1) Good cause exists to grant Sun Oil Company's petition for leave to intervene in this proceeding, as hereinafter ordered and conditioned.

(2) Good cause exists to reject the tariff sheets listed in footnote 1 of this order, without prejudice to Transco's right to make advance payments tracking filings in the event the aforementioned advance payments tracking provision is approved at a later date.

The Commission orders:

(A) Sun Oil Company is hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission; *Provided, however*, that participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further*, that the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of this proceeding.

(C) Transco's July 16, 1975, advance payments tracking filing is hereby rejected, without prejudice to Transco's right to make advance payments tracking filings in the event the tracking provision in question is approved by this Commission at a later date.

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

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-23896 Filed 9-8-75;8:45 am]

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[1] These seven revised sheets are designated Fourth Substitute Thirteenth Revised Sheet No. 5 and Fourth Substitute Ninth Revised Sheet No. 6 to First Revised Volume No. 1; and Sixth Substitute Fourteenth Revised Sheet No. 52, Fifth Substitute First Revised Sheet No. 121, Sixth Substitute Tenth Revised Sheet No. 321, Sixth Substitute Sixth Revised Sheet No. 416, and Sixth Substitute Fifth Revised Sheet No. 495 to Original Volume No. 2.

[2] By orders issued June 30, 1975, and July 25, 1975, respectively, Transco's advance payments tracking filings were rejected because we had not yet acted on the aforementioned Agreement, pursuant to which the tracking filings were made. However, those rejections were without prejudice to Transco's right to make advance payment tracking filings in the event the tracking provision is approved at a later date.

[Docket Nos. RP74-89 (AP76-1)]

TRUNKLINE GAS CO.

Order Amending Prior Order

AUGUST 29, 1975.

On August 22, 1975, we issued an order at this docket which provided for a hearing to investigate into the justness and reasonableness of Trunkline's proposed rate increase, as tendered for filing on July 18, 1975, insofar as it reflects costs related to eleven advance payments. Omitted from that order was the date upon which Staff is to serve its prepared testimony and exhibits. Therefore, we shall amend our order of August 22, 1975 to establish a revised procedural schedule.

The Commission orders:

Ordering Paragraphs (A) and (D) of our order of August 22, 1975 are hereby amended to read as follow:

(A) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 8, and 15 thereof, and the Commission's Rules and Regulations, a public hearing shall be held on January 13, 1976, in a hearing room of the Federal Power Commission, Washington, D.C. 20426, concerning the justness and reasonableness of the rates proposed in this proceeding by Trunkline insofar as they reflect costs related to the eleven advance payments listed in Footnote 3 above.

(D) On or before October 14, 1975, Trunkline shall serve its prepared testimony and exhibits. On or before December 2, 1975, the Commission Staff shall serve its prepared testimony. On or before January 2, 1976, the company shall serve its rebuttal evidence, if any.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-23897 Filed 9-8-75;8:45 am]

[Docket Nos. RP74-20 and RP74-83]

UNITED GAS PIPE LINE CO.

Extension of Procedural Dates

AUGUST 29, 1975.

On June 30, 1975, United Gas Pipe Line Company filed a motion to extend the procedural dates fixed by order issued May 16, 1974, as most recently modified by notice issued June 2, 1975, in the above-designated matter. The motion states that the parties have been notified and have no objection.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of United Testimony on Proposed Settlement, September 29, 1975.
Service of Staff Testimony on Proposed Settlement, October 13, 1975.
Service of Intervenor Testimony on Proposed Settlement, October 27, 1975.
Service of United Rebuttal Testimony, November 11, 1975.
Hearing, December 2, 1975 (10:00 a.m. EST).

By direction of the Commission.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-23898 Filed 9-8-75;8:45 am]

[Docket No. ER76-45]

CONSUMERS POWER CO.

Order Accepting for Filing and Suspending Proposed Rate Increase, Granting Interventions, Providing for Hearing Establishing Procedures, Denying Motion To Reject and Providing for Responses to Motion for Summary Disposition

AUGUST 29, 1975.

On July 30, 1975, Consumers Power Company (Consumers or Company) tendered for filing revised tariff sheets containing superseding rate schedules which would increase the Company's wholesale service rates to named partial and full requirement customers (Customers).[1] The proposed rates would increase revenues from Customers by $5,065,720 (33%) for the twelve month period ending December 31, 1975. Concurrently, Consumers tendered for filing a Schedule of Rates Governing Wholesale For Resale Electric Service (Standard Service Agreement) which Consumers intends to serve upon all customers upon expiration of their present agreements. The rates contained in the Standard Service Agreement are the same as those in the superseding rate schedules referred to above, and provide for interim compensation to Consumers for the installation or modification of facilities necessary to serve particular customers. This Standard Service Agreement is proposed to be substituted for the existing individual contract form of rate schedule in order to standardize Consumers wholesale rate form and terms and conditions of service, in order to permit more efficient administration of its wholesale business. Consumers proposes that its filed Standard Service Agreement be made effective for each of its wholesale for resale customers upon the expiration or termination of the customer's presently effective wholesale for resale contract. Consumers proposes to make the superseding rate schedules effective on August 30, 1975.

Consumers states that the reason for the increase in rates is that the Company's present earnings from its wholesale electric service are inadequate as a result of ongoing inflation, and that the rate of return from its wholesale business will be only 2.59% based upon forecasted 1975 conditions. Consumers states further that in order to meet the requirements of its customers, it will be required to expend approximately $3 billion in construction activities during the five-year period 1976 through 1980 and that much of this construction expenditure must be financed with outside capital. Consumers states that the new rates, which modify the demand and energy rate structures and charges, are necessary if the Company is going to be able to finance this necessary construction program. The Company in its new rate filing is also proposing to eliminate the rate differential between total requirement purchasers and partial requirement purchasers in its wholesale for resale rate by the adoption of a single schedule of rates for all of its wholesale customers, and to revise its fuel cost adjustment clause to comply with FPC Order No. 517, issued November 13, 1974.

Notice of Consumer's filing was issued on August 7, 1975, with comments, protests, or petitions to intervene due on or before August 25, 1975.

On August 19, 1975, a Petition to Intervene was filed by Edison Sault Electric Company (Edison). Edison stated that it purchases electric energy from Consumers and serves customers at retail and also sells electric energy at wholesale to one customer, Cloverland Electric Cooperative. Edison alleges, inter alia, that it is presently purchasing from Consumers electric energy for resale under a contract entered into between the parties dated December 1, 1966. However, Edison and Consumers have entered into a new contract dated November 21, 1974, which will become effective when Edison's new submarine cable is placed into service, which date is anticipated to be October 1, 1975. Upon the effective date of the new contract, the contract between Edison and Consumers dated December 1, 1966, and all amendments and supplements thereto, will be cancelled. The new contract was tendered to the Commission for filing by Consumers on April 11, 1975, with a request for waiver of notice requirements, but it has not as yet been accepted. Edison's position is that it is inappropriate for Consumers to now propose new rates when it has an agreement pending before the Commission with Edison which has not yet become effective. Edison states further that under the proposed rates, its cost of power from Consumers would increase 41.5% or $510,379 for the twelve months ended August 31. 1975.

On August 20, 1975, a Petition to Intervene was filed by Alpena Power Company (Alpena), who states that it receives a major portion of its energy requirements from Consumers, and it is Consumers' largest wholesale customer, and therefore a substantial portion of the proposed increase will have to be borne by Alpena.

On August 25, 1975, a Petition to Intervene was filed with a motion entitled "Motion to Reject Filing, Motion For Summary Judgement, Protest and Petition to Intervene of Twelve Publicly-Owned Wholesale Customers" (Systems).[2] Systems urge that the filing be rejected because the Period II cost data submitted by Consumers is not substantiated. We have reviewed Consumers' Period II data and find it substantially complies with our filing requirements. However, the burden will be upon Consumers in the hearing hereinafter ordered to "establish the validity and accuracy of each of their cost estimates" (Order 487, mimeo at p. 3).

[1] See Appendix A for Rate Schedules and Customer listing.

[2] Cities of Bay City, Chalevoix, Coldwater, Harbor Springs, Hillsdale, Marshall Petoskey, Portland, St. Louis and Union City, the Village of Chelsea and the Southeastern Michigan Electric Cooperative, Inc.; all located in Michigan.

Systems urges that summary judgement be granted on that portion of the rate filing reflecting Consumers' proposal to adopt normalization of the tax effect of liberalized depreciation as well as comprehensive interperiod tax normalization of the items covered in Order No. 530.[3] Systems argue that in order to adopt normalization for rate purposes of the items in Order No. 530 as well as for liberalized depreciation, Consumers must show tax deferral rather than a permanent tax savings. Systems argue that Consumers direct evidence fails to show a tax deferral and therefore its request for normalization of the tax effect of liberalized depreciation as well as the items covered in Order No. 530 must be summarily denied.

Because of the importance of this issue, we believe it appropriate to provide an opportunity for all parties, including the Commission Staff, to respond to Systems motion for summary disposition concerning the normalization proposals of Consumers. Accordingly, we shall delay action on Systems motion to allow all parties 15 days from the date of issuance of this order to respond to Systems motion for summary disposition of the normalization issues, pursuant to Section 1.12(c) of the Commission's Regulations.

Systems also argue that certain items underlying Consumers' proposed rates are excessive including, inter alia., its request for a 9.95% overall rate of return which yields a 15.5% return on common equity, allegedly excessive maintenance expense, allegedly improper allocation of fuel stock, and improper rate design by the addition of more demand blocks. We believe the allegations made by Systems, while not sufficient to cause rejection of the filing, raise issues which may require development in the evidentiary proceedings hereinafter ordered.

As a further basis for rejection of Consumers' filing, Systems argue that the proposed rates would create an unlawful "price squeeze" by foreclosing Systems from competing with Consumers for retail loads. This Commission has consistently held that it must utilize a cost plus fair return standard for establishing the justness and reasonableness of the wholesale rate and does not have the authority under the Federal Power Act to set the wholesale rate predicated upon retail rates over which we have no jurisdiction.[4] We shall therefore limit this proceeding so as to exclude consideration of the price squeeze issue. We are aware of Systems' reliance upon *Conway Corporation* v. *F.P.C.*, 510 F.2d 1264 (1975). However, the Court in *Conway* stayed its mandate pending appeal by the Commission. Accordingly, Systems may renew their request for consideration of the price squeeze issue when and if the *Conway* decision becomes final.

In addition to the "price squeeze" issue, Systems raise allegations of other allegedly anti-competitive allegations involving, inter alia., the appropriateness of certain contract language, pooling, arrangements of interchange and coordination which Consumers is a member. In order to fully investigate these allegations, we shall institute a separate phase (Phase II), which will be the subject of a hearing and decision separate and apart from the investigation of the rates we have ordered below for the purpose of developing a complete evidentiary record concerning allegedly anti-competitive language contained in Consumers' currently effective rate schedules proposed to be continued in the rate schedules filed herein.[5]

All of the Intervenors urge that suspension for the full five-month statutory period is proper in this case. The Commission must utilize a cost plus fair return standard for establishing the justness and reasonableness of the proposed wholesale rates. We believe that the circumstances of this case indicate thirty day suspension is proper. *Municipal Light Boards of Reading and Wakefield, Mass.* v. *F.P.C.*, 450 F. 2d 1341 (D.C. Cir. 1971), *cert. denied*, 405 U.S. 989 (1972).

Evidence relevant to the issues raised by the instant filing should be submitted by all parties including the Commission Staff. Consumers is requesting herein that it be allowed a Period II rate of return on common equity of 15.50 percent and an overall rate of return of 9.95 percent. We note that Consumers is requesting the increase in part to finance approximately $3 billion in construction activities during the five year period 1976 through 1980. All parties, including Staff, are directed to present evidence as to how their rate of return recommendations relate to Consumers' alleged financing requirements and should address themselves specifically to Consumers' statements that its return at present rates is 5.05 percent; that its price earnings ratio has declined from 22.3 in 1965 to 10.9 in 1973; that its common stock, yielding approximately 14 percent in current dividends, was selling at 50 percent of book value in May, 1975; that its stock earnings per share decreased from $2.41 in 1973 to $1.34 in 1974, and dividends have not increased since February, 1970; and that allowance for funds used during construction were 62 percent of 1974 earnings on common equity.

A review of Consumers' submittal indicates that among other things, it has normalized the tax effect of interest associated with construction work in progress in the income tax calculation, and made direct assignment of transmission facilities and related costs.

Our review of Consumers' proposed rates filed herein indicates that the proposed rates have not been shown to be just and reasonable. We shall, therefore, accept Consumers' tendered tariff sheets and Standard Service Agreement for filing and suspend the use thereof for thirty days, when the tariff sheets will be permitted to become effective, and the Standard Service Agreement will be permitted to be substituted for the individual agreements as they expire, subject to refund. We shall also provide for an evidentiary hearing to test the lawfulness of the proposed rates as contained in the filed tariff sheets and the Standard Service Agreement.

The Commission finds:

(1) Consumers' filing should be accepted for filing and suspended for thirty days, as hereinafter ordered.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of Consumers' proposed rate changes.

(3) The participation of Edison, Alpena, and Systems in these proceedings may be in the public interest.

The Commission orders:

(A) Consumers' filing is hereby accepted for filing and suspended for thirty days until September 30, 1975, when the proposed rates will go into effect, subject to refund and the Standard Service Agreement incorporating these rates may be substituted for the individual contract forms as they expire or are terminated.

(B) Pursuant to the authority of the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held on November 27, 1975, at 10 a.m., in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, concerning all issues, other than those issues to be considered in Phase II of these proceedings hereinafter ordered, which bear on the lawfulness and reasonableness of the rates and charges proposed in Consumers' filing (Phase I). Phase I shall be subject to the procedures set forth in Ordering Paragraph (C) below.

(C) On or before October 16, 1975, the Commission Staff shall serve its prepared testimony and exhibits. Prepared testimony and exhibits of intervenors, if any, shall be served on or before October 30, 1975. Company rebuttal shall be served on or before November 13, 1975.

(D) A second phase (Phase II) of this proceeding is hereby instituted for the development of a complete evidentiary record concerning the anticompetitive provisions of Consumers' contracts and over which this Commission has jurisdiction to grant relief. Intervenor evidence in support of their allegations as to these anticompetitive provisions in Consumers' contracts shall be filed on or before December 9, 1975. Staff evidence, if any, shall be filed on or before January 20, 1976. Consumers shall file its prepared evidence on or before February 3, 1976. Any intervenor rebuttal evidence shall

[3] ___ FPC ___ issued June 18, 1975, in Docket Nos. R-424 and R-446.

[4] See *e.g.*, *Virginia Electric and Power Company*, Docket No. E-9147, order issued January 22, 1975, *Carolina Power and Light Company*, Docket No. E-8884, order issued August 26, 1974; *Wisconsin Public Service Corporation*, Docket No. E-8867, order issued August 23, 1974, and *Pacific Gas and Electric Company*, Docket No. E-7777, order issued March 14, 1974.

[5] See orders listed in Footnote 4 above.

be filed on or before February 24, 1976. A public hearing for the purpose of cross-examination of the filed testimony and exhibits shall commence on March 9, 1976, in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, at 10 a.m.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose, (See Delegation of Authority, 18 CFR 3.5 (d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in the Commission's Rules of Practice and Procedure.

(F) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to Section 1.18 of the Commission's Rules of Practice and Procedure.

(G) Edison and Alpena are hereby permitted to intervene in these proceedings, subject to the Rules and Regulations of the Commission; *Provided, however,* That the participation of such intervenors shall be limited to matters affecting rights and interests specifically set forth in their petition to intervene; and *Provided, further,* That the admission of such intervenors shall not be considered as recognition by the Commission that they might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(H) Pursuant to Section 1.12(c) of the Regulations, all parties shall file responses, within 15 days of the date of issuance of this order, to Systems' motion for summary disposition concerning Consumers' request to reflect in its rates comprehensive interperiod tax normalization, and normalization of the tax effect of liberalized depreciation. Pending such responses, we shall withhold action on Consumers motion.

(I) Systems' motion to reject Consumers' filing is denied.

(J) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A.—*Consumers Power Co.—docket No. ER76-45*

[Customer list and proposed rate schedule designations filed July 30, 1975]

Designations	Customer	Description
1. Supplement No. 4 to Rate Schedule FPC No. 1 (supersedes supp. No. 3 to Rate Schedule FPC No. 1).	City of Bay City	Rate WR.
2. Supplement No. 5 to Rate Schedule FPC No. 4 (supersedes supp. No. 4 to Rate Schedule FPC No. 4).	City of Eaton Rapids	Do.
3. Supplement No. 4 to Rate Schedule FPC No. 5 (supersedes supp. No. 3 to Rate Schedule FPC No. 5).	City of Harbor Springs	Do.
4. Supplement No. 4 to Rate Schedule FPC No. 6 (supersedes supp. No. 3 to Rate Schedule FPC No. 6).	City of Hillsdale	Do.
5. Supplement No. 5 to Rate Schedule FPC No. 7 (supersedes supp. No. 4 to Rate Schedule FPC No. 7).	City of Marshall	Do.
6. Supplement No. 4 to Rate Schedule FPC No. 9 (supersedes supp. No. 3 to Rate Schedule FPC No. 9).	Village of Chelsea	Do.
7. Supplement No. 4 to Rate Schedule FPC No. 12 (supersedes supp. No. 3 to Rate Schedule FPC No. 12).	Southeastern Michigan Rural Electrification Cooperative, Inc.	Do.
8. Supplement No. 6 to Rate Schedule FPC No. 13 (supersedes supp. No. 5 to Rate Schedule FPC No. 13).	Alpena Power Co	Do.
9. Supplement No. 5 to Rate Schedule FPC No. 14 (supersedes supp. No. 3 to Rate Schedule FPC No. 14).	Edison Sault Electric Co	Do.
10. Supplement No. 4 to Rate Schedule FPC No. 17 (supersedes supp. No. 3 to Rate Schedule FPC No. 17).	City of St. Louis, Mich	Do.
11. Supplement No. 3 to Rate Schedule FPC No. 29 (supersedes supp. No. 2 to Rate Schedule FPC No. 29).	City of Coldwater	Do.
12. Supplement No. 3 to Rate Schedule FPC No. 30 (supersedes supp. No. 2 to Rate Schedule FPC No. 30).	Wolverine Electric Cooperative, Inc.	Do.
13. Supplement No. 3 to Rate Schedule FPC No. 32 (supersedes supp. No. 2 to Rate Schedule FPC No. 32).	City of Portland	Do.
14. Supplement No. 2 to Rate Schedule FPC No. 36 (supersedes supp. No. 1 to Rate Schedule FPC No. 36).	City of Charlevoix	Do.
15. Supplement No. 1 to Rate Schedule FPC No. 38	Village of Union City	Do.
16. Supplement No. 1 to Rate Schedule FPC No. 40	City of Petoskey	Do.

