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PART I

HIGHLIGHTS OF THIS ISSUE

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

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Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Executive Office of the President

Section 213.3303 is amended to show that one position of Secretary to the Administrator, Federal Energy Office, is excepted under Schedule C.

Effective on January 15, 1974, § 213.3303(k) is added as set out below.

§ 213.3303 Executive Office of the President.

* * * * *

(k) *Federal Energy Office.*

(1) One Secretary to the Administrator.

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

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

[FR Doc. 74–1042 Filed 1–14–74;8:45 am]

PART 213—EXCEPTED SERVICE

Executive Office of the President

Section 213.3303 is amended to show that one position of Confidential Secretary to the Deputy Director, Special Action Office for Drug Abuse Prevention, is no longer excepted under Schedule C.

Effective on January 15, 1974, § 213.3303(j)(2) is revoked.

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

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

[FR Doc.74–1044 Filed 1–14–74;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Commerce

Section 213.3314 is amended to show that one position of Special Assistant to the Deputy Assistant Secretary for Economic Development is excepted under Schedule C.

Effective on January 15, 1974, § 213.3314(q)(8) is added as set out below.

§ 213.3314 Department of Commerce.

* * * * *

(q) *Office of the Assistant Secretary for Economic Development.*

* * * * *

(8) One Special Assistant to the Deputy Assistant Secretary for Economic Development.

* * * * *

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

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

[FR Doc.74–1045 Filed 1–14–74;8:45 am]

PART 213—EXCEPTED SERVICE

Selective Service System

Section 213.3346 is amended to show that one position of Chief, Management Evaluation Group, is no longer excepted under Schedule C.

Effective on January 15, 1974, § 213.3346(e) is revoked.

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

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

[FR Doc.74–1043 Filed 1–14–74;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

Section 213.3384 is amended to show that one position of Assistant to the Assistant Secretary for Housing Production and Mortgage Credit is excepted under Schedule C.

Effective on January 15, 1974, § 213.3384(b)(11) is added as set out below.

§ 213.3384 Department of Housing and Urban Development.

* * * * *

(b) *Office of the Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Administration Commissioner.*

* * * * *

(11) One Assistant to the Assistant Secretary.

* * * * *

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

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

[FR Doc.74–1041 Filed 1–14–74;8:45 am]

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—REGULATIONS AND STANDARDS UNDER THE AGRICULTURAL MARKETING ACT OF 1946

PART 56—VOLUNTARY GRADING OF SHELL EGGS AND U.S. STANDARDS, GRADES, AND WEIGHT CLASSES FOR SHELL EGGS

PART 70—GRADING AND INSPECTION OF POULTRY AND EDIBLE PRODUCTS THEREOF; AND U.S. CLASSES, STANDARDS, AND GRADES WITH RESPECT THERETO

Corrections

Due to a typographical error in FR Doc. 73–20432, 38 FR 26799, in the issue of Wednesday, September 26, 1973, "§ 56.522 *Summary of grades.*" should read "§ 56.222 *Summary of grades.*"

Due to a typographical error in FR Doc. 73–27012, 38 FR 35229, in the issue of Wednesday, December 26, 1973, in § 70.137 paragraph "(a)(3)" should read "(a)(2)."

Done at Washington, D.C., on January 9, 1974.

E. L. PETERSON,
Administrator, Agricultural Marketing Service.

[FR Doc.74–1052 Filed 1–14–74;8:45 am]

CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

[Amdt. 1]

PART 752—WATER BANK PROGRAM

On page 23729 of the FEDERAL REGISTER of November 8, 1972, there was published a proposed amendment to the regulations governing the Water Bank Program (7 CFR, Part 752).

Interested persons were given 30 days to submit written data, views, or arguments regarding the proposed changes. The basis and purpose of the proposed amendment were set forth in the notice. No comments were received. The amendment as proposed is adopted.

This amendment shall become effective January 15, 1974.

Signed at Washington, D.C., on January 7, 1974.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

1. Section 752.4 is amended to read as follows:

§ 752.4 Geographical applicability.

The program will be applicable in States and counties designated by the Deputy Administrator.