Designation	*Description*
FPC Electric Tariff Original Volume No. 1	Unexecuted Tariff Original Sheet Nos. 1 through 24.

[FR Doc.75-23758 Filed 9-8-75;8:45 am]

[Docket No. ER76-39]

KANSAS POWER AND LIGHT CO.

Order Accepting for Filing and Suspending Proposed Rate Increase, Granting Petition To Intervene, Instituting Proceedings, and Establishing Dates

AUGUST 29, 1975.

On July 28, 1975, the Kansas Power and Light Company (KPL) tendered for filing proposed Schedules of Rates and Charges for Wholesale Service-Municipalities to supersede and replace those rate provisions of KPL's contract rate schedules presently in effect and on file with the Commission, which relate to thirty-four (34) wholesale municipal customers (Municipals).[1]

According to KPL, the proposed changes would increase revenues from jurisdictional sales and service by $360,053 (approximately 22.25% overall) based on the twelve-month period ending March 31, 1975, and increase its rate of return from 4.33% to 8.36% over the same period. KPL states that the changes embodied in the proposed schedules include (1) revised capacity and energy charges, (2) revision of the fuel adjustment clause to conform to the requirements of Section 35.14 of the Commission's Regulations as well as to increase the base cost of fuel, (3) revision of the power factor adjustment in determination of billing capacity, (4) extension of credits to the customer for metering at transmission voltage and for substation ownership, and (5) addition of a minimum net monthly bill of $100. KPL requests an effective date of September 1, 1975, for the proposed changes to all customers except the City of Herington (Herington). The proposed effective date for Herington is January 23, 1976.

Notice of KPL's filing was issued on August 11, 1975, with protests or petitions to intervene due on or before August 20, 1975. On August 20, 1975, the Municipals filed a "Motion To Reject, Protest And Petition To Intervene Of The Kansas Wholesale Municipal Customers". Municipals' motion makes the four following allegations: 1) KPL's filing as to twenty-five of the thirty-four Municipals is prohibited by the terms of its contracts with those cities, and should be rejected under the *Sierra-Mobile* doctrine[2], 2) KPL's filing should be rejected as failing to conform to Section 35.13(b) of the Commission's Rules and Regulations, 3) the proposed rate increases to the Municipals are discriminatory vis-a-vis both other wholesale and/or retail customers of the company, and 4) the proposed rate schedule changes are unjust and unreasonable and should be suspended for the full five-month period. Due to the complexity of the issues raised in Municipal's motion to reject, we shall defer action on that motion until a later date.

Our review of KPL's filing and the issues raised therein indicates that the proposed changes have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Accordingly, we shall suspend the proposed changes for thirty days and establish hearing procedures to determine the justness and reasonableness of KPL's filing. This action is without prejudice to our disposition of the Municipal motion to reject.

Evidence relevant to the issues raised by the instant filing should be submitted by all parties including the Commission Staff. Without limiting the rights of the parties, including Staff, in presenting such further evidence as they deem relevant and material, we hereby direct that the parties and our Staff present evidence which addresses itself to the reliability and relevancy of KPL's statements that: (1) its 1974 net hourly peak

[1] See Appendix A for designations.

[2] *United Gas Pipeline Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *F.P.C.* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

load was 10.8% higher than in 1973, (2) KPL's 1975–1979 construction budget is currently estimated at over $477,325,000, 60% of which must be financed by the issuance of additional securities and 85% of which is committed for electric production and transmission plant, (3) KPL will own 64% of each of four 700,000 kilowatt capacity units currently being constructed as part of the Jeffrey Energy Center, the first of which is scheduled for completion in 1978, (4) the imbedded annual cost of KPL's first mortgage bonds has increased approximately 78% since the current rates were established in 1963, (5) KPL's fuel costs for generation are approximately four times the level which prevailed when the current rates were established, (6) KPL's municipal wholesale customers, as a class, have shifted from a moderate to a high coincident peak with the company (lowering their annual system load factor below 35%), (7) KPL's proposed 8.36% rate of return is not adequate, (8) KPL's common stock is currently selling below book value, (9) KPL will be required to issue common equity securities within the next two years, (10) attrition will cause KPL to earn substantially less on its new investments in the future than is necessary to prevent a declining rate of earnings in future years, (11) production plant was allocated on the basis of annual–coincident demand at maximum system peak hour (an allocation based on average monthly coincident peak demand would have resulted in a greater allocation of production plant to the municipal wholesale customers), although transmission plant was allocated on the basis of average monthly coincident peak demands, (12) administrative and general expenses were allocated between payroll related and property related expenses, and (13) KPL applied $32,077 of donations to the electric department of the company. Witnesses should further direct their attention to the following items: (1) normalization of the tax effect of capitalized items in the income tax allocation, (2) normalization of the tax effect of the interest associated with construction work in progress in the income tax calculation, (3) use of end of test period rate base, (4) functionalization of general plant by functional plant ratios, and (5) cost of service treatment of deferred fuel expense.

The Commission finds. (1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in KPL's revised rate schedule proposed in this docket and that the tendered rate schedules be suspended as hereinafter provided.

(2) Good cause exists to permit the intervention of the above-mentioned Municipal intervenors.

The Commission orders. (A) Pending a hearing and a decision thereon, KPL's proposed changes in its rates and charges, tendered on July 28, 1975, for customers other than the city of Harrington are accepted for filing and suspended for thirty days, the use thereof deferred until October 1, 1975, subject to refund. The proposed change in rates and charges for the city of Harrington is to become effective on February 23, 1976, subject to refund. This action is without prejudice to our disposition of the motion to reject filed by the Municipals on August 20, 1975.

(B) Pursuant to authority of the Federal Power Act, particularly Section 205 thereof, and the Commission's Rules and Regulations (18 CFR, Chapter I), a hearing for purposes of cross-examination concerning the lawfulness and reasonableness of the rates and charges in KPL's FPC Rate Schedule, as proposed to be amended herein shall be held commencing on January 27, 1976, at 10 a.m., EST, in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

(C) On or before December 9, 1975, the Commission Staff shall serve its prepared testimony and exhibits. Any intervenor evidence will be filed on or before December 23, 1975. Any rebuttal evidence by KPL shall be served on or before January 13, 1976.

(D) The above-mentioned petitioners are hereby permitted to intervene in this proceeding, subject to the Rules and Regulations of the Commission; *Provided, however,* that the participation of such intervenors shall be limited to matters affecting the rights and interests specifically set forth in the respective petitions to intervene; and *Provided, further,* that the admission of such intervenors shall not be construed as recognition that they or any of them might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose, (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in the Commission's Rules of Practice and Procedure.

(F) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to Section 1.18 of the Commission's Rules of Practice and Procedure.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A.—*Kansas Power & Light Co., docket No. ER76–39*

Wholesale municipal customer	Proposed schedule	Superseding and replacing—
1. City of Herington, Kans.	WSM–75	Rate and billing provisions in secs. 3 and 4 of art. II in KPL's FPC Rate Schedule No. 56.
2. City of Larned, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 67.
3. City of Sterling, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 81.
4. City of Clay Center, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 82.
5. City of Enterprise, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 85.
6. City of Eudora, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 86.
7. City of Chapman, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 87.
8. City of Desoto, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 88.
9. City of Axtell, Kans.	WMS–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 89.
10. City of Robinson, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 90.
11. City of Lindsborg, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 91.
12. City of Reserve, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 92.
13. City of St. Marys, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 94.
14. City of Vermillion, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 96.
15. City of Alma, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 98.
16. City of Centralia, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 99.
17. City of St. John, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 116.
18. City of Elwood, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 117.
19. City of Troy, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 118.
20. City of Hillsboro, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 119.
21. City of Morrill, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 121.
22. City of Toronto, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 124.
23. City of Stafford, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 125.
24. City of Seneca, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 126.
25. City of Waterville, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 128.
26. City of Scranton, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 129.
27. City of Wathena, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 147.
28. City of Goff, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 165.
29. City of Netawaka, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 166.
30. City of Muscotah, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 167.
31. City of Severence, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 171.
32. City of Altamont, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 172.
33. City of Marion, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 173.
34. City of Oswego, Kans.	WSM–75	Schedule MWH–63 in KPL's FPC Rate Schedule No. 174.

[FR Doc.75–23759 Filed 9–8–75;8:45 am]

FEDERAL RESERVE SYSTEM

FEDERAL OPEN MARKET COMMITTEE

Authorization for System Foreign Currency Operations

In accordance with its rules regarding availability of information there is set forth below paragraph 2 of the Committee's Authorization for Foreign Currency Operations in the form that became effective August 29, 1975. The change from the form previously in effect consisted of an increase in the swap arrangement with the Bank of Mexico from $180 million equivalent to $360 million equivalent.

The Federal Open Market Committee directs the Federal Reserve Bank of New York to maintain reciprocal currency arrangements ("swap" arrangements) for the System Open Market Account for periods up to a maximum of 12 months with the following foreign banks, which are among those designated by the Board of Governors of the Federal Reserve System under Section 214.5 of Regulation N, Relations with Foreign Banks and Bankers, and with the approval of the Committee to renew such arrangements on maturity:

Foreign bank:	*Amount of arrangement (millions of dollars equivalent)*
Austrian National Bank	250
National Bank of Belgium	1,000
Bank of Canada	2,000
National Bank of Denmark	250
Bank of England	3,000
Bank of France	2,000
German Federal Bank	2,000
Bank of Italy	3,000
Bank of Japan	2,000
Bank of Mexico	360
Netherlands Bank	500
Bank of Norway	250
Bank of Sweden	300
Swiss National Bank	1,400
Bank for International Settlements:	
Dollars against Swiss francs	600
Dollars against other European currencies	1,250

By order of the Federal Open Market Committee, September 4, 1975.

ARTHUR L. BROIDA,
Secretary.

[FR Doc.75-23905 Filed 9-8-75;8:45 am]

INTERNATIONAL TRADE COMMISSION

[332-77]

CONDITIONS OF COMPETITION BETWEEN DOMESTIC AND IMPORTED SHRIMP

Notice of Investigation and Public Hearing

The United States International Trade Commission has instituted, on its own motion, an investigation, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), of the conditions of competition in the United States between domestic and imported shrimp. The shrimp, which may be fresh, chilled, frozen, prepared, or preserved (including pastes and sauces), are imported under item 114.45 of the Tariff Schedules of the United States.

In its investigation, the United States International Trade Commission will be concerned with the effects of imports of shrimp on domestic shrimp fishermen and domestic processors of shrimp and shrimp products. It invites the submission of information on the product characteristics of imported and domestic shrimp; the characteristics of the domestic industries fishing for shrimp and processing shrimp and shrimp products; U.S. consumption, production, imports and exports of shrimp and shrimp products; inventories held in the United States; pricing practices, price trends, and price relationships between imported and domestic shrimp and shrimp products; trends of the major cost elements and profitability of operations of fishermen and processors; and characteristics of, and developments in, the shrimp industries of the major foreign supplying countries.

Public hearings in connection with the investigation will be held in Kodiak, Alaska, at 10:00 a.m., AST, on Wednesday, October 29, 1975, at a place to be announced; New Orleans, Louisiana, at 10:00 a.m., CST, on Tuesday, November 11, 1975, at a place to be announced; and Washington, D.C., at 10:00 a.m., EST, on Tuesday, November 18, 1975, in the Hearing Room, United States International Trade Commission, 701 E Street, NW. Requests for appearances at the Kodiak hearing should be submitted in writing, to the Secretary of the Commission on or before October 23, 1975; requests for appearances at the New Orleans and Washington hearings should be submitted on or before November 5 and November 12, respectively.

Issued: September 4, 1975.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.75-23921 Filed 9-8-75;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[75-60]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL PANEL ON RESEARCH

Meeting

The NASA Research and Technology Advisory Council Panel on Research will meet on September 29 and 30, 1975, at NASA Headquarters, Washington, D.C. 20546. The meeting will be held in Room 625 of Federal Office Building 10B, 600 Independence Avenue SW. Members of the public will be admitted on a first-come, first-served basis, limited by the seating capacity of the room which is about 40 persons. All visitors must sign in prior to attending the meeting.

The Panel on Research of the NASA Research and Technology Advisory Council serves in an advisory capacity only. Its Chairman is Professor A. Hertzberg, and there are 12 members. The following list sets forth the approved agenda and schedule for the meeting of this Panel on Research on September 29 and 30, 1975. For further information, please contact Mr. F. C. Schwenk, Area Code, 202, 755-2488.

SEPTEMBER 29, 1975

Time	*Topic*
9:00 a.m.	Remarks by the Chairman (Purpose: To report to the Panel on the most recent Research and Technology Advisory Council meeting.)
9:15 a.m.	Remarks by the Executive Secretary (Purpose: To brief the Panel on recent activities in NASA Headquarters which may affect the work of the Panel on Research.)
10:00 a.m.	Report by Dr. Richard Seebass, Panel Member (Purpose: To present to the rest of the Panel information obtained while attending briefings on NASA planning studies.)
11:15 a.m.	Presentation by Mr. William Hayes (Purpose: To provide background information to the Panel on the OAST Space Technology Workshop.)
1:00 p.m.	Presentation by Dr. Kenneth Billman (Purpose: To present results of the Basic Research Working Group efforts as part of the OAST Space Technology Workshop.)
2:00 p.m.	Panel Discussion (Purpose: To discuss presentations and prepare findings and recommendations for NASA.)

SEPTEMBER 30, 1975

9:00 a.m.	Panel Discussion Continued (Purpose: To continue discussion and preparation of findings and recommendations for NASA.)
11:00 a.m.	Preparation of Committee Report (Purpose: To summarize discussions and recommendations.)
1:00 p.m.	Consideration of Future Panel Activities (Purpose: To define areas of further study by the Panel on Research.)
2:00 p.m.	Adjournment.

SEPTEMBER 2, 1975.

DUWARD L. CROW,
Assistant Administrator for DOD and Interagency Affairs, National Aeronautics and Space Administration.

[FR Doc.75-23830 Filed 9-8-75;8:45 am]

NATIONAL ENDOWMENT FOR THE HUMANITIES

FELLOWSHIPS PANEL

Meeting

AUGUST 28, 1975.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463) notice is hereby given that a meeting of the Fellowships Panel will be held at Washington, D.C. on October 17 and 18, 1975, from 9:00 a.m. to 5:30 p.m.

The purpose of the meeting is to review Independent Fellowship applications submitted to the National Endowment for the Humanities for 1976–77 fellowship grants.

Because the proposed meeting will consider financial information and personnel and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated August 13, 1973, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 522(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506 or call area code 202–382–2031.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.75-23828 Filed 9-8-75;8:45 am]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON THE STERLING POWER PROJECT NUCLEAR UNIT NO. 1

Meeting

In accordance with the purposes of Sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittee on the Sterling Power Project Nuclear Unit No. 1 will hold a meeting on September 24, 1975 at the Town of Sterling Highway Shop Addition, Sterling, N.Y. The purpose of this meeting is to explore the site-related aspects of this application of the Standardized Nuclear Power Plant System (SNUPPS).

The agenda for the subject meeting shall be as follows:

Wednesday, September 24, 1975, 8:30 a.m. The Subcommittee will meet in closed Executive Session, with any of its consultants who may be present, to explore their preliminary opinions, based upon their independent review of safety reports submitted by the Applicant and the NRC Staff, regarding matters which should be covered during the following open meeting in order to formulate a Subcommittee report and recommendation to the full Committee.

9:00 a.m. until the conclusion of business. The Subcommittee will meet in open session to hear presentations by representatives of the Rochester Gas and Electric Company and the NRC Staff and will hold discussions with these groups regarding the site-related aspects of the application for a construction permit as well as other matters relating to the standard design.

At the conclusion of the open session, the Subcommittee will caucus in a brief, closed session to determine whether the matters identified in the initial closed session have been adequately covered and whether the project is ready for review by the full Committee. During this session, Subcommittee members and consultants will discuss their final opinions and recommendations on these matters. Upon conclusion of this caucus, the Subcommittee will meet again in brief open session to announce its determination.

In addition to these closed deliberative sessions, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring with the NRC Staff and the Applicant matters involving proprietary information, particularly with regard to specific features of the plant design and plans related to plant security.

I have determined, in accordance with Subsection 10(d) of Public Law 92–463, that it is necessary to conduct the above closed sessions to protect the free interchange of internal views in the final stages of the Subcommittee's deliberative process (5 U.S.C. 552(b)(5)) and to protect confidential proprietary or plant security information (5 U.S.C. 552(b)(4)). Separation of factual material from individuals' advice and opinions while closed Executive Sessions are in progress is considered impractical.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by mailing a readily reproducible copy thereof, postmarked no later than September 17, 1975, to Mr. John C. McKinley, Office of the Executive Secretary, Advisory Committee on Reactor Safeguards, Nuclear Regulatory Commission, Washington, D.C. 20555 or by filing at the ACRS Office a readily reproducible copy two working days prior to the meeting. Written statements should be limited to safety related areas which are within the purview of the Committee. Background information concerning items to be considered at this meeting can be found in the Preliminary Safety Analysis Report and related documents on file and available for public inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Oswego City Library, 120 East Second Street, Oswego, N.Y. 13126. Comments which fail to meet the time limitations noted above will be considered to the extent practicable.

(b) Those persons wishing to make oral statements regarding agenda items at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Committee will receive oral statements in safety related areas within the Committee's purview at an appropriate time chosen by the Chairman of the Subcommittee.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on September 22, 1975 to the Office of the Executive Secretary of the Committee (telephone 202/634–1920, Attention: Mr. John C. McKinley) between 8:15 a.m. and 5:00 p.m., Eastern Daylight Time.

(d) Questions may be propounded only by members of the Subcommittee and its consultants.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(f) Persons with agreements or orders permitting access to proprietary information, other than plant security information, may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Secretary of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the Designated Federal Employee for the meeting, Mr. John C. McKinley of the ACRS Office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portion of the meeting will be available for inspection on or after October 1, 1975 at the NRC Public Document Room, 1717 H St. NW., Wash., D.C. 20555, and at the Oswego City Library, 120 East Second Street, Oswego, N.Y. 13126. Copies of the minutes of the meeting will be made available for inspection at the NRC Public Document Room, 1717 H St. NW., Wash., D.C. 20555 after December 24, 1975. Copies may be obtained upon payment of appropriate charges.

Dated: September 4, 1975.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.75-23954 Filed 9-8-75;8:45 am]

[Docket No. 50-133]

PACIFIC GAS AND ELECTRIC CO.

Issuance of Amendment to Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 10 to Facility Operating License No. DPR-7 issued to Pacific Gas & Electric Company which revised Technical Specifications for operation of the Humboldt Bay Power Plant Unit No. 3, located near Eureka, California. The amendment is effective as of its date of issuance.

The amendment changes the required frequency of submitting Operating Report from semiannual to annual.

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 Comission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendment dated November 27, 1974, (2) Amendment No. 10 to License No. DPR-7, with Change No. 52 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.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this August 29, 1975.

For the Nuclear Regulatory Commission,

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Reactor Licensing.

[FR Doc.75-23858 Filed 9-8-75;8:45 am]

[Dockets Nos. 50-259 and 50-260]

TENNESSEE VALLEY AUTHORITY

Issuance of Amendments to Facility Operating Licenses

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 14 to Facility Operating License No. DPR-33 and Amendment No. 11 to Facility Operating License No. DPR-52 issued to Tennessee Valley Authority for operation of the Browns Ferry Nuclear Plant, Units 1 and 2, located in Limestone County, Alabama. The amendments are effective as of their date of issuance.

The amendments modify the licenses to authorize modifications to Units 1 and 2 in conformance with "Plan for Evaluation, Repair, and Return to Service of Browns Ferry Units 1 and 2 (March 22, 1975 Fire)" in accordance with the licensee's request dated August 29, 1975. These amendments do not authorize return to operation of Units 1 and 2. That authorization will be the subject of another action upon completion of our review of the total restoration work required.

The application for these amendments 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 Chapter I, which are set forth in the license amendments. Prior public notice of these amendments is not required since the amendments do not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendments dated August 29, 1975, (2) Amendment No. 14 to License No. DPR-33 and Amendment No. 11 to License No. DPR-52, 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 Athens Public Library, South and Forrest, Athens, Alabama 35611.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Maryland, this September 2, 1975.

For the Nuclear Regulatory Commission,

ROBERT A. PURPLE,
Chief, Operating Reactors Branch No. 1, Division of Reactor Licensing.

[FR Doc.75-23859 Filed 9-8-75;8:45 am]

[Docket Nos. 50-338, 50-339 (Appendix D—Section B Proceeding)]

VIRGINIA ELECTRIC & POWER CO. (NORTH ANNA POWER STATION, UNITS 1 AND 2)

Change of Hearing Location and Date

The hearing regarding environmental issues concerning the routing of Virginia Electric and Power Company's proposed North Anna to Morrisville transmission line previously scheduled to begin September 10, 1975, at 10 a.m. will now begin on September 19, 1975, at 10 a.m. and will take place in the Postal Rate Commission Hearing Room, Suite 500, 2000 L Street NW., Washington, D.C.

Dated at Bethesda, Maryland, this 3rd day of September, 1975.

The Atomic Safety and Licensing Board.

FREDERIC J. COUFAL,
Chairman.

[FR Doc.75-23860 Filed 9-8-75;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR WEATHER MODIFICATION

Notice of Part Open Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the following meeting:

NAME: Advisory Panel for Weather Modification.

DATE: September 25 and 26, 1975.

TIME: 7:00 p.m. each evening.

PLACE: YMCA Conference Center, Estes Park, Colorado.

TYPE OF MEETING: Part Open—Open 9/25 (7-9 p.m.); 9/26 (7-10 p.m.); Closed 9/25 (9-10 p.m.).

CONTACT PERSON: Mr. Currie S. Downie, Program Manager for Weather Modification, Room 1132, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-4380. Anyone who plans to attend this meeting should notify Mr. Downie no later than 9/19/75.

SUMMARY MINUTES: May be obtained from the Committee Management Coordination Staff, Management Analysis Office, Rm. 248, National Science Foundation, Washington, D.C. 20550.

PURPOSE OF ADVISORY PANEL: To provide advice on program planning and maximizing potential research payoff and societal benefit and on the impact of the Foundation's research support program on the scientific community in weather modification.

AGENDA: Will include the following discussions and presentations:

SEPTEMBER 25

7:00	Introductory Remarks.
7:15	Efforts by the Panel Emphasizing the Importance and Potential of Weather Modification.
7:45	Agriculture Meteorological Experiment (AGRIMEX).
8:15	Wind Shear—Aviation hazard.
8:45	NSF Budget for FY 76 and Program and Plans for FY 76 and 77.
9:00	Review and evaluation of specific Weather Modification proposals (Closed).

SEPTEMBER 26

7:00	Peer Review.
7:30	Design and Evaluation of Weather Modification Experiments.
8:00	Hail Suppression.
8:30	Panel Discussion—future program planning.

REASON FOR CLOSING: The Panel will be reviewing, discussing and evaluating individual research proposals. These 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.

AUTHORITY TO CLOSE MEETING: These matters are within the exemptions of 5 U.S.C. 552(b) (4), (5), and (6). The closing of this portion of the meeting is in accordance with the determination by the Director of the National Science Foundation dated February 21, 1975, pursuant to the provision of Section 10(d) of Public Law 92-463.

FRED K. MURAKAMI,
Committee Management Officer.

SEPTEMBER 4, 1975.

[FR Doc.75-23931 Filed 9-8-75;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 3, 1975 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

NEW FORMS

NATIONAL SCIENCE FOUNDATION

Graduate Fellowship Support Grant Expenditure Report Form, 961, annually, colleges and universities, Caywood, D. P., 395–3443.

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Artists-in-Schools Research Project, WSAF/AIS, single-time, students, teachers, artists, poets, administrators, Joan Turek.

DEPARTMENT OF AGRICULTURE

Economic Research Service, Study of Residential Finance in Metropolitan and Non-Metropolitan Areas in Kentucky, single-time, officials of banks and savings and loan associations, Sunderhauf, M. B., 395–6140.

Forest Service, Application for Summer Employment—Forest Service, annually, students, Caywood, D. P., 395–3443.

Statistical Reporting Service, 1975 Maryland Commercial Sod Survey, single-time, sod farms, Harry B. Sheftel.

DEPARTMENT OF COMMERCE

Bureau of Census, Company Reporting Pretest, RA1, RA2, single-time, retail, service, and wholesale firms, Hulett, D. T., 395–4730.

National Bureau of Standards, Survey of Current Research on the Building Regulatory Process, NBS–1046, single-time, academic and institutional researchers, Sunderhauf, M. B., 395–6140.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration, Grant Application, RMP, BHRD 0618, on occasion, specialized nonprofit agencies, Harry B. Sheftel.

National Institutes of Health, Fertility Change After the Baby Boom: The Role of Economic Stress, Female Employment and Education, NIH–CH–34, single-time, persons 18 years and older, Dick Eisinger, George Hall, 395–6140.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary, Community Development Block Grant—Grantee Performance Report, on occasion, local general purpose government receiving community development block grants, Community and Veterans Affairs Divison, Lowry, R. L., 395–3532.

REVISIONS

ENVIRONMENTAL PROTECTION AGENCY

Application for an Experimental Use Permit To Ship and Use a Pesticide for Experimental Purposes Only, EPA 8570, on occasion, pesticide firms, Harry B. Sheftel.

VETERANS ADMINISTRATION

Application for Program of Education or Training for an Individual on Active Duty, 21E–1990A, on occasion, servicemen and servicewomen, Caywood, D. P., 395–3443.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration, Fishermen's Cooperative Association Survey, 2–112, annually, fishery cooperatives, Caywood, D. P., 395–3443.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, SSA Medical History and Disability Report, SSA–401, SSA–401–B, on occasion, applicants, Caywood, D. P., 395–3443.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, Seed Price Inquiries, annually, seed buyers and cleaners, Caywood, D. P., 395–3443.

Agricultural Marketing Service, Report of Cotton on Hands in Mills, CN–110, annually, cotton mills, Marsha Traynham, 395–4529.

Statistical Reporting Service, Onion Stocks and Dispositions, semi-annually, onion growers, Marsha Traynham, 395–4529.

Statistical Reporting Service, Potato Price Inquiries, monthly, potato growers, buyers and handlers, Harry B. Sheftel.

Farmers Home Administration, Applicant Reference Letter—FHA Loans, FHA 410–8, on occasion, individuals, Harry B. Sheftel.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration, Identifying Fishery Cooperative Associations, 2–115, on occasion, fishery cooperatives, Caywood, D. P., 395–3443.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education:

Fiscal Report on Part E Fellows (Title V, EPDA), 1203, semiannually, institutions of higher education, Marsha Traynham, 395–4529.

Follow-up Correspondence on Delinquent Federal Student Loans, Title IV–B, P.L. 89–329, OE–1249–1, on occasion, lenders, Caywood, D. P., 395–3443.

Alcohol, Drug Abuse, and Mental Health Administration, Social Issues (for Nationwide Drug Abuse Survey), single-time, individuals, Reese, B. F., 395–3211.

PHILIP D. LARSEN,
Budget and Management Officer.

[FR Doc.75–24016 Filed 9–8–75;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 4, 1975 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202–395–4529), or from the reviewer listed.

NEW FORMS

TENNESSEE VALLEY AUTHORITY

Agribusiness Inventory Survey, single-time, suppliers, Lowry, R. L., 395–3772.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration, End Stage Renal Disease Medical Information System, BQA 0613, annually, hospitals and physicians, Dick Eisinger, 395–6140.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Production and Mortgage Credit Application for Historic Preservation Loan, on occasion, individuals, Community and Veterans Affairs Division, 395–3532.

DEPARTMENT OF LABOR

Departmental and other, State Program—Public Works—Prevailing Wages, OSEC–1, single time, State government, Lowry, R. L., 395–3772.

REVISIONS

DEPARTMENT OF COMMERCE

Bureau of Census, Special Population Census Schedule, SC–19, on occasion, households, George Hall, 395–6140.

EXTENSIONS

GENERAL SERVICES ADMINISTRATION

Affidavit of Individual Surety, SF–28, on occasion, business firms, Caywood, D. P., 395–3443.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.75–24015 Filed 9–8–75;8:45 am]

PRESIDENT'S ADVISORY COMMITTEE ON REFUGEES

NOTICE OF PUBLIC MEETING

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), that the next meeting of the President's Advisory Committee on Refugees will be held on September 24, 1975, beginning at 10:00 a.m., in Room 2008, New Executive Office Building, 17th and Pennsylvania, N.W., Washington, D.C. 20503.

The President's Advisory Committee on Refugeees is established under Exec-

utive Order 11860 and is governed by the provisions of 5 USC Appendix I. The Committee shall advise the President and heads of appropriate Federal agencies concerning the expeditious and coordinated resettlement of refugees, including: health and environmental matters related to resettlement; interrelationship of the governmental and volunteer roles in resettlement; educational and cultural adjustments required by these efforts; the general well-being of resettled refugees and their families and such other related concerns as the President may, from time to time, specify.

The meeting of the Committee shall be open to the public.

The proposed agenda includes reports from Committee members and staff, a presentation by representatives of the National Center for Vietnamese Resettlement, discussion of the Interim Report to the President, discussion of other planned reports, a progress report on Project Friendship, statistical reports on resettlement provided by the Interagency Task Force, and other appropriate items as may later be included.

Records shall be kept of all Committee proceedings (and shall be available for public inspection at the library of the Department of Health, Education, and Welfare located in Room 1436, 330 Independence Avenue, S.W., Washington, D.C. 20201).

Signed at Washington, D.C. on September 3, 1975.

ROGER D. SEMERAD,
Executive Director, President's Advisory Committee on Refugees.

[FR Doc.75-23924 Filed 9-8-75;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

BBI, INC.

Suspension of Trading

AUGUST 29, 1975.

The common stock of BBI, Inc., being traded on the American, and the Philadelphia-Baltimore-Washington Stock Exchanges pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of BBI, Inc. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange is suspended, for the period from September 1, 1975 through September 10, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-23863 Filed 9-8-75;8:45 am]

[File No. 500-1]

EQUITY FUNDING CORPORATION OF AMERICA

Suspension of Trading

SEPTEMBER 3, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, warrants to purchase the stock, 9½% debentures due 1990, 5½% convertible subordinated debentures due 1991, and all other securities of Equity Funding Corporation of America 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 12(k) 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 4, 1975 through September 13, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-23844 Filed 9-8-75;8:45 am]

[File No. 500-1]

INDUSTRIES INTERNATIONAL, INC.

Suspension of Trading

SEPTEMBER 3, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock of Industries International, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) 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 4, 1975 through September 13, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-23845 Filed 9-8-75;8:45 am]

MIDWEST STOCK EXCHANGE INC.

Applications for Unlisted Trading Privileges and Opportunity for Hearing

AUGUST 29, 1975.

The above named national securities exchange had filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchanges:

CAMPBELL RED LAKE MINES LTD., FILE NO. 7-4748

Upon receipt of a request, on or before September 14, 1975 from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C., 20549 not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-23944 Filed 9-8-75;8:45 am]

[Rel. No. 19154]

PENNSYLVANIA POWER CO.

Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding and Issue of Bonds for Sinking Fund Purposes

In the matter of Pennsylvania Power Company, 1 East Washington Street, New Castle, Pennsylvania 16103; (70-5731).

Notice is hereby given that Pennsylvania Power Company ("Pennsylvania"), an electric utility subsidiary of Ohio Edison Company, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Pennsylvania proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, up to $25,000,000 principal amount of First Mortgage Bonds ("Bonds") in one or more series, each series to mature in not less than 5 and not more than 30 years. Pennsylvania proposes further that it will decide on the number of new series of the Bonds to be created and the maturity of the Bonds at a subsequent date and then notify prospective bidders of its decision not less than 72 hours prior to the bidding. The price of the Bonds, which will be not less than 100% (unless Pennsylvania shall authorize a lower percentage not less than 99%) but not greater than 102.75% of the principal amount thereof and accrued interest, will be determined by competitive bidding. The Bonds will be issued under a Mortgage and Deed of Trust dated as of November 1, 1945, between Pennsylvania and First National City Bank of New York, as trustee, as heretofore supplemented and as to be further supplemented by a supplemental indenture to be executed in connection with this issuance. The terms

of the Bonds preclude Pennsylvania from redeeming any of the Bonds prior to October 1, 1980, if such redemption is for the purpose of refunding the Bonds with proceeds of funds borrowed at a lower effective interest cost.

Pennsylvania also proposes to issue $1,169,000 principal amount of First Mortgage Bonds, 3¼% series, due 1982 to the First National City Bank, as trustee, under its Indenture dated November 1, 1945, as amended and supplemented (particularly by the third Supplemental Indenture dated February 1, 1952) and to surrender such bonds (hereinafter "Sinking Fund Bonds") to the trustee in accordance with the Indenture's sinking fund requirements. The Sinking Fund Bonds are to be identical in all respects to those authorized by the Commission on February 1, 1974 (HCAR No. 18274). The Bonds and the Sinking Fund Bonds will be issued against property additions and a portion of the principal amount of bonds to be retired November 1, 1975.

The proceeds realized from the sale of the Bonds will be applied to the payment of $9,793,000 principal amount of First Mortgage Bonds, 2⅞% Series due November 1, 1975, to repay short-term indebtedness (estimated to aggregate $13,700,000 at the time of the sale of the Bonds) and to reimburse Pennsylvania's treasury in part for monies expended for the construction of new facilities and improvement of existing facilities. Pennsylvania proposes to use the Sinking Fund Bonds solely to obtain the inclusion in its general funds of the sinking fund payments on deposit, and required to be made on or before December 1, 1975, with the trustee under the sinking fund provisions of the Indenture. The cash so acquired by Pennsylvania will be applied to its 1975 construction program or to reimburse its treasury in part for monies expended for such purpose.

The fees and expenses to be incurred by Pennsylvania in connection with the issuance and sale of the Bonds will be filed by amendment. The fees and expenses to be incurred by Pennsylvania in connection with the issuance of the Sinking Fund Bonds are estimated not to exceed $2,250 including approximately $750 in legal fees. It is stated that the Pennsylvania Public Utility Commission has jurisdiction over the proposed transactions and that no other state commission or federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than September 26, 1975, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application as amended, 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 applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application as filed, or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20 (a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-23945 Filed 9-8-75;8:45 am]

[File No. 500-1]

ROYAL PROPERTIES INC.

Suspension of Trading

AUGUST 29, 1975.

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 12(k) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from August 31, 1975 through September 9, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-23865 Filed 9-8-75;8:45 am]

[811-1599]

SAGITTARIUS FUND, INC.

Notice of Filing of Application Pursuant to Section 8(f) of the Act for an Order Declaring That Company Has Ceased To Be an Investment Company

AUGUST 29, 1975.

Notice is hereby given that The Sagittarius Fund, Inc., 545 Madison Avenue, New York, New York 10022, ("Applicant"), registered under the Investment Company Act of 1940 (the "Act") as a diversified, open-end, management investment company, filed an application on August 5, 1975, pursuant to Section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant, a Delaware corporation, registered under the Act on February 5, 1968. Applicant states that a Plan of Liquidation and Dissolution was adopted on February 6, 1975 by vote of a majority of the outstanding voting securities of Applicant. Pursuant to such Plan, substantially all of the assets of Applicant have been distributed pro rata to the stockholders of Applicant. On July 3, 1975, a Certificate of Dissolution of Applicant was filed with the Secretary of State of the State of Delaware.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 23, 1975, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following September 23, 1975, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-23864 Filed 9-8-75;8:45 am]

SEC REPORT COORDINATING GROUP (ADVISORY)

Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92-463, 86 Stat. 770, the Securities and Exchange Commission announces a public advisory committee meeting.

The Commission's Report Coordinating Group (Advisory) will hold a meeting on September 22, 1975 at the Securities and Exchange Commission, 500 North Capitol Street, Room 776, Washington, D.C. The meeting will commence at 10:00 a.m. local time and will be for the purpose of discussing the development of simplified trading forms and assessment forms.

The Group's meetings are open to the public. Any interested person may attend and appear before or file statements with the advisory committee. Said statements, if in written form, may be filed before or after the meeting. Oral statements shall be made at the time and in the manner permitted by the Report Coordinating Group.