2. Section 752.5 is amended to read as follows:

§ 752.5 Eligible farm.

A farm is eligible for participation in the program if (a) at the time the request for an agreement is filed, land on the farm is not covered by a Water Bank Program agreement, (b) the farm contains type 3, 4, or 5 wetlands which are identified in a conservation plan developed in cooperation with the Soil and Water Conservation District in which the farm is located, and (c) the farm meets the other requirements specified in this part.

3. Section 752.6(c) is amended by adding a new subparagraph (5) to read as follows:

§ 752.6 Land eligible for designation.

* * * * * * *

(c) * * *

(5) Type 3, 4, or 5 wetlands which are common to more than one farm unless the portion of a wetland area common to more than one farm which is located on the farm which controls the potential outlet for drainage is placed under agreement. After an agreement has been approved for the farm controlling the outlet for drainage, an agreement may be entered into with any or all other farms for other portions of the common wetland area if all agreements have the same beginning date as the farm controlling the outlet for drainage.

4. Section 752.7(e) is amended to read as follows:

§ 752.7 Use of designated acreage.

* * * * * * *

(e) No crop shall be harvested from the designated acreage and such acreage shall not be grazed except as may be called for in the conservation plan as provided in paragraph (b) of this section: *Provided*, That the designated acreage may be grazed in the first year of the agreement period prior to the date the agreement is approved.

5. Section 752.9(a) is amended to read as follows:

§ 752.9 Agreement period.

(a) The agreement period shall be 10 years. The agreement shall become effective on January 1 of the year in which the agreement is approved: *Provided*, That an agreement approved in 1972 shall become effective on January 1, 1973, in cases where, at the time the agreement is approved, the county committee determines that the agreement signers will be unable to comply with the provisions in § 752.7 relating to the use of the designated acreage during the year 1972.

* * * * * * *

(Sec. 12, 84 Stat. 1471, 16 U.S.C. 1311)

[FR Doc.74-1248 Filed 1-14-74;8:45 am]

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

[Lemon Regulation 620, Amendment 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

This regulation increases the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period January 6–12, 1974. The quantity that may be shipped is increased due to improved market conditions for California-Arizona lemons. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, 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 recommendations and information submitted by the Lemon 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 lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of lemons available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Lemon Regulation 620 (39 FR 997). The marketing picture now indicates that there is a greater demand for lemons than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of lemons to fill the current market demand thereby making a greater quantity of lemons 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 hereof 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 lemons grown in California and Arizona.

(b) *Order, as amended.* The provision in paragraph (b)(1) of § 910.920 (Lemon Regulation 620 (39 FR 997) is hereby amended to read as follows: "210,000 cartons."

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

Dated: January 10, 1974.

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

[FR Doc.74-1049 Filed 1-14-74;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER F—SECURITY SERVICING AND LIQUIDATION

[FHA Instruction 465.2]

PART 1872—REAL ESTATE SECURITY

Management and Sale of Acquired Real Estate

Subpart C of 7 CFR Part 1872 (38 FR 19204) is amended to clarify the authority of the State Director in handling negotiated sales and to make certain editorial corrections. Since the change is minor in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary. As amended, § 1872.65(e) reads as follows:

§ 1872.65 Method of sale of property that was security for a loan made under the Consolidated Farm and Rural Development Act.

* * * * * * *

(e) *Negotiated sale.* If no sealed bid or bids at a public sale are accepted, the State Director, after negotiating with interested parties including all previous bidders, may sell the property at the best price obtainable without further public notice, provided there are no indications that by readvertising the property for sale, additional interest will be created and likely result in a higher price being obtained. A satisfactory offer received under such negotiations will be reduced to writing on Form FHA 465–10 and will be accepted and awarded in the same manner as provided in paragraph (d) (4) and (5) of this section. Such sales will be negotiated on the same terms as provided in the public notice and at a price not lower than the best qualified offer received as a result of the public notice unless otherwise authorized by the National Office. If a satisfactory sale cannot be negotiated within 30 days, all interested parties will be notified in writing that negotiations have been discontinued. The State Director should close his file on the negotiations. He may then change the terms and conditions (and interest rate for all Business and Industrial loans and loans processed under Subparts A, D, E, J, and L of Part 1823 of this chapter) as appropriate and enter into new negotiations. In negotiating a sale the State Director may solicit proposals by oral and written communications. In some instances it may be possible to assemble the persons interested in purchasing the property for open competitive bidding with the sale being made to