The Report Coordinating Group was formed to assist the Commission in developing a coherent, industry-wide, coordinated reporting system. In carrying out this objective, the Report Coordinating Group is to review all reports, forms and similar materials required of broker-dealers by the Commission, the self-regulatory community and others. The Group is advising the Commission on such matters as eliminating unnecessary duplication in reporting, reducing reporting requirements where feasible, and developing the FOCUS Report of financial and operational information. (Securities Exchange Act Release No. 10612; Securities Exchange Act Release No. 10959; Securities Exchange Act Release No. 11140; Securities Exchange Act Release No. 11149).

Information concerning the meeting, including the procedures for submitting statements to the Group, may be obtained by contacting: Mr. Daniel J. Piliero II, Secretary, SEC Report Coordinating Group, Securities and Exchange Commission, Washington, D.C. 20549.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-23946 Filed 9-8-75;8:45 am]

[File No. 500-1]

WESTGATE CALIFORNIA CORP.

Suspension of Trading

SEPTEMBER 3, 1975.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock (class A and B), the cumulative preferred stock (5% and 6%), the 6% subordinated debentures due 1979 and the 6½% convertible subordinated debentures due 1987, and all other securities of Westgate California Corporation 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 12(k) 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 4, 1975 through September 13, 1975.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-23846 Filed 9-8-75;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 30, Revision 15]

DELEGATION OF AUTHORITY TO CONDUCT PROGRAM ACTIVITIES IN FIELD OFFICES

Correction

In the document appearing at page 11657 in the FEDERAL REGISTER of March 12, 1975, paragraph 2 of Part X, Section A on page 11661, is corrected by inserting the words "and equipment" after the word "supplies."

Paragraph 2 should have read as follows:

2. *Office Supplies and Equipment.* To purchase office supplies and equipment and rent * * *.

Dated: September 3, 1975.

DOROTHY S. LEVY,
Federal Register Liaison Officer.

[FR Doc.75-23926 Filed 9-8-75;8:45 am]

[License No. 09/09-5181]

FONG VENTURE CAPITAL CORP.

Issuance of a License To Operate as a Small Business Investment Company

On January 9, 1975, a notice was published in the FEDERAL REGISTER (40 FR 1797) stating that Fong Venture Capital Corp., located at 2245 Park Avenue Circle, Sacramento, California 95825, had filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1975) for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given to the close of business on January 24, 1975, to submit their written comments to SBA.

Notice is hereby given that, having considered the application and all other pertinent information, SBA has issued License No. 09/90-5181 to Fond Venture Capital Corp., pursuant to Section 301 (d) of the Small Business Investment Act of 1958, as amended.

Dated: August 28, 1975.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.75-23855 Filed 9-8-75;8:45 am]

NEW YORK DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration New York District Advisory Council will hold a public meeting at 3:00 p.m., Wednesday, September 30, 1975, Room 2805, 26 Federal Plaza, New York, New York 10007, to discuss such business as may be presented by members, staff of the Small Business Administration, and others present. For further information, write Walter Leavitt at the above address or call (212) 264-1318.

Dated: September 2, 1975.

ANTHONY S. STASIO,
Chief Counsel for Advocacy, Small Business Administration.

[FR Doc.75-23925 Filed 9-8-75;8:45 am]

SYRACUSE DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Syracuse District Advisory Council will hold a public meeting at 9:00 a.m., Thursday, October 9, 1975, at the University Club, 431 E. Fayette Street, Syracuse, New York, to discuss such business as may be presented by members, staff of the Small Business Administration, and others present. For further information, write or call J. Wilson Harrison, District Director, Small Business Administration, 308 Hunter Plaza, Fayette and Salina Streets, Syracuse, New York 13202 (315) 473-3460.

Dated: August 30, 1975.

ANTHONY S. STASIO,
Chief Counsel for Advocacy, Small Business Administration.

[FR Doc.75-23854 Filed 9-8-75;8:45 am]

VETERANS ADMINISTRATION

ACTUARIAL ADVISORY COMMITTEE

Reestablishment

Notice is hereby given of a determination by the Administrator of Veterans Affairs to reestablish the Actuarial Advisory Committee for a period of two years. The committee was originally chartered February 13, 1973. Its purpose is to advise and recommend on insurance matters in general, with particular emphasis on actuarial questions bearing on solvency of the several insurance funds involving billions of dollars, and equity among the nearly five million policyholders in the Government-administered programs.

Dated: September 3, 1975.

By direction of the Administrator.

[SEAL] A. J. SCHULTZ, JR.,
Associate Deputy Administrator.

[FR Doc.75-23870 Filed 9-8-75;8:45 am]

MEDICAL RESEARCH SERVICE MERIT REVIEW BOARDS

Meetings

The Veterans Administration gives notice pursuant to Public Law 92-463 of meetings of the following Merit Review Boards.

Merit review board	Date	Time	Location
Respiration	Sept. 23, 1975	8:30 a.m. to 5 p.m.	Room 817, VACO.[1]
Infectious diseases	Sept. 24, 1975	9:30 a.m. to 5 p.m.	Committee Room, Shoreham Americana Hotel.[2]
Oncology	Oct. 1, 1975	8:30 a.m. to 5 p.m.	Room 817, VACO.
Basic sciences	Oct. 2, 1975	8 to 11 p.m.	Room C, Quality Inn.[3]
Do	Oct. 3, 1975	8:30 a.m. to 5 p.m.	Room 139, VACO.
Do	Oct. 4, 1975	8:30 a.m. to 1:30 p.m.	Do.
Hematology	Oct. 10, 1975	8:30 a.m. to 5 p.m.	Do.
Endocrinology	do	do	General's Tent No. 2, Quality Inn.
Immunology	Oct. 14, 1975	do	Room 817, VACO.
Nephrology	Oct. 15, 1975	do	Do.
Surgery	Oct. 16, 1975	7:30 to 11 p.m.	Lassen Room, San Francisco Hilton.[4]
Do	Oct. 17, 1975	11 a.m. to 5:30 p.m.	Do.
Neurobiology	Oct. 20, 1975	8:30 a.m. to 5 p.m.	Room 817, VACO.
Cardiology	Oct. 21, 1975	do	Room 139, VACO.[1]
Gastroenterology	do	do	Room 817, VACO.
Alcoholism and drug dependence	Oct. 23, 1975	do	Majestic Room, Royal Inn.[5]
Behavioral Sciences	do	7:30 to 10 p.m.	Room C, Quality Inn.
Do	Oct. 24, 1975	8:30 a.m. to 4:30 p.m.	Room 139, VACO.

[1] Veterans Administration Central Office, 810 Vermont Ave. NW., Washington, D.C. 20420.
[2] Shoreham Americana Hotel, 2500 Calvert St. NW., Washington, D.C. 20008.
[3] Quality Inn Downtown, Massachusetts Ave. and Thomas Circle NW., Washington, D.C. 20005.
[4] San Francisco Hilton, 333 Mason St., San Francisco, Calif. 94101.
[5] Royal Inn. South Airport Blvd., South San Francisco, Calif. 94080.

These meetings will be for the purpose of evaluating the scientific merit of research conducted in each specialty by Veterans Administration investigators working in Veterans Administration hospitals and clinics.

The meetings will be open to the public up to the seating capacity of the rooms at the start of each meeting to discuss the general status of the program. In accordance with the provision set forth in section 552(b)(5), title 5, United States Code, all of the Merit Review Board meetings will be closed to the public after approximately one-half hour from the start, for the review, discussion and evaluation of initial, pending and renewal research projects.

The closed portion of the meetings involve: discussion, examination, reference to, and oral review of site visits, staff and consultant critiques of research protocols, and similar documents which are exempt from disclosure under the interagency memoranda exemption (exemption (5)) to section 552(b) of title 5, United States Code. The portion of the meeting which necessitates examination of these documents will be closed to prevent inadvertent disclosure of these exempt records.

Because of the limited seating capacity of the rooms, those who plan to attend should contact Gerald Libman, Chief, Program Development and Review Division, Medical Research Service, Veterans Administration, Washington, DC, (202) 389-5065 at least two days prior to each meeting. Minutes of the meeting and rosters of the members of the Boards may be obtained from this source.

Dated: September 3, 1975.

By direction of the Administrator,

[SEAL] A. J. SCHULTZ, Jr.,
Associate Deputy Administrator.

[FR Doc.75-23943 Filed 9-8-75;8:45 am]

MERIT REVIEW BOARDS IN DESIGNATED MEDICAL SPECIALTIES

Renewal

This is to give notice in accordance with the Federal Advisory Committee Act (Public Law 92-463) of October 6, 1972, that the following Merit Review Boards (in designated medical specialties) have been renewed by the Administrator of Veterans Affairs for a two-year period beginning August 28, 1975 through August 28, 1977:

Merit Review Board for Alcoholism and Drug Dependence Programs.
Merit Review Board for Basic Science Programs.
Merit Review Board for Behavorial Science Programs.
Merit Review Board for Cardiovascular Programs.
Merit Review Board for Endocrinology Programs.
Merit Review Board for Gastroenterology Programs.
Merit Review Board for Hermatology Programs.
Merit Review Board for Immunology Programs.
Merit Review Board for Infectious Disease Programs.
Merit Review Board for Nephrology Programs.
Merit Review Board for Neurobiology Programs.
Merit Review Board for Oncology Programs.
Merit Review Board for Respiration Programs.
Merit Review Board for Surgery Programs.

Dated: September 3, 1975.

By direction of the Administrator,

[SEAL] A. J. SCHULTZ, Jr.,
Associate Deputy Administrator.

[FR Doc.75-23869 Filed 9-8-75;8:45 am]

DEPARTMENT OF LABOR

Office of the Secretary

SKF INDUSTRIES INCORPORATED OF PHILADELPHIA, ALTOONA, PENNSYLVANIA

[TA-W-75]

Notice of Negative Determination Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-75; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 8, 1975 in response to a worker petition received on July 3, 1975 by the International Union of United Steelworkers of America (AFL-CIO), which was filed on behalf of workers producing bearings at the Altoona plant of SKF Industries, Incorporated of Philadelphia, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER (40 FR 30336) on July 18, 1975. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of SKF Industries, Incorporated, its customers, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated,

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

For purposes of paragraph (3), the term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Monthly employment in June 1975 was 15 percent below its level for October 1974. Average monthly employment during the first half of 1975 was 16 percent lower than in the same period in 1974.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total production in units for 1974 was one percent lower than in 1973. Total production in units for the first half of 1975 was 25 percent lower than in the first half of 1974.

INCREASED IMPORTS CONTRIBUTED IMPORTANTLY

Imports of ball bearings from 1973 to 1974 increased slightly by 3 percent. The import to production ratio decreased from 55.1 to 50.0 from 1973 to 1974. The import to consumption ratio fell from 17.1 to 17.0 during the same period. Imports of ball bearings in the first five months of 1975 decreased 29 percent from the same period in 1974.

Imports of roller bearings, other than tapered, in the first five months of 1975 decreased 10 percent from the same period in 1974. During this period the import to production ratio of roller bearings fell from 11 percent to 8.6 percent.

Evidence developed during the course of the investigation indicates that the reason for the plant's reduction in sales was the sharp decline in demand for bearings which first occurred in December 1974. Most customers of SKF indicated that they have decreased their purchases of both domestic and off-shore bearings because of the poor economic conditions in the country, especially in the automobile industry.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with bearings produced at the Altoona plant of SKF Industries, Incorporated did not contribute importantly to the total or partial separation of the workers or to the absolute decline in sales or production of the Division.

Signed at Washington, D.C. this 2nd day of September 1975.

HERBERT N. BLACKMAN,
Associate Deputy Under Secretary for Trade and Adjustment Policy.

[FR Doc.75-23923 Filed 9-8-75;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 849]

ASSIGNMENT OF HEARINGS

SEPTEMBER 4, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 139193 Sub 21, Roberts & Oake, Inc., now being assigned November 3, 1975 (1 day), at Kansas City, Missouri, in a hearing room to be later designated.

MC 115331 Sub 391, Truck Transport Incorporated, a Corporation, now being assigned November 4, 1975 (1 day), at Kansas City, Missouri, in a hearing room to be later designated.

MC 121060 Sub 19, Arrow Truck Lines, Inc., now assigned September 10, 1975 at Chicago, Illinois; will be held in Room 286, 219 South Dearborn Street.

MC 128383 Sub 61, Pinto Trucking Service, Inc., now assigned September 15, 1975 at Chicago, Illinois; will be held in Room 286, 219 South Dearborn Street.

MC 125777 Sub 148, Jack Gray Transport, Inc., now assigned September 17, 1975 at Chicago, Illinois; will be held in Room 834, 219 South Dearborn Street.

No. 36095, Investigation into Lawfulness of Off-Line Limitations Placed on Non-Assigned Hopper Cars, now being assigned for a Pre-hearing Conference on October 6, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

I & S—M 28713, General Increase, September 1975, R.M.M.T.B., now being assigned October 15, 1975, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-C-8667, Don Swart Trucking, Inc.—Investigation and Revocation of Certificates, now assigned September 23, 1975 at Charleston, West Virginia, is canceled.

MC 2900 Sub 267, Ryder Truck Lines, Inc. and MC 115841 Sub 495, Colonial Refrigerated Transportation, Inc., now assigned September 11, 1975, at Washington, D.C., is postponed indefinitely.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-23940 Filed 9-8-75;8:45 am]

[Ex Parte No. MC 19 (Sub-No. 24)]

COLLECTION OF FREIGHT CHARGES ON SUBSTANTIALLY LOST OR DESTROYED SHIPMENTS OF HOUSEHOLD GOODS

Extension of Time

SEPTEMBER 4, 1975.

At the request of Alan F. Wohlstetter, attorney for Household Goods Carriers' Bureau and American Movers Conference, the time for filing representations in the above-entitled proceeding has been extended from September 8, 1975, to September 15, 1975.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-23942 Filed 9-8-75;8:45 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

SEPTEMBER 4, 1975.

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 within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43039—*Acids and Chemicals from Points in Texas.* Filed by Southwestern Freight Bureau, Agent (No. B-556), for interested rail carriers. Rates on acids and chemicals, in tank-car loads, as described in the application, from specified points in Texas, to East St. Louis, Illinois and St. Louis, Missouri.

Grounds for relief—Market competition.

Tariff—Supplement 146 to Southwestern Freight Bureau, Agent, tariff 354-C, I.C.C. No. 5084. Rates are published to become effective on October 1, 1975.

FSA No. 43040—*Returned Shipments of Newsprint Paper Winding Cores from Sheldon, Texas to Points in Kansas.* Filed by Southwestern Freight Bureau, Agent (No. B-551), for interested rail carriers. Rates on newsprint paper and returned shipments of newsprint paper winding cores, in carloads, as described in the application, from Sheldon, Texas, to points in Kansas, also returned shipments in the reverse direction.

Grounds for relief—Market competition, returned shipments.

Tariff—Supplement 45 to Southwestern Freight Bureau, Agent, tariff 306-F, I.C.C. No. 5104. Rates are published to become effective on October 7, 1975.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-23941 Filed 9-8-75;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

SEPTEMBER 4, 1975.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination* Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before September 19, 1975. 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 64112 (Sub-No. E21), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 27276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, class A and B explosives, commodities in bulk, household goods as defined by the Commission, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in Marion, Marlboro, and Dillon

Counties, and those points in Horry County, S.C., within 50 miles of Fairmont, N.C., on the one hand, and, on the other, Baltimore, Md., Bridgeton, N.J., points in Virginia on and east of U.S. Highway 15 (except those in Accomack and Northampton Counties, Va.), and points in Pennsylvania on and east of a line extending from the Maryland-Pennsylvania State line along U.S. Highway 111 to York, Pa., and on and south of a line extending from York, along U.S. Highway 30 to junction U.S. Highway 202, and thence along U.S. Highway 202 through New Hope, Pa., to the Pennsylvania-New Jersey State line. The purpose of this filing is to eliminate the gateways of Henderson, N.C., and points in North Carolina within 50 miles of Fairmont, N.C.

No. MC 64112 (Sub-No. E22), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, class A and B explosives, commodities in bulk, household goods as defined by the Commission, commodities requiring special equipment, and those injurious or contaminating to other lading), between Dillon and Marlboro Counties, S.C., and points in Marion and Horry Counties, S.C., west and north of a line beginning at the North Carolina-South Carolina State line and extending along U.S. Highway 17, to junction South Carolina Highway 90, thence along South Carolina Highway 90 to junction U.S. Highway 378, thence along U.S. Highway 378 to the Marion-Florence County line, on the one hand, and, on the other, points in that part of Connecticut south of a line extending from New Haven, Conn., through Ansonia, Sandy Hook, and Brookfield, Conn., to the Connecticut-New York State line, points in that part of New York south of U.S. Highway 202 and west of New York Highway 112 extending between Patchogue and Port Jefferson, Long Island, N.Y., and points in that part of New Jersey and Pennsylvania bounded by a line beginning at the New Jersey-New York State line and extending along U.S. Highway 202 to junction U.S. Highway 46, thence along U.S. Highway 46 to junction U.S. Highway 206, thence along U.S. Highway 206 to Trenton, N.J., thence along U.S. Highway 1 to Philadelphia, Pa., thence along U.S. Highway 30 to Camden, N.J., thence along the east bank of the Delaware River to Penns Grove, N.J., thence along U.S. Highway 130 to junction New Jersey Highway 44 (formerly U.S. Highway 130), thence along New Jersey Highway 44 to Paulsboro, N.J., thence to Clementon, N.J., thence through Mt. Holly and Freehold, N.J., to the Atlantic Ocean, thence along the east bay and river shores of New Jersey to the New Jersey-New York State line, and thence along the New York-New Jersey State line to point of beginning, including points on the indicated portions of the highways specified. The purpose of this filing is to eliminate the gateway of Philadelphia, Pa., and Rockingham, N.C.

No. MC 64112 (Sub-No. E23), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, class A and B explosives, commodities in bulk, household goods as defined by the Commission, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in South Carolina south of a line extending from the North Carolina-South Carolina State line extending along U.S. Highway 17 to junction South Carolina Highway 90, thence along South Carolina Highway 90 to junction U.S. Highway 378, thence along U.S. Highway 378 to the Horry-Marion County line, thence along the southern boundaries of Marion, Dillon, Darlington, and Chesterfield Counties to the South Carolina-North Carolina State line, on the one hand, and, on the other, Baltimore, Md., Bridgeton, N.J., points in Virginia on and east of a line beginning at the Virginia-North Carolina State line along Interstate Highway 85 to junction Interstate Highway 95, thence along Interstate Highway 95 to junction U.S. Highway 17, thence along U.S. Highway 17 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Virginia-Maryland State line, and points in Pennsylvania on and east of a line extending from the Maryland-Pennsylvania State line along U.S. Highway 111 to York, Pa., and on and south of a line extending from York, along U.S. Highway 30 to junction U.S. Highway 202, and thence along U.S. Highway 202 through New Hope, Pa., to the Pennsylvania-New Jersey State line. The purpose of this filing is to eliminate the gateways of Red Oak or Rockingham, N.C., points in Dillon and Marlboro Counties, S.C., and points within 50 miles of Fairmont, N.C.

No. MC 64112 (Sub-No. E24), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, class A and B explosives, commodities in bulk, household goods as defined by the Commission, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in that part of Connecticut south of a line extending from New Haven, Conn., through Ansonia, Sandy Hook, and Brookfield, Conn., to the Connecticut-New York State line; points in that part of New York south of U.S. Highway 202 and west of New York Highway 112 extending between Patchogue and Port Jefferson, Long Island, N.Y.; and points in that part of New Jersey and Pennsylvania bounded by a line beginning at the New Jersey-New York State line and extending along U.S. Highway 202 to junction U.S. Highway 46, thence along U.S. Highway 46 to junction U.S. Highway 206, thence along U.S. Highway 206 to Trenton, N.J., thence along U.S. Highway 1 to Philadelphia, Pa., thence along U.S. Highway 30 to Camden, N.J., thence along the east bank of the Delaware River to Penns Grove, N.J., thence along U.S. Highway 130 to junction New Jersey Highway 44 (formerly Alternate U.S. Highway 130), thence along New Jersey Highway 44 to Paulsboro, N.J., thence to Clementon, N.J., thence through Mt. Holly and Freehold, N.J., to the Atlantic Ocean, thence along the east bay and river shores of New Jersey to the New Jersey-New York State line, and thence along the New Jersey-New York State line to point of beginning, including points on the indicated portions of the highways specified, on the one hand, and, on the other, points in South Carolina south of a line extending from the North Carolina-South Carolina State line along U.S. Highway 17 to junction South Carolina Highway 90, thence along South Carolina Highway 90 to Conway, S.C., thence along U.S. Highway 378 to the Horry-Marion County line, thence along the southern boundaries of Marion, Dillon, Darlington, and Chesterfield Counties to the South Carolina-North Carolina State line. The purpose of this filing is to eliminate the gateways of points in Marlboro and Dillon Counties, S.C., Philadelphia, Pa., and Weldon or Rockingham, N.C., and points within 50 miles of Fairmont, N.C.

No. MC 64112 (Sub-No. E25), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, unmanufactured leaf tobacco, those requiring special equipment, and those injurious or contaminating to other lading), between points in South Carolina beginning at the North Carolina-South Carolina State line extending along U.S. Highway 17 to junction South Carolina Highway 90, thence along South Carolina Highway 90 to Conway, S.C., thence along U.S. Highway 378 to the Horry-Marion County line, thence along the southern boundaries of Marion, Dillon, Darlington, and Chesterfield Counties to the South Carolina-North Carolina State line, thence along the northern and western boundaries of Lancaster, Kershaw, Richland, Lexington, Saluda, and McCormick Counties to the South Carolina-Georgia State line, including points in Greenwood County on and east

of South Carolina Highway 72, thence along the Georgia-South Carolina State line to the Atlantic Ocean and northerly along the Atlantic shore to point of beginning, on the one hand, and, on the other, points in Virginia bounded by a line beginning at the North Carolina-Virginia State line extending along U.S. Highway 15 to junction U.S. Highway 17, thence along U.S. Highway 17 to junction Interstate Highway 95, thence along Interstate Highway 95 to junction Interstate Highway 85, thence along Interstate Highway 85 to the Virginia-North Carolina State line, thence along the North Carolina-Virginia State line to point of beginning. The purpose of this filing is to eliminate the gateways of points in Marlboro and Dillon Counties, S.C., and points within 50 miles of Fairmont, N.C., and Rockingham, N.C.

No. MC 64112 (Sub-No. E26), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, class A and B explosives, commodities in bulk, household goods as defined by the Commission, commodities requiring special equipment, and those injurious or contaminating to other lading), between Atlanta, Augusta, and Columbus, Ga., on the one hand, and, on the other, points in Dillon, Marlboro, Chesterfield, and Darlington Counties, S.C. The purpose of this filing is to eliminate the gateway of points in Sumter County, S.C.

No. MC 64112 (Sub-No. E27), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, unmanufactured leaf tobacco, those requiring special equipment, and those injurious or contaminating to other lading), between Atlanta and Augusta, Ga., on the one hand, and, on the other, points in North Carolina in and east of Person, Orange, Chatham, Moore, and Richmond Counties, N.C. The purpose of this filing is to eliminate the gateways of points in Sumter County, S.C., points in Marlboro and Dillon Counties, S.C., and points in North Carolina within 50 miles of Fairmont, N.C.

No. MC 64112 (Sub-No. E28), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, class A and B explosives, household goods as defined by the Commission, commodities in bulk, unmanufactured leaf tobacco, those requiring special equipment, and those injurious or contaminating to other lading), between Columbus, Ga., on the one hand, and, on the other, points in that part of North Carolina on and east of a line extending from the North Carolina-South Carolina State line extending along U.S. Highway 1 to Rockingham, N.C., thence along U.S. Highway 220 to junction U.S. Highway 311, thence along U.S. Highway 311 to Winston-Salem, N.C., thence along U.S. Highway 158 to junction U.S. Highway 29, thence along U.S. Highway 29 to the North Carolina-Virginia State line. The purpose of this filing is to eliminate the gateways of points in Sumter County, S.C., points in Marlboro and Dillon Counties, S.C., and points in North Carolina within 50 miles of Fairmont, N.C.

No. MC 64112 (Sub-No. E29), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, class A and B explosives, commodities in bulk, household goods as defined by the Commission, commodities requiring special equipment, and those injurious or contaminating to other lading), between Atlanta, Augusta, and Columbus, Ga., on the one hand, and, on the other, Baltimore, Md., Bridgeton, N.J., points in Virginia on and east of U.S. Highway 15 (except those in Accomack and Northampton Counties, Va.), and points in Pennsylvania on and east of a line extending from the Maryland-Pennsylvania State line extending along U.S. Highway 111 to York, Pa., and on and south of a line extending from York along U.S. Highway 30 to junction U.S. Highway 202, and thence along U.S. Highway 202 through New Hope, Pa., to the Pennsylvania-New Jersey State line, and points in that part of Connecticut south of a line extending from New Haven, Conn., through Ansonia, Sandy Hook, and Brookfield, Conn., to the Connecticut-New York State line; points in that part of New York south of U.S. Highway 202 and west of New York Highway 112 extending between Patchogue, and Port Jefferson, Long Island, N.Y., and points in that part of New Jersey and Pennsylvania bounded by a line beginning at the New Jersey-New York State line and extending along U.S. Highway 202 to junction U.S. Highway 46, thence along U.S. Highway 46 to junction U.S. Highway 206, thence along U.S. Highway 206 to Trenton, N.J., thence along U.S. Highway 1 to Philadelphia, Pa., thence along U.S. Highway 30 to Camden, N.J., thence along the east bank of the Delaware River to Penns Grove, N.J., thence along U.S. Highway 130 to junction New Jersey Highway 44 (formerly Alternate U.S. Highway 130), thence along New Jersey Highway 44 to Paulsboro, N.J., thence to Clementon, N.J., thence through Mt. Holly and Freehold, N.J., to the Atlantic Ocean, thence along the east bay and river shores of New Jersey to the New Jersey-New York State line, and thence along the New Jersey-New York State line to point of beginning, including points on the indicated portions of the highways specified. The purpose of this filing is to eliminate the gateways of (a) Sumter County, S.C.; (b) points in Dillon and Marlboro Counties, S.C.; (c) points within 50 miles Fairmont, N.C.; and (d) Philadelphia, Pa.

No. MC 64112 (Sub-No. E30), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper*, from points in Beaufort, Brunswick, Carteret, Craven, Dave, Hyde, Jones, New Hanover, Onslow, Pamlico, Pender, Tyrell, and Washington Counties, N.C., to points in Pennsylvania, north of U.S. Highway 22 from the New Jersey-Pennsylvania State line to Harrisburg, Pa., and west of Interstate Highway 83 from Harrisburg to the Pennsylvania-Maryland State line, New Jersey, New York (except those points on Long Island east of the New York, N.Y., commercial zone as defined by the Commission), Connecticut, Massachusetts, and Rhode Island. The purpose of this filing is to eliminate the gateway of Plymouth, N.C.

No. MC 64112 (Sub-No. E31), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper*, from points in Buncombe, Henderson, Clay, Macon, Jackson, and Transylvania Counties, N.C., and those points in Haywood County, N.C., on and south of U.S. Highway 19 to points in Massachusetts, Rhode Island, and those in Connecticut on and north of a line extending from New Haven, Conn., through Ansonia, Sandy Hook, and Brookfield, Conn., to the Connecticut-New York State line, thence points in New York north and east of a line beginning at the Connecticut-New York State line and extending along U.S. Highway 202 to junction Interstate Highway 87, thence along Interstate Highway 87 to junction New York Highway 23, thence along New York Highway 23 to Cairo, N.Y., thence along New York Highway 149 to Middleburg, N.Y., thence along New York Highway 30 to the United States-Canada International Boundary line, points in New Jersey on and south of a line from Camden, N.J., via New Jersey Highway 30 to Clementon, N.J., thence through Mt. Holly and Freehold, N.J., to the Atlantic Ocean, and to Concord, N.H., and Portland, Maine. The purpose of this filing is to eliminate the gateways of Concord, N.C., and points within 25 miles thereof, and Plymouth, N.C.

No. MC 64112 (Sub-No. E32), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper* (except in bulk), from points in Charleston County, S.C., to points in Connecticut, Portland, Maine, points in Massachusetts, Concord, N.H., points in New Jersey, points in New York (except those points on Long Island east of the New York, N.Y., commercial zone as defined by the Commission), points in Pennsylvania north of U.S. Highway 22 from the New Jersey-Pennsylvania State line to Harrisburg, Pa., and west of Interstate Highway 83 from Harrisburg, Pa., to the Pennsylvania-Maryland State line, points in Rhode Island. The purpose of this filing is to eliminate the gateways of points in Dillon County, S.C., Plymouth, N.C., and Fairmont, N.C., and points within 50 miles thereof.

No. MC 64112 (Sub-No. E33), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper* (except commodities in bulk), from points in South Carolina on, south, and east of a line beginning at the North Carolina-South Carolina State line along U.S. Highway 601 to junction U.S. Highway 1, thence along U.S. Highway 1 to the South Carolina-Georgia State line (except points in Charleston County, S.C.), to points in Pennsylvania bounded by a line beginning at the New Jersey-Pennsylvania State line and extending along U.S. Highway 22 to Harrisburg, Pa., thence along U.S. Highway 15 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Pennsylvania Highway 120, thence along Pennsylvania Highway 120 to Ridgway, Pa., thence along U.S. Highway 219 to junction Pennsylvania Highway 321, thence along Pennsylvania Highway 321 to Kane, Pa., thence along U.S. Highway 6 to Warren, Pa., thence along U.S. Highway 62 to the Pennsylvania-New York State line, thence along the Pennsylvania-New York State line to point of beginning, including points on said boundary line, points in Connecticut, Massachusetts, Rhode Island, Portland, Maine, Concord, N.H., and points in New York (except those points on Long Island east of the New York, N.Y., commercial zone as defined by the Commission), located on and east of a line extending from the Pennsylvania-New York State line extending along U.S. Highway 62 to junction New York Highway 60, thence along New York Highway 60 through Dunkirk, N.Y., to Lake Erie. The purpose of this filing is to eliminate the gateways of points in Marlboro and Dillon Counties, S.C., points within 50 miles of Fairmont, N.C., and Plymouth, N.C.

No. MC 64112 (Sub-No. E34), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper* (except in bulk), from Augusta, Ga., to points in Connecticut; Portland, Maine; points in Massachusetts; Concord, N.H.; points in New Jersey; points in New York (except those points on Long Island east of the New York, N.Y., commercial zone as defined by the Commission), located on and east of a line extending from the Pennsylvania-New York State line along U.S. Highway 62 to junction New York Highway 60, thence along New York Highway 60 through Dunkirk, N.Y., to Lake Erie; points in that part of Pennsylvania bounded by a line beginning at the New Jersey-Pennsylvania State line and extending along U.S. Highway 22 to Harrisburg, Pa., thence along U.S. Highway 15 to junction Interstate Highway 80, thence along Interstate Highway 80 to junction Pennsylvania Highway 120, thence along Pennsylvania Highway 120 to Ridgway, Pa., thence along U.S. Highway 219 to junction Pennsylvania Highway 321, thence along Pennsylvania Highway 321 to Kane, Pa., thence along U.S. Highway 6 to Warren, Pa., thence along U.S. Highway 62 to the Pennsylvania-New York State line, thence along the Pennsylvania-New York State line to point of beginning, including points on said boundary line; and points in Rhode Island. The purpose of this filing is to eliminate the gateways of points in Sumter County, S.C., points in Dillon County, S.C., points within 50 miles of Fairmont, N.C., and Plymouth, N.C.

No. MC 64112 (Sub-No. E35), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper* (except in bulk), from Atlanta and Columbus, Ga., to points in Connecticut; Portland, Maine; points in Massachusetts; Concord, N.H.; points in New Jersey; points in New York (except those points on Long Island east of the New York, N.Y., commercial zone as defined by the Commission, located on and east of a line extending from the Pennsylvania-New York State line along U.S. Highway 11 to junction New York Highway 79, thence along New York Highway 79 to Ithaca, N.Y., thence along New York Highway 96 and 96A to Geneva, N.Y., thence along New York Highway 14 to Lake Ontario, including points on said boundary line; points in that part of Pennsylvania bounded by a line beginning at the New Jersey-Pennsylvania State line and extending along U.S. Highway 22 to junction Pennsylvania Highway 145, thence along Pennsylvania Highway 93 to Hazelton, Pa., thence along Pennsylvania Highway 309 to junction Interstate Highway 83 to the New York-Pennsylvania State line, including points on said boundary line; points in Rhode Island. The purpose of this filing is to eliminate the gateways of points in Sumter County, S.C., points in Dillon County, S.C., points within 50 miles of Fairmont, N.C., and Plymouth, N.C.

No. MC 64112 (Sub-No. E36), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper* and *paper products*, from Chicago, Ill., to points in that part of North Carolina east of U.S. Highway 29. The purpose of this filing is to eliminate the gateway of Reidsville or Charlotte, N.C.

No. MC 64112 (Sub-No. E37), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper* and *paper products* (except commodities in bulk), from Chicago, Ill., to points in that part of Virginia located on, east, and south of a line extending from the North Carolina-Virginia State line along U.S. Highway 15 to junction U.S. Highway 360, thence along U.S. Highway 360 to Richmond, Va., thence along Virginia Highway 33 to the Chesapeake Bay. The purpose of this filing is to eliminate the gateway of Reidsville, N.C.

No. MC 64112 (Sub-No. E38), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper* and *paper products*, from Chicago, Ill., to points in Anderson, Cherokee, Greenville, Greenwood, Laurens, Newberry, Pickens, Spartanburg, Union, and York Counties, S.C. The purpose of this filing is to eliminate the gateway of Asheville, N.C.

No. MC 64112 (Sub-No. E39), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper* and *paper products* (except in bulk), from Chicago, Ill., to points in that part of South Carolina, on, east, and south of U.S. Highway 1. The purpose of this filing is to eliminate the gateways of points within 25 miles of Concord, N.C., Fairmont, N.C., and 50 miles radius and points in Dillon and Marlboro Counties, S.C.

No. MC 64112 (Sub-No. E40), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper* and *paper products* (except in bulk), from Chicago, Ill., to Augusta, Ga. The purpose of this filing is to eliminate the gateways of points in Sumter County, S.C., and Asheville, N.C.

No. MC 64112 (Sub-No. E41), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper* and *paper products*, from Cincinnati and Hamilton, Ohio, to points in that part of North Carolina on, east, and south of a line beginning at the Virginia-North Carolina State line and extending along U.S. Highway 29 to junction U.S. Highway 158, thence along U.S. Highway 158 to Mocksville, N.C., thence along U.S. Highway 64 to junction U.S. Highway 21, thence along U.S. Highway 21 to Charlotte, N.C., thence along U.S. Highway 29 to the North Carolina-South Carolina State line. The purpose of this filing is to eliminate the gateway of Asheville, N.C., and points within 25 miles of Concord, N.C.

No. MC 64112 (Sub-No. E42), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper* and *paper products*, from points in that part of North Carolina on, east, and south of a line beginning at the Virginia-North Carolina State line extending along U.S. Highway 29 to junction U.S. Highway 158, thence along U.S. Highway 158 to Mocksville, N.C., thence along U.S. Highway 64 to junction U.S. Highway 21, thence along U.S. Highway 21 to Charlotte, N.C., thence along U.S. Highway 29 to the North Carolina-South Carolina State line to Cincinnati and Hamilton, Ohio. The purpose of this filing is to eliminate the gateway of Asheville, N.C., and points within 25 miles of Concord, N.C.

No. MC 64112 (Sub-No. E43), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper* and *paper products*, from Troy, Ohio, to points in North Carolina bounded by a line extending from the North Carolina-South Carolina State line along U.S. Highway 21 to junction U.S. Highway 64, thence along U.S. Highway 64 to the Atlantic Ocean, thence along the ocean shores to the North Carolina-South Carolina State line, thence along the North Carolina-South Carolina State line to point of beginning, including points on said boundary line. The purpose of this filing is to eliminate the gateways of Asheville, N.C., and points within 25 miles of Concord, N.C.

No. MC 64112 (Sub-No. E44), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper* and *paper products*, from points in North Carolina bounded by a line extending from the North Carolina-South Carolina State line along U.S. Highway 21 to junction U.S. Highway 64, thence along U.S. Highway 64 to the Atlantic Ocean, thence along the ocean shores to the North Carolina-South Carolina State line, thence along the North Carolina-South Carolina State line to point of beginning, including points on said boundary lines to Troy, Ohio. The purpose of this filing is to eliminate the gateway of Asheville, N.C.

No. MC 64112 (Sub-No. E45), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper* and *paper products*, from Middletown, Ohio, to points in that part of North Carolina on, east, and south of a line beginning at the North Carolina-South Carolina State line and extending along U.S. Highway 21 to junction U.S. Highway 64 at or near Statesville, N.C., thence along U.S. Highway 64 to junction Interstate Highway 85, thence along Interstate Highway 85 to the North Carolina-Virginia State line. The purpose of this filing is to eliminate the gateway of Asheville, N.C., and points within 25 miles of Concord, N.C.

No. MC 64112 (Sub-No. E46), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper* and *paper products*, from points in that part of North Carolina on, east, and south of a line beginning at the North Carolina-South Carolina State line and extending along U.S. Highway 21 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction Interstate Highway 85, thence along Interstate Highway 85 to the North Carolina-Virginia State line to Middletown, Ohio. The purpose of this filing is to eliminate the gateway of Asheville, N.C., and points within 25 miles of Concord, N.C.

No. MC 64112 (Sub-No. E47), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper* and *paper products*, from Cincinnati, Hamilton, Middletown, and Troy, Ohio, to points in South Carolina located on and east of a line extending from the North Carolina-South Carolina State line along U.S. Highway 1 to junction U.S. Highway 601, thence along U.S. Highway 601 to junction U.S. Highway 21, thence along U.S. Highway 21 to junction U.S. Highway 17A, thence along U.S. Highway 17A to junction U.S. Highway 17, thence along U.S. Highway 17 to the Georgia-South Carolina State line. The purpose of this filing is to eliminate the gateways of Asheville, N.C., points within 25 miles of Concord, N.C., points within 50 miles of Fairmont, N.C., and points in Marlboro and Dillon Counties, S.C.

No. MC 64112 (Sub-No. E48), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper* and *paper products*, from points in South Carolina located on and east of a line extending from the North Carolina-South Carolina State line along U.S. Highway 1 to junction U.S. Highway 601, thence along U.S. Highway 601 to junction U.S. Highway 21, thence along U.S. Highway 21 to junction U.S. Highway 17A, thence along U.S. Highway 17A to junction U.S. Highway 17, thence along U.S. Highway 17 to the Georgia-South Carolina State line to Cincinnati, Hamilton, Middletown, and Troy, Ohio. The purpose of this filing is to eliminate the gateways of Asheville, N.C., points within 25 miles of Concord, N.C., points within 50 miles of Fairmont, N.C., and points in Marlboro and Dillon Counties, S.C.

No MC 64112 (Sub-No. E49), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper* and *paper products*, from Cincinnati, Hamilton, Middletown, and Troy, Ohio, to Anderson, Cherokee, Greenville, Greenwood, Laurens, Pickens, Newberry, Spartanburg, Union, and York Counties, S.C., and Columbia, S.C. The purpose of this filing is to eliminate the gateway of Asheville, N.C.

No. MC 64112 (Sub-No. E50), filed May 14, 1974. Applicant: NORTH-

EASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper* and *paper products*, from points in North Carolina on and east of a line beginning at the North Carolina-Virginia State line along Interstate Highway 85 to junction U.S. Highway 29, thence along U.S. Highway 29 to Charlotte, N.C., thence along U.S. Highway 21 to the North Carolina-South Carolina State line to points in that part of Tennessee bounded by a line beginning at the Kentucky-Tennessee State line and extending along Interstate Highway 75 to Knoxville, Tenn., thence along U.S. Highway 129 to the North Carolina-Tennessee State line, thence along the the North Carolina-Tennessee State line to Tennessee Highway 70, thence along Tennessee Highway 70 to the Kentucky-Tennessee State line to point of beginning, including points on said boundary line. The purpose of this filing is to eliminate the gateways of Asheville, N.C., and points within 25 miles of Concord, N.C.

No. MC 64112 (Sub-No. E51), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Groceries*, from Chicago, Ill., to points in North Carolina (except points within 115 miles of Asheville, N.C.). The purpose of this filing is to eliminate the gateways of Concord, N.C., and points within 25 miles thereof.

No. MC 64112 (Sub-No. E52), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Groceries*, from Chicago, Ill., to points in South Carolina (except points in Oconee and Pickens Counties). The purpose of this filing is to eliminate the gateway of Charlotte, N.C.

No. MC 64112 (Sub-No. E53), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St., N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Groceries*, (except in bulk), from Chicago, Ill., to points in that part of Virginia bounded by a line beginning at the North Carolina-Virginia State line and extending via U.S. Highway 15 to junction U.S. Highway 360, thence along U.S. Highway 360 to junction U.S. Highway 460, thence along U.S. Highway 460 to Petersburg, Va., thence along Virginia Highway 36 to Hopewell, Va., thence along Virginia Highway 10 to Smithfield, Va., thence along U.S. Highway 258 to Newport News, Va., thence along U.S. Highway 60 to Virginia Beach, Va., thence along the ocean shores to the North Carolina-Virginia State line, thence along the North Carolina-Virginia State line to point of beginning, including points on the indicated portions of the highways specified. The purpose of this filing is to eliminate the gateway of Statesville, N.C., and Burlington, N.C.

No. MC 64112 (Sub-No. E54), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Groceries* (except in bulk), from Chicago, Ill., to Augusta, Ga. The purpose of this filing is to eliminate the gateways of Charlotte, N.C., and points in Sumter County, S.C.

No. MC 64112 (Sub-No. E55), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Groceries*, from Cincinnati, Ohio, Indianapolis, Ind., and Louisville, Ky., to points in that part of North Carolina on and east of a line extending from the North Carolina-Virginia State line along U.S. Highway 29 to junction U.S. Highway 158, thence along U.S. Highway 158 to Mocksville, N.C., thence along U.S. Highway 64 to junction U.S. Highway 21, thence along U.S. Highway 21 to Charlotte, N.C., thence along U.S. Highway 29 to the North Carolina-South Carolina State line. The purpose of this filing is to eliminate the gateway of points within 25 miles of Concord, N.C. (Barber, N.C.).

No. MC 64112 (Sub-No. E56), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale grocery and food business houses (except fresh meat, eggs, poultry, and products of food-processing and meat packinghouses, and packinghouse products and advertising material and premiums for food processing and meat packinghouses, from points in North Carolina bounded by a line beginning at the North Carolina-Virginia State line along U.S. Highway 52 to junction U.S. Highway 601, thence along U.S. Highway 601 to Salisbury, N.C., thence along U.S. Highway 29 to junction U.S. Highway 21, thence along U.S. Highway 21 to the North Carolina-South Carolina State line, thence along the southern border of the North Carolina-South Carolina State line to U.S. Highway 221, thence along U.S. Highway 221 to junction U.S. Highway 74, thence along U.S. Highway 74 to junction U.S. Highway 25, thence along U.S. Highway 25 to the North Carolina-Tennessee State line, thence along the North Carolina-Tennessee State line to the North Carolina-Virginia State line and thence to point of beginning, including points on said highways to points in South Carolina bounded by a line beginning at the North Carolina-South Carolina State line along U.S. Highway 521 to junction South Carolina Highway 9, thence along South Carolina Highway 9 to Fort Lawn, S.C., thence along U.S. Highway 21 to junction North Carolina Highway 97, thence along North Carolina Highway 97 to junction U.S. Highway 521, thence along U.S. Highway 521 to junction U.S. Highway 52, thence along U.S. Highway 52 to the Atlantic Ocean, thence along the Atlantic-South Carolina shore to the North Carolina-South Carolina State line, thence along the North Carolina-South Carolina State line to the southern boundary of Dillon County, S.C., thence along the southern boundaries of Dillon, Marlboro, Darlington, and Chesterfield Counties to the North Carolina-South Carolina State line, thence to point of beginning along the North Carolina-South Carolina State line, including points on the above highways. The purpose of this filing is to eliminate the gateway of Charlotte, N.C.

No. MC 64112 (Sub-No. E57), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale grocery and food business houses (except fresh meat, eggs, poultry, and products of food-processing and meat packinghouses, and packinghouses by-products, and advertising material and premiums for food processing and meat packinghouses, from points in North Carolina bounded by a line beginnning at the North Carolina-Virginia State line extending along U.S. Highway 52 to junction U.S. Highway 601, thence along U.S. Highway 601 to Salisbury, N.C., thence along Interstate Highway 85 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction U.S. Highway 1, thence along U.S. Highway 1 to the North Carolina-Virginia State line, thence along the North Carolina-Virginia State line to point of beginning, including points on said highways, to points in South Carolina bounded by a line beginning at the North Carolina-South Carolina State line extending along U.S. Highway 521 to junction North Carolina Highway 9, thence along North Carolina Highway 9 to Fort Lawn, S.C., thence along U.S. Highway 21 to junction North Carolina Highway 97, thence along North Carolina Highway 97 to junction U.S. Highway 601, thence along U.S. Highway 601 to junction U.S. Highway 21, thence along U.S. Highway 21 to the Atlantic Ocean, thence along the Atlantic shore line to the South Carolina-Georgia State line to Interstate Highway 85, thence

along Interstate Highway 85 to junction U.S. Highway 29, thence along U.S. Highway 29 to junction Interstate Highway 85, thence along Interstate Highway 85 to the North Carolina-South Carolina State line and along said line in an easterly direction to point of beginning, including points on said highways. The purpose of this filing is to eliminate the gateway of Charlotte, N.C.

No. MC 64112 (Sub-No. E58), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products*, in containers, from the plant site and storage facilities of Exxon Corporation at Baton Rouge, La., to points in that part of South Carolina located on and north of a line extending from the North Carolina-South Carolina State line along U.S. Highway 21 to Ft. Lawn, thence along South Carolina Highway 9 to Lancaster, thence along U.S. Highway 521 through Georgetown to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Fairmont, N.C., points within 50 miles thereof, and points in Dillon and Marlboro Counties, S.C.

No. MC 64112 (Sub-No. E59), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products*, in containers, from the plant site and storage facilities of Exxon Corporation at Baton Rouge, La.; points in Virginia on and east of U.S. Highway 15 (except points in Accomack and Northampton Counties); Baltimore, Md.; points in Pennsylvania on and east of a line extending from the Maryland-Pennsylvania State line along U.S. Highway 111 to York, Pa., and on and south of a line extending from York, along U.S. Highway 30 to junction U.S. Highway 202, and thence along U.S. Highway 202 to the Pennsylvania-New Jersey State line; Bridgeton, N.J.; and points in that part of New Jersey bounded by a line beginning at the New Jersey-New York State line and extending along U.S. Highway 202 to junction U.S. Highway 46, thence along U.S. Highway 46 to Trenton, N.J., thence along the east bank of the Delaware River to Penns Grove, N.J., thence along U.S. Highway 130 to junction New Jersey Highway 44, thence along New Jersey Highway 44 to Paulsboro, N.J., thence through Mt. Holly and Freehold, N.J., to the Atlantic Ocean, thence along the east bay and river shores of New Jersey to the New Jersey-New York State line, thence along the New Jersey-New York State line to point of beginning, including points on the indicated portions of the highway specified; points in that part of New York south of U.S. Highway 202 and west of New York Highway 112 extending between Patchogue, and Port Jefferson, Long Island, N.Y.; points in that part of Connecticut south of a line extending from New Haven, Conn., through Ansonia, Sandy Hook, and Brookfield, Conn., to the Connecticut-New York State line. The purpose of this filing is to eliminate the gateways of Durham, N.C., or Durham, N.C. and Philadelphia, Pa.

No. MC 64112 (Sub-No. E60), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products*, as described by the Commission in 61 M.C.C. 209, in containers, from points in Chesterfield, Dillon, Darlington, and Marlboro Counties, S.C., to points in Florida (except points in Duval County). The purpose of this filing is to eliminate the gateway of Charleston, S.C.

No. MC 64112 (Sub-No. E61), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products*, as described by the Commission in 61 M.C.C. 209, in containers, from points in North Carolina and South Carolina within 50 miles of Fairmont, N.C. (except points in Dillon, Darlington, Chesterfield, and Marlboro Counties), to points in Florida (except points in Duval County). The purpose of this filing is to eliminate the gateways of points in Dillon or Darlington Counties, S.C., and Charleston, S.C.

No. MC 64112 (Sub-No. E62), filed May 14, 1974. Applicant: NORTHEASTERN TRUCKING CO., P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Harry Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products*, as described by the Commission in 61 M.C.C. 209, in containers, from points in that part of North Carolina on and east of a line extending from the North Carolina-Virgina State line along U.S. Highway 29 to junction U.S. Highway 158 at or near Reidsville, N.C., thence along U.S. Highway 158 to junction U.S. Highway 220, thence along U.S. Highway 220 to junction U.S. Highway 1, thence along U.S. Highway 1 to the North Carolina-South Carolina State line, excluding the points in North Carolina within 50 miles of Fairmont, N.C., to points in Florida (except points in Duval County). The purpose of this filing is to eliminate the gateways of Charleston, S.C., Fairmont, N.C., and points within 50 miles thereof, and points in Dillon and Marlboro Counties, S.C.

No. MC 64932 (Sub-E94), filed June 3, 1974. Applicant: ROGERS CARTAGE CO., 10735 So. Cicero Ave., Oak Lawn, Ill. 60453. Applicant's representative: W. F. Farrell (same). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and paint*, in bulk, in tank vehicles, from Detroit, Mich., to points in New Jersey, New York, Pennsylvania, and West Virginia. The purpose of this filing is to eliminate the gateway of Ferndale, Mich.

No. MC 64932 (Sub-E119), filed June 3, 1974. Applicant: ROGERS CARTAGE CO., 10735 So. Cicero Ave., Oak Lawn, Ill. 60453. Applicant's representative: W. F. Farrell (same). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid petroleum chemicals*, in bulk, in tank vehicles, from Wood River, Ill., to points in Arkansas, Louisiana, Oklahoma, those in Texas on and east of a line beginning at the Oklahoma-Texas State line and extending along U.S. Highway 77 to junction U.S. Highway 377, to junction U.S. Highway 81, to junction U.S. Highway 183, to junction Texas Highway 71, to junction U.S. Highway 77, to junction U.S. Highway 90, to junction U.S. Alt. Highway 90, to junction U.S. Highway 75, to the Gulf of Mexico (St. Louis, Mo.),* those in Colorado and New Mexico on and east of U.S. Highway 85, and those in Texas on and west of a line beginning at the Texas-Oklahoma State line and extending along U.S. Highway 77 to junction U.S. Highway 377, to junction U.S. Highway 81, to junction U.S. Highway 183, to junction Texas Highway 71, to junction U.S. Highway 77, to junction U.S. Highway 90 to junction U.S. Alt. Highway 90, to junction U.S. Highway 75, to the Gulf of Mexico (Louisiana, Mo., and Meredosia, Ill.),* and Kansas, Minnesota, Nebraska, and Wiscosin (Pike County, Mo.).* The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

No. MC 64932 (Sub-E120), filed June 3, 1974. Applicant: ROGERS CARTAGE CO., 10735 So. Cicero Ave., Oak Lawn, Ill. 60453. Applicant's representative: W. F. Farrell (same). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Chicago Heights, Ill., to points in New Jersey, New York, those in Pennsylvania on, north and east of a line beginning at the Ohio-Pennsylvania State line and extending along U.S. Highway 22 to junction Pennsylvania Highway 51, to junction Pennsylvania Highway 136, to junction Pennsylvania Highway 31, to junction U.S. Highway 219 to the Pennsylvania-West Virginia State line, and those in West Virginia on and east of a line beginning at the Pennsylvania-West Virginia State line and extending along Interstate Highway 19 to junction Interstate Highway 250, to junction U.S. Highway 60 to the West Virginia-Virginia State line, (Ferndale, Mich.)*; and *Liquid chemicals* (except those derived or produced from petroleum) in bulk, in

tank vehicles, from Chicago Heights, Ill., to points in Pennsylvania and West Virginia (Hammond, Ind.).* The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

No. MC 64932 (Sub-E121), filed June 3, 1974. Applicant: ROGERS CARTAGE CO., 10735 So. Cicero Ave., Oak Lawn, Ill. 60453. Applicant's representative: W. F. Farrell (same). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and paint, and paint products* restricted to paint materials, synthetic resin, resin compound surface coating, estergum paint oil, varnish, glycerine, and liquid glue, in bulk, in tank vehicles, from those points in Pennsylvania on, north, and east of a line beginning at the Ohio-Pennsylvania State line and extending along U.S. Highway 22 to junction Pennsylvania Highway 51, to junction Pennsylvania Highway 136, to junction Pennsylvania Highway 31, to junction U.S. Highway 219, to the Pennsylvania-West Virginia State line, to those points in Indiana on and west of a line beginning at the Indiana-Michigan State line and extending along Indiana Highway 23 to junction Indiana Highway 331, to junction U.S. Highway 30 to the Illinois-Indiana State line. The purpose of this filing is to eliminate the gateway of Ferndale, Michigan.

No. MC 64932 (Sub-E122), filed June 3, 1974. Applicant: ROGERS CARTAGE CO., 10735 So. Cicero Ave., Oak Lawn, Ill. 60453. Applicant's representative: W. F. Farrell (same). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and paint*, in bulk, in tank vehicles, from points in Kansas to those points in Michigan on and east of a line beginning at Lake Michigan and extending along U.S. Highway 27 to junction U.S. Highway 127, to the Michigan-Ohio State line. The purpose of this filing is to eliminate the gateway of Ferndale, Michigan.

No. MC 64932 (Sub-E123), filed June 3, 1974. Applicant: ROGERS CARTAGE CO., 10735 So. Cicero Ave., Oak Lawn, Ill. 60453. Applicant's representative: W. F. Farrell (same). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, (except petroleum products as defined by the Commission) in bulk, in tank vehicles, from Joliet, Ill., to those points in Colorado on and east of U.S. Highway 85. The purpose of this filing is to eliminate the gateway of the plant site of National Starch and Chemical Corporation at Meredesia, Ill.

No. MC 64932 (Sub-E124), filed June 3, 1974. Applicant: ROGERS CARTAGE CO., 10735 So. Cicero Ave., Oak Lawn, Ill. 60453. Applicant's representative: W. F. Farrell (same). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and paint*, in bulk, in tank vehicles, between those points in Michigan on and east of a line beginning at Lake Michigan and extending along U.S. Highway 27 to junction U.S. Highway 10 to junction Michigan Highway 47 to junction U.S. Highway 23 to junction Michigan Highway 59 to junction Interstate Highway 96 to junction U.S. Highway 23 to junction Michigan Highway 50 to Lake Erie, on the one hand, and, on the other, those points in Indiana on and south of a line beginning at the Ohio-Indiana State line and extending along U.S. Highway 30 to junction Interstate Highway 69 to junction Interstate Highway 465 to junction U.S. Highway 40 to the Indiana-Illinois State line. The purpose of this filing is to eliminate the gateway of Ferndale, Michigan.

No. MC 64932 (Sub-E125), filed June 3, 1974. Applicant: ROGERS CARTAGE CO., 10735 So. Cicero Ave., Oak Lawn, Ill. 60453. Applicant's representative: W. F. Farrell (same). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *chemicals and paint*, in bulk, in tank vehicles, from points in the Chicago, Ill., Commercial zone, to points in New Jersey, New York, Pennsylvania, and those in West Virginia on and east of a line beginning at the Pennsylvania-West Virginia State line and extending along U.S. Highway 119 to junction U.S. Highway 250 to junction U.S. Highway 219 to the Virginia-West Virginia State line. The purpose of this filing is to eliminate the gateway of Ferndale, Michigan.

No. MC 64932 (Sub-E126), filed June 3, 1974. Applicant: ROGERS CARTAGE CO., 10735 So. Cicero Ave., Oak Lawn, Ill. 60453. Applicant's representative: W. F. Farrell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Blue Island, Ill., and points within one and one-half miles thereof, to those points in Missouri on and west of a line beginning at the Iowa-Missouri State line and extending along Missouri Highway 5 to junction U.S. Highway 36, to the Missouri-Illinois State line. The purpose of this filing is to eliminate the gateway of East Chicago, Ind. and Hartford, Ill.

No. MC 64932 (Sub-E127), filed June 3, 1974. Applicant: ROGERS CARTAGE CO., 10735 So. Cicero Ave., Oak Lawn, Ill. 60453. Applicant's representative: W. F. Farrell (same). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, as defined in the report in *The Maxwell Co.*, Extendion-Addyston, 63 M.C.C. 677, 681, in bulk, in tank vehicles, from Lemont, Ill., to points in Kentucky, Michigan (except Midland, Michigan), Minnesota, Missouri, Ohio, and points in Wisconsin on and north of a line beginning at the Mississippi River and extending along U.S. Highway 18 to junction U.S. Highway 151, to Lake Michigan. The purpose of this filing is to eliminate the gateway of points in Indiana in the Chicago, Ill., Commercial zone.

No. MC 64932 (Sub-E128), filed June 3, 1974. Applicant: ROGERS CARTAGE CO., 10735 So. Cicero Ave., Oak Lawn, Ill. Applicant's representative: W. F. Farrell (same). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from those points in Michigan on and east of a line beginning at Lake Michigan and extending along U.S. Highway 27 to junction U.S. Highway 127, to the Michigan-Ohio State line. The purpose of this filing is to eliminate the gateway of Ferndale, Michigan, and Marshall, Illinois.

No. MC 64932 (Sub-E129), filed June 3, 1974. Applicant: ROGERS CARTAGE CO., 10735 So. Cicero Ave., Oak Lawn, Ill. 60453. Applicant's representative: W. F. Farrell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from East Chicago, Ind., and points within 10 miles thereof, to those points in Missouri on and west of a line beginning at the Iowa-Missouri State line and extending along Missouri Highway 5 to junction U.S. Highway 36, to the Missouri-Illinois State line. The purpose of this filing is to eliminate the gateway of Hartford, Ill.

No. MC 64932 (Sub-E130), filed June 3, 1974. Applicant: ROGERS CARTAGE CO., 10735 So. Cicero Ave., Oak Lawn, Ill. 60453. Applicant's representative: W. F. Farrell (same). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and paint*, in bulk, in tank vehicles, from those points in Michigan on, south and east of a line beginning at Saginaw Bay and extending along U.S. Highway 10 to junction Michigan Highway 47 to junction U.S. Highway 23 to junction Michigan Highway 59 to junction Interstate Highway 96 to junction U.S. Highway 23, to the Michigan-Ohio State line, to those points in Minnesota on and south of U.S. Highway 12, and those in Wisconsin on and south of a line beginning at the Minnesota-Wisconsin State line and extending along U.S. Highway 12 to junction Wisconsin Highway 29 to Lake Michigan. The purpose of this filing is to eliminate the gateway to Ferndale, Michigan.

No. MC 64932 (Sub-E131), filed June 3, 1974. Applicant: ROGERS CARTAGE CO., 10735 So. Cicero Ave., Oak Lawn, Ill. 60453. Applicant's representative: W. F. Farrell (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals* (except chemicals derived or produced from petroleum), in bulk, in tank vehicles, from those points in Ohio on, east, and north of a line beginning at Lake Erie and extending along Ohio Highway 83 to junction U.S. Highway 224, to the Ohio-Pennsylvania State line. The purpose of this filing is to eliminate the gateway of Ferndale, Michigan and Chicago Heights, Illinois.

No. MC 64932 (Sub-E132), filed June 3, 1974. Applicant: ROGERS CARTAGE CO., 10735 So. Cicero Ave., Oak Lawn, Ill. 60453. Applicant's representative: W. F. Farrell (same). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from those points in Ohio on, east, and north of a line beginning at Lake Erie and extending along Ohio Highway 83 to junction Interstate Highway 224 to the Ohio-Pennsylvania State line. The purpose of this filing is to eliminate the gateway of Ferndale, Michigan and the plant sites of Baird Chemical Industries, Inc., located at or near Mapleton, Illinois.

No. MC 64932 (Sub-E133), filed June 3, 1974. Applicant: ROGERS CARTAGE CO., 10735 So. Cicero Ave., Oak Lawn, Ill. 60453. Applicant's representative: W. F. Farrell (same). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and paint*, in bulk, in tank vehicles, from those points in Ohio on, east and north of a line beginning at the Michigan State line and extending along Interstate Highway 75 to junction U.S. Alt. Highway 20, to U.S. Highway 20, to junction U.S. Highway 250, to junction U.S. Highway 224 to the Ohio-Pennsylvania State line, to points in Minnesota and Wisconsin. The purpose of this filing is to eliminate the gateway of Ferndale, Michigan.

No. MC 64932 (Sub-E134), filed June 3, 1974. Applicant: ROGERS CARTAGE CO., 10735 So. Cicero Ave., Oak Lawn, Ill. 60453. Applicant's representative: W. F. Farrell (same). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and paint*, in bulk, in tank vehicles, from those points in Ohio on, east and north of a line beginning at Lake Erie and extending along Ohio Highway 83 to junction Interstate Highway 224 to the Ohio-Pennsylvania State line, to those points in Indiana in the Chicago, Ill. Commercial Zone, those in Illinois on and north of a line beginning at the Indiana-Illinois State line and extending along U.S. Highway 30 to junction Interstate Highway 80 to the Illinois-Iowa State line and those in Michigan on and north of Interstate Highway 94. The purpose of this filing is to eliminate the gateway of Ferndale, Michigan.

No. MC 78228 (Sub-No. E21), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, from points in Ohio on and west of a line beginning at Lake Erie, and extending along Ohio Highway 528 to Garretsville, Ohio, thence along Ohio Highway 88 to Ravenna, Ohio, thence along Ohio Highway 14 to Edinburg, Ohio, thence along Ohio Highway 183 to Alliance, Ohio, thence along Ohio Highway 183 to junction Ohio Highway 800, thence along Ohio Highway 800 to Dover, Ohio, thence along Ohio Highway 39 to junction Ohio Highway 93, thence along Ohio Highway 93 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction U.S. Highway 16, thence along U.S. Highway 16 to junction Ohio Highway 60, thence along Ohio Highway 60 to Zanesville, Ohio, thence along Ohio Highway 93 to junction Ohio Highway 56, thence along Ohio Highway 56 to junction Ohio Highway 180, thence along Ohio Highway 180 to junction Ohio Highway 159, thence along Ohio Highway 159 to Chillicothe, Ohio, thence along U.S. Highway 23 to the Ohio-Kentucky State line, to points in Delaware on and north of a line beginning at the Delaware-Maryland State line, thence along Delaware Highway 44 to Pearson, Del., thence along Delaware Highway 8 to the Delaware River, restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E22), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, from Ashland, Ky., to points in Cecil County, Md., on and east of Maryland Highway 272, restricted against liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E23), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, from those points in McKean, Warren, Erie, Crawford, Mercer, Vanango, Forest, and Lawrence Counties, Pa., on and west of U.S. Highway 219 and Pennsylvania Highway 66 to points in Virginia on and west of U.S. Highway 52, restricted against liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E24), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, from those points in New York on, north and west of a line beginning at the Pennsylvania-New York State line, and extending along U.S. Highway 62 to the junction of New York Highway 39, thence along New York Highway 39 to junction Alternate U.S. Highway 20, thence along Alternate U.S. Highway 20 to junction U.S. Highway 15, thence along U.S. Highway 15 to Lake Ontario, to points in Virginia on and west of a line beginning at the Virginia-North Carolina State line and extending along Virginia Highway 8 to Christiansburg, Va., thence along U.S. Highway 460 to the West Virginia-Virginia State line, restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E25), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, from those points in New York on and west of a line beginning at Lake Ontario, thence along U.S. Highway 15 to Lakeville, N.Y., thence along Alternate U.S. Highway 20 to Genesee, N.Y., thence along New York Highway 63 to junction New York Highway 408, thence along New York Highway 408 to junction New York Highway 16, thence along New York Highway 16 to Olean, N.Y., thence along New York Highway 16A to the New York-Pennsylvania State line, to those points in Virginia on and west of a line beginning at the Virginia-North Carolina State line, thence along U.S. Highway 52 to the Virginia-West Virginia State line, restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E26), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, from those points in Ohio on and west of a line beginning at Lake Erie and extending along Ohio Highway 306 to Aurora, Ohio, thence along Ohio Highway 43 to Hartville, Ohio, thence along Ohio Highway 619 to Portage Lakes, Ohio, thence along Ohio Highway 93 to junction Ohio Highways 93 and 241, thence along Ohio Highway 241 to Millersburg, Ohio, thence along U.S. Highway 62 to Millwood, Ohio, thence along U.S. Highway 36 to Marysville, Ohio, thence along Ohio Highway 4 to Springfield, Ohio, thence along U.S. Highway 68 to Xenia, Ohio, thence along U.S. Highway 42 to the junction of U.S. Highway 52 and Interstate Highway 275, thence along Interstate Highway 275 to junction Interstate Highway 275 and U.S. Highway 52, thence along U.S. Highway 52 to the Ohio-Kentucky State

line, to those points in Maryland on and east of Maryland Highway 36, restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E28), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, from points in Ohio on, north, and west of a line beginning at the Ohio-Pennsylvania State line, thence along Ohio Highway 82 to Warren, Ohio, thence along Ohio Highway 5 to junction Ohio Highway 225, thence along Ohio Highway 225 to Alliance, Ohio, thence along Ohio Highway 183 to junction Ohio Highway 800, thence along Ohio Highway 800 to junction Interstate Highway 77, thence along Interstate Highway 77 to junction U.S. Highway 22, thence along U.S. Highway 22 to Zanesville, Ohio, thence along Ohio Highway 93 to McArthur, Ohio, thence along U.S. Highway 50 to Chillicothe, Ohio, thence along U.S. Highway 23 to Portsmouth, Ohio, to points in Wicomico, Somerset, and Worcester Counties, Md., restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E29), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, from points in Ohio on, north, and west of a line beginning at the Ohio River and extending along Ohio Highway 133 to junction U.S. Highway 50, thence along U.S. Highway 50 to Hillsboro, Ohio, to junction Ohio Highway 138, thence along Ohio Highway 138 to junction U.S. Highway 22 to Zanesville, Ohio, thence along Interstate Highway 70 to junction Ohio Highway 93, thence along Ohio Highway 93 to junction Ohio Highway 39, thence along Ohio Highway 39 to Carrolltown, Ohio, thence along Ohio Highway 9 to Salem, Ohio, thence along U.S. Highway 62 to the Ohio-Pennsylvania State line, to points in Accomack and Northampton Counties, Va., and Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, and Virginia Beach, Va., restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E30), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, from points in Ohio on, north, and west of a line beginning at the Ohio-Kentucky State line at Cincinnati, thence along U.S. Highway 22 to Circleville, Ohio, thence along U.S. Highway 23 to junction Interstate Highway 270 south of Columbus, Ohio, thence along Interstate Highway 270 east to junction Interstate Highway 70, thence along Interstate Highway 70 to junction Ohio Highway 13, thence along Ohio Highway 13 to Newark, Ohio, thence along Ohio Highway 16 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Interstate Highway 77, thence along Interstate Highway 77 to junction U.S. Highway 62 near Canton, Ohio, thence along U.S. Highway 62 to junction Ohio Highway 44, thence along Ohio Highway 44 to Lake Erie, to Petersburg, Richmond, and Fredericksburg, Va., and those points in Virginia on, north, and east of a line beginning at the Virginia-North Carolina State line, thence along Interstate Highway 95 to Interstate Highway 495, thence along Interstate Highway 495 to the Maryland-Virginia State line in Fairfax County, Va., restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E31), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, from points in Ohio on, west, and north of a line beginning at the Indiana-Ohio State line, thence along U.S. Highway 224 to Findlay, Ohio, thence along U.S. Highway 23 to junction U.S. Highway 30N, thence along U.S. Highway 30N to junction U.S. Highway 30, thence along U.S. Highway 30 to East Canton, Ohio, thence along Ohio Highway 44 to Lake Erie, to points in Virginia on and east of U.S. Highway 52, restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E32), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, in bulk, from points in Ohio except Ashtabula, Columbiana, Jefferson, Belmont, and Monroe Counties, to points in Connecticut on and east of Interstate Highway 91, and New Haven, Conn., restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E33), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, in bulk, from points in Ashtabula County, Ohio, to points in New London County, Conn., restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E34), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, in bulk, from those points in Ohio on and west of a line beginning at Lake Erie and extending along Ohio Highway 528 to junction U.S. Highway 422, thence along U.S. Highway 422 to Warren, Ohio, thence along Ohio Highway 45 to Salem, Ohio, thence along Ohio Highway 9 to Carrolltown, Ohio, thence along Ohio Highway 39 to New Philadelphia, Ohio, thence along Interstate Highway 77 to junction Ohio Highway 78, thence along Ohio Highway 78 to junction Ohio Highway 13, thence along Ohio Highway 13 to Athens, Ohio, thence along U.S. Highway 33 to the Ohio-West Virginia State line to points in Connecticut, restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E35), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, in bulk, from points in Ohio (except Ashtabula County), to points in Essex, Middlesex, Norfolk, Suffolk, Bristol, Plymouth, and Barnstable Counties, Mass., restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E36), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, in bulk, from points in Ohio (except Ashtabula, Columbiana, Jeffer-

son, Belmont, and Monroe Counties), to points in Massachusetts, restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E37), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, in bulk, from points in Ashtabula County, Ohio, to points in Barnstable County, Mass., restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gatewayof Wadsworth, Ohio.

No. MC 78228 (Sub-No. E38), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, in bulk, from those points in Ohio on and west of a line beginning at Lake Erie, thence along Ohio Highway 534 to Damascus, Ohio, thence along Ohio Highway 173 to Alliance, Ohio, thence along Ohio Highway 183 to junction Ohio Highway 800, thence along Ohio Highway 800 to junction Ohio Highway 39, thence along Ohio Highway 39 to junction Ohio Highway 93, thence along Ohio Highway 93 to the Ohio-Kentucky State line, to points in New Jersey, restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E39), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, in bulk, from Ashland, Ky., to points in New Jersey, restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E40), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, in bulk, from points in Lawrence County, Pa., to points in Essex and Barnstable Counties, Mass., restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E41), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, in bulk, from Ashland, Ky., to points in Connecticut, restricted against the transportation of liquid commodities, in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E42), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, in bulk, from Ashland, Ky., to points in Massachusetts, restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E43), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, in bulk, from those points in Wood, Pleasants, Tyler, Wetzel, Marshall, Ohio, Brooke, and Hancock Counties, W. Va., on and north of U.S. Highway 50 to those points in Massachusetts on and north of Massachusetts Highway 2, restricted against the transportation of liquid commodities, in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E44), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, in bulk, from those points in Pleasants and Wood Counties, W. Va., on and north of U.S. Highway 50 to points in Massachusetts. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E45), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, in bulk, from points in Ohio (except points in Ashtabula, Trumbull, Mahoning Jefferson, Harrison, Belmont, Monroe, Noble, Washington, and Meigs Counties, that part of Columbiana County east of Ohio Highway 9, and that part of Athens County east of Ohio Highways 346 and 377), to points in that part of New Jersey on and east of a line beginning at the Atlantic Ocean near Asbury Park, N.J., thence along New Jersey Highway 33 to junction with the Garden State Parkway, thence along the Garden State Parkway to junction New Jersey Highway 506, thence along New Jersey Highway 506 to junction New Jersey Highway 23, thence along New Jersey Highway 23 to junction U.S. Highway 202, thence along U.S. Highway 202 to the New York-New Jersey State line. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E46), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, in bulk, from points in Hancock County, W. Va., to points in Windham County, Conn., restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E47), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, in bulk, from those points in Wood and Pleasants Counties, W. Va., on and north of U.S. Highway 50 to those points in Connecticut on, east, and north of a line beginning at the Long Island Sound near New Haven, Conn., thence along Connecticut Highway 34 to the junction of Interstate Highway 84, thence along Interstate Highway 84 to the Connecticut-New York State line, restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E48), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives* (except in bulk), from those points in Pennsylvania on and west of U.S. Highway 219 to those points in Indiana on and north of U.S. Highway 30. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E49), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives* (except in bulk), from those points in New York west of a line beginning at Lake Ontario and extending along U.S. Highway 15 to Lakeville, N.Y., thence along Alternate U.S. Highway 20 to Geneseo, N.Y., thence along New York Highway 63 to junction New York Highway 408, thence along New York Highway 408 to junction New York Highway 16, thence along New York Highway 16 to Olean, N.Y., thence along New York Highway 16A to the New York-Pennsylvania State line to those points in Indiana on and north of U.S. Highway 30. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E50), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives* (except in bulk), from those points in West Virginia on and north of U.S. Highway 50 (except points in Wood and Pleasants Counties), to points in that part of Indiana on and north of U.S. Highway 30. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E51), filed May 30, 1975), Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives* (except in bulk), from Ashland, Ky., to those points in Michigan on and north of a line beginning at Lake St. Clair, thence along U.S. Highway 12 to junction Interstate Highway 94, thence along Interstate Highway 94 to Battle Creek, Mich., thence along Michigan Highway 89 to Lake Michigan. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E52), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives* (except in bulk), from Ashland, Ky., to those points in New York on and west of New York Highway 12. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E53), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives* (except in bulk), from points in Marshall, Ohio, Brooke, and Hancock Counties, W. Va., to those points in Oswego, Cayuga, Onondaga, Madison, Oneida, Lewis, and Jefferson Counties, N.Y., on or west of New York Highway 12. The purpose of the filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E54), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives* (except in bulk), from those points in West Virginia on and north of U.S. Highway 50, to points in Michigan. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E55), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives* (except in bulk), from points in Wood and Pleasants Counties, W. Va., on and north of U.S. Highway 50 to those points in New York on and west of New York Highway 12. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E56), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives* (except in bulk), from those points in Wood and Pleasants Counties, W. Va., on and north of U.S. Highway 50 to points in that part of Indiana on and north of U.S. Highway 30 (except points in Whitely and Allen Counties). The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E57), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives* (except in bulk), from those points in New York west of a line beginning at Lake Ontario and extending along U.S. Highway 15 to Lakeville, N.Y., thence along Alternate U.S. Highway 20 to Geneseo, N.Y., thence along New York Highway 63 to junction New York Highway 408, thence along New York Highway 408 to junction New York Highway 16, thence along New York Highway 16 to Olean, N.Y., thence along New York Highway 16A to the New York-Pennsylvania State line, to points in Michigan. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E58), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives* (except in bulk), from points in that part of Pennsylvania on and west of U.S. Highway 219 to points in Michigan. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E59), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives* (except in bulk), from those points in New York west of a line beginning at Lake Ontario and extending along U.S. Highway 15 to Lakeville, N.Y., thence along Alternate U.S. Highway 20 to Geneseo, N.Y., thence along New York Highway 63 to junction New York Highway 408, thence along New York Highway 408 to junction New York Highway 16, thence along New York Highway 16 to Olean, N.Y., thence along New York Highway 16A to the New York-Pennsylvania State line, to those points in Cabell, Jackson, Kanawha, Mason, Putnam, Roane, Wirt, and Wood Counties, W. Va., on and north of U.S. Highway 60. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E60), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives* (except in bulk), from those points in New York on, north, and west of a line beginning at Lake Erie, thence along New York Highway 17 to junction U.S. Highway 20, thence along U.S. Highway 20 to the junction with New York Highway 39, thence along New York Highway 39 to Leicester, N.Y., thence along Alternate U.S. Highway 20

to junction U.S. Highway 15, thence along U.S. Highway 15 to Lake Ontario, to those points in Cabell, Calhoun, Clay, Fayette, Greenbrier, Jackson, Kanawha, Mason, Nicholas, Putnam, Roane, Wirt, and Wood Counties, W. Va., on and north of U.S. Highway 60. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E61), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives* (except in bulk) from those points in Pennsylvania on, north, and west of a line beginning at the New York-Pennsylvania State line and extending along U.S. Highway 219 to Kane, Pa., thence along U.S. Highway 6 to Sheffield, Pa., thence along Pennsylvania Highway 948 to junction Pennsylvania Highway 666, thence along Pennsylvania Highway 666 to junction U.S. Highway 62, thence along U.S. Highway 62 to the Ohio-Pennsylvania State line, to those points in Cabell, Jackson, Kanawha, Mason, Putnam, Roane, Wirt, and Wood Counties, W. Va., on and north of U.S. Highway 60. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E62), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives* (except in bulk), from points in Erie County, Pa., to points in Cabell, Calhoun, Clay, Fayette, Greenbrier, Jackson, Kanawha, Mason, Nicholas, Putnam, Roane, Wirt, and Wood Counties, W. Va., on and north of U.S. Highway 60. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E63), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives* (except in bulk), from those points in Pennsylvania on, west, and north of a line beginning at the New York-Pennsylvania State line, and extending along U.S. Highway 219 to junction U.S. Highway 322, thence along U.S. Highway 322 to junction Interstate Highway 80, thence along Interstate Highway 80 to Barkleyville, Pa., thence along Pennsylvania Highway 8 to junction Pennsylvania Highway 108, thence along Pennsylvania Highway 108 to the Pennsylvania-Ohio State line, to those points in Cabell, Kanawha, and Putnam Counties, W. Va., on and north of U.S. Highway 60. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E64), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives* (except in bulk), from those points in Ohio on and north of U.S. Highway 224 and on and east of Ohio Highway 511, to those points in Cabell, Jackson, Kanawha, Mason, Putnam, Roane, Wirt, and Wood Counties, W. Va., on and north of U.S. Highway 60. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E65), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives* (except in bulk), from those points in Ohio on and west of a line beginning at Lake Erie, and extending along Ohio Highway 44 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Interstate Highway 77, thence along Interstate Highway 77 to the Ohio-West Virginia State line, to those points in New York on and east of a line beginning at Lake Ontario and extending along New York Highway 57 to Syracuse, thence along Interstate Highway 81 to junction New York Highway 26, thence along New York Highway 26 to the Pennsylvania-New York State line on and west of New York Highway 12. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E84), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, from those points in Pennsylvania south and west of a line beginning at the Ohio-Pennsylvania State line and extending along U.S. Highway 62 to Mercer, Pa., thence along U.S. Highway 19 to junction Pennsylvania Highway 388, thence along Pennsylvania Highway 388 to Energy, Pa., thence along Pennsylvania Highway 65 to Rochester, Pa., thence along Pennsylvania Highway 18 to junction Pennsylvania Highway 60, thence along Pennsylvania Highway 60 to junction Pennsylvania Highway 980, thence along Pennsylvania Highway 980 to junction Interstate Highway 79, thence along Interstate Highway 79 to Washington, Pa., thence along U.S. Highway 19 to the Pennsylvania-West Virginia State line, to those points in New Hampshire on and north of U.S. Highway 2, restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E85), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, from that part of West Virginia north and west of a line beginning at the Ohio-West Virginia State line and extending along U.S. Highway 50 to Clarksburg, W. Va., thence along U.S. Highway 19 to Fairmont and Arnetsville, W. Va., thence along an unnumbered highway to junction West Virginia Highway 7, thence along West Virginia Highway 7 to the Pennsylvania-West Virginia border, to those points in Maine on, north, and east of a line beginning at the United States-Canada International Boundary line, thence along Interstate Highway 95 to junction Maine Highway 212, thence along Maine Highway 212 to junction Maine Highway 11, thence along Maine Highway 11 to the United States-Canada International Boundary line, restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E86), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, from those points in Hancock, Broke, Ohio, Marshall, Wetzel, Tyler, Pleasants, Ritchie, and Wood Counties, W. Va., on and north of U.S. Highway 50 to those points in Maine north of Maine Highway 25, restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E87), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, from those points in West Virginia north and west of a line beginning at the Ohio-West Virginia State line and extending along U.S. Highway 50 to Clarksburg, W. Va., thence along U.S. Highway 19 to Worthington, W. Va., thence along an unmarked highway to the Pennsylvania-West Virginia State line, to those points in New Hampshire on and north of a line beginning at the

Vermont-New Hampshire State line and extending along New Hampshire Highway 110 to junction U.S. Highway 2, thence along U.S. Highway 2 to the New Hampshire-Maine State line, restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E88), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, from those points in Hancock, Brooke, Ohio, Marshall, Wetzel, Tyler, Wood, and Pleasants Counties, W. Va., on and north of U.S. Highway 50 to those points in New Hampshire on and north of a line beginning at the Vermont-New Hampshire State line and extending along New Hampshire Highway 9 to Keene, N.H., thence along New Hampshire Highway 101 to junction New Hampshire Highway 101A, thence along New Hampshire Highway 101A to junction U.S. Highway 3, thence along U.S. Highway 3 to the New Hampshire-Massachusetts State line, restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E89), filed May 30, 1975., Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220., Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219., Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, from those points in Hancock, Brooke, Ohio, Marshall, Wetzel, Tyler, Pleasants, and Wood Counties, W. Va., on and north of U.S. Highway 50 to those points in Vermont north of Vermont Highway 9, restricted against the transportation of liquid commodities, in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E90), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, from points in Pleasants and Wood Counties, W. Va., to points in Rhode Island, restricted against the transportation of liquid commodities, in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E91), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, from those points in Pleasants and Wood Counties, W. Va., on and north of U.S. Highway 50 to points in Vermont, restricted against the transportation of liquid commodities, in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E92), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, from Ashland, Ky., to points in Rhode Island, restricted against the transportation of liquid commodities, in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E93), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, from Ashland, Ky., to points in Vermont, restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E94), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, from Ashland, Ky., to points in New Hampshire, restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E95), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, from Ashland, Ky., to points in Maine, restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-No. E96), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additives*, from Ashland, Ky., to points in New Castle County, Del., restricted against the transportation of liquid commodities in bulk, in tank vehicles. The purpose of this filing is to eliminate the gateway of Wadsworth, Ohio.

No. MC 78228 (Sub-E99), filed June 30, 1975. Applicant: J. MILLER EXPRESS, CO., 2310 Grant Building, Pittsburgh, Pa. 15219. Applicant's representative: Thomas M. Mulroy (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-clay refractories* from points in Pennsylvania on and west of Highway 219 to points in Illinois. The purpose of this filing is to eliminate the gateway of the facilities of Universal Refractory Co. at Wampum, Pa.

No. MC 78228 (Sub-No. E100), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash St., Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-clay refractories*, from points in Pennsylvania on and west of U.S. Highway 219 to points in Illinois on and west and north of a line beginning at Lake Michigan, thence along U.S. Highway 66 to junction Illinois Highway 53, thence along Illinois Highway 53 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction Interstate Highway 74, thence along Interstate Highway 74 to junction Illinois Highway 9, thence along Illinois Highway 9 to the Illinois-Iowa State line. The purpose of this filing is to eliminate the gateway of the facilities of Universal Refractory Co., at Greenville, Pa.

No. MC 78228 (Sub-No. E101), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash St., Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-clay refractories*, from points in Pennsylvania bounded by a line beginning at the Pennsylvania-Ohio State line, thence along Pennsylvania Highway 5 to the Pennsylvania-New York State line, thence along the Pennsylvania-New York State line to U.S. Highway 219, thence along U.S. Highway 219 to junction Pennsylvania Highway 281, thence along Pennsylvania Highway 281 to junction Pennsylvania Highway 711, thence along Pennsylvania Highway 711 to junction Interstate Highway 70, thence along Interstate Highway 70 to junction U.S. Highway 119, thence along U.S. Highway 119 to junction Pennsylvania Highway 51, thence along Penn-

sylvania Highway 51 to junction Interstate Highway 279, thence along Interstate Highway 279 to junction U.S. Highway 22, thence along U.S. Highway 22 to the Pennsylvania-Ohio State line, thence along the Pennsylvania-Ohio State line to the place of beginning to points in Illinois on, west, and north of a line beginning at Lake Michigan, thence along U.S. Highway 66, to junction Illinois Highway 83, thence along Illinois Highway 83 to junction Interstate Highway 57, thence along Interstate Highway 57 to the Illinois-Kentucky State line. The purpose of this filing is to eliminate the gateway of the facilities of Universal Refractory Co., at Greenville, Pa.

No. MC 78228 (Sub-E102), filed June 30, 1975. Applicant: J. MILLER EXPRESS, INC., 2310 Grant Building, Pittsburgh, Pa. 15219. Applicant's representative: Thomas M. Mulroy (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-clay refractories* from points in Pennsylvania, bounded by a line beginning at the Pennsylvania-Ohio State line, thence along Pennsylvania Highway 5 to the Pennsylvania-New York State line, thence along the Pennsylvania-New York State line to U.S. Highway 219, thence along U.S. Highway 219 to junction U.S. Highway 30, thence along U.S. Highway 30 to the Pennsylvania-Ohio State line, thence along the Pennsylvania-Ohio State line to the place of beginning to points in the State of Illinois. The purpose of this filing is to eliminate the gateway of the facilities of Universal Refractory Co. at Greenville, Pa.

No. MC 78228 (Sub-No. E103), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash St., Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-clay refractories*, from points in Pennsylvania on and west of U.S. Highway 219 to points in Indiana on and west of U.S. Highway 219 to points in Indiana on and west of a line beginning at the Michigan-Indiana State line, thence along Indiana Highway 19 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction Indiana Highway 47, thence along Indiana Highway 47 to junction Indiana Highway 32, thence along Indiana Highway 32 to Crawfordsville, Ind., thence along U.S. Highway 136 to the Indiana-Illinois State line. The purpose of this filing is to eliminate the gateway of the facilities of Universal Refractory Co., at Wampum, Pa.

No. MC 78228 (Sub-No. E104), filed May 30, 1975. Applicant: J. MILLER EXPRESS, 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-clay refractories*, from points in that part of Pennsylvania bounded by a line beginning at the Pennsylvania-Ohio State line, thence along Pennsylvania Highway 5 to the Pennsylvania-New York State line, thence along the Pennsylvania-New York State line to U.S. Highway 219, thence along U.S. Highway 219 to junction Pennsylvania Highway 281, thence along Pennsylvania Highway 281 to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Pennsylvania Highway 51, thence along Pennsylvania Highway 51 to junction Interstate Highway 279, thence along Interstate Highway 279 to junction U.S. Highway 22, thence along U.S. Highway 22 to the Pennsylvania-Ohio State line, thence along the Pennsylvania-Ohio State line to the place of beginning to points in that part of Indiana on and west of a line beginning at the Indiana-Michigan State line, thence along Indiana Highway 19 to Elkhart, Ind., thence along Indiana Highway 33 to Fort Wayne, Ind., thence along Indiana Highway 3 to junction Indiana Highway 67, thence along Indiana Highway 67 to junction U.S. Highway 31, thence along U.S. Highway 31 to the Indiana-Kentucky State line. The purpose of this filing is to eliminate the gateway of the facilities of Universal Refractory Co., at Wampum, Pa.

No. MC 78228 (Sub-No. E105), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash St., Pettsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-clay refractories*, from those points in Pennsylvania bounded by a line beginning at the Pennsylvania-Ohio State line, thence along U.S. Highway 6 to junction Pennsylvania Highway 27, thence along Pennsylvania Highway 27 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction U.S. Highway 62, thence along U.S. Highway 62 to the New York-Pennsylvania State line, thence along the New York-Pennsylvania State line to junction U.S. Highway 219, thence along U.S. Highway 219 to junction Interstate Highway 76, thence along Interstate Highway 76 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 22, thence along U.S. Highway 22 to the Pennsylvania-West Virginia State line, thence along the Pennsylvania-West Virginia State line to the Pennsylvania-Ohio State line, thence along the Pennsylvania-Ohio State line to the place of beginning to points in Indiana. The purpose of this filing is to eliminate the gateway of the facilities of Universal Refractory Co. at Wampum, Pa.

No. MC 78228 (Sub-E106), filed June 30, 1975. Applicant: J. MILLER EXPRESS, INC., 2310 Grant Building, Pittsburgh, Pa. 15219. Applicant's representative Thomas M. Mulroy (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-clay refractories*, from points in Pennsylvania on and west of U.S. Highway 219, to points in Indiana on or west of a line beginning at the Indiana-Michigan State line, thence along Indiana Highway 19 to the junction of U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 421, thence along U.S. Highway 421 to junction U.S. Highway 24, thence along U.S. Highway 24 to the Indiana-Illinois State line. The purpose of this filing is to eliminate the gateway of the facilities of Universal Refractory Co. at Greenville, Pa.

No. MC 78228 (Sub-No. E107), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash St., Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-clay refractories*, from points in Pennsylvania bounded by a line beginning at the Pennsylvania-Ohio State line, thence along Pennsylvania Highway 5 to the Pennsylvania-New York State line, thence along the Pennsylvania-New York State line to U.S. Highway 219, thence along U.S. Highway 219 to junction Interstate Highway 76, thence along Interstate Highway 76 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction U.S. Highway 22, thence along U.S. Highway 22 to the Pennsylvania-Ohio State line, thence along the Pennsylvania-Ohio State line to the place of beginning to points in Indiana on and west of a line beginning at the Indiana-Michigan State line, thence along Indiana Highway 19 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction U.S. Highway 31, thence along U.S. Highway 31 to junction Indiana Highway 47, thence along Indiana Highway 47 to junction U.S. Highway 41, thence along U.S. Highway 41 to Terre Haute, Ind., thence along U.S. Highway 40 to the Illinois-Indiana State line. The purpose of this filing is to eliminate the gateway of the facilities of Universal Refractory Co., at Greenville, Pa.

No. MC 78228 (Sub-No. E108), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash St., Pittsburgh, Pa. 15220. Applicant's representative: Thomas M. Mulroy, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-clay refractories*, from points in that part of Pennsylvania on, west, and north of a line beginning at the Pennsylvania-New York State line, thence along U.S. Highway 219 to junction U.S. Highway 30, thence along U.S. Highway 30 to Pittsburgh, Pa., thence along Pennsylvania Highway 65 to Rochester, Pa., thence along Pennsylvania Highway 68 to the Pennsylvania-Ohio State line to points in Indiana on and west of a line beginning at the Indiana-Michigan State line, thence along

Indiana Highway 15 to Marion, Ind., thence along Indiana Highway 9 to junction U.S. Highway 31, thence along U.S. Highway 31 to the Indiana-Kentucky State line. The purpose of this filing is to eliminate the gateway of the facilities of Universal Refractory Co., at Greenville, Pa.

No. MC 78228 (Sub-No. E109), filed May 30, 1975. Applicant: J. MILLER EXPRESS, INC., 152 Wabash St., Pittsburgh, Pa. 15220. Applicant's representative: Thofas M. Mulroy, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Non-clay refractories*, from points in Pennsylvania bounded by a line beginning at the Pennsylvania-Ohio State line, thence along Pennsylvania Highway 58 to junction U.S. Highway 322, thence along U.S. Highway 322 to Meadville, Pa., thence along Pennsylvania Highway 77 to junction Pennsylvania Highway 27, thence along Pennsylvania Highway 27 to Warren, Pa., thence along U.S. Highway 62 to the Pennsylvania-New York State line, thence along the Pennsylvania-New York State line to junction U.S. Highway 219, thence along U.S. Highway 219 to junction Pennsylvania Highway 240, thence along Pennsylvania Highway 240 to Indiana, Pa., thence along U.S. Highway 422 to the Pennsylvania-Ohio State line, thence along the Pennsylvania-Ohio State line to the place of beginning to points in Indiana. The purpose of this filing is to eliminate the gateway of the facilities of Universal Refractory Co., at Greenville, Pa.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

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