the person making the best offer. If offers are solicited orally or by mail without such an assembled meeting, the invitation to negotiate should include notice of the place, date, and hour at which time the best offer will be determined and, if satisfactory, accepted. Such date and hour shall be rigidly adhered to, and if a satisfactory offer is obtained at that time, it will be accepted immediately and other offers or suggestion of future offers after that date will be declined. If an acceptable offer is not made on that date, a new date will be set. Other acceptable methods of negotiations may be followed but care should be taken to afford equal opportunity to each negotiator. Usually, the amount offered by one interested party will not be disclosed to any other interested parties. However, if other offers are disclosed to one negotiator, the same information will be given to all other negotiators. No offer on the basis of a specified sum above the best alternative offer should be entertained. In connection with such negotiations it may be necessary to incur reasonable administrative expenses including the cost of communications, postage, and similar items to consummate the sale. Such sales may be advertised in local newspapers provided the costs of such advertisement are reasonable.

(7 U.S.C. 1989; 42 U.S.C. 1480; 40 U.S.C. 442; 42 U.S.C. 2942; 5 U.S.C. 301; 40 U.S.C. Appendix 203; delegation of authority by the Sec. of Agri., 38 FR 14944, 14948, 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 38 FR 14944, 14952, 7 CFR 2.70; delegations of authority by Dir., OEO, 29 FR 14764, 33 FR 9850.)

Effective date: This amendment is effective January 15, 1974.

Dated: December 26, 1973.

FRANK B. ELLIOTT,
Administrator,
Farmers Home Administration.

[FR Doc.74-1247 Filed 1-14-74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 11010; Amdt. Nos. 25-35; 33-5]

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

PART 33—AIRWORTHINESS STANDARDS: AIRCRAFT ENGINES

Engine Rotor System Unbalance

The purpose of these amendments to Parts 25 and 33 of the Federal Aviation Regulations is to require on turbojet engine powered transport category airplanes an indicator to indicate rotor system unbalance, and to require that a means of connecting the indicating system be provided on turbojet engines.

These amendments are based upon two of the proposals contained in a notice of proposed rule making (Notice 71-12) published in the FEDERAL REGISTER on May 5, 1971 (36 FR 8383). Numerous comments were received in response to Notice 71-12, which the FAA is currently reviewing. The FAA believes that it is in the interest of safety to adopt these two proposals herein without delay, while the final disposition of the remaining proposals is being completed. A number of comments relating to these two proposals were received in response to the notice and except for those indicating agreement with the proposals or merely repeating issues discussed and disposed of in the notice, the FAA's disposition of the comments is set forth herein.

Several commentators expressed doubt as to the reliability of presently available engine vibration indicating systems and suggested proposed § 25.1305(d)(3) not be adopted. They further pointed out that the present equipment is expensive and difficult to maintain. As stated in the notice, the FAA is aware that the currently available vibration detectors are not as reliable as the engines they monitor and to that extent, they may impose an economic penalty; however, a rotor system failure can be catastrophic and the contributions to flight safety gained from a vibration monitoring system that provides the flight crew with an appropriate vibration warning far outweighs any difficulties that may be experienced. The value of the system has been recognized by the aviation industry in that vibration monitoring systems have been voluntarily installed in most turbine powered transport category airplanes currently in production.

Several commentators expressed concern that inadvertent engine shutdowns might possibly result from the failure of the flight crew to differentiate between normal and abnormal engine vibration readings. They point out that variations in vibration levels exist between different engines of the same type as well as on the same engine at different flight and power conditions. The rule, however, does not require that a level of acceptable vibration be specified. It merely requires an indication of "rotor system unbalance" in the engine as installed in the aircraft. The indicator may be employed to sense a trend of vibrations over a period of time, rather than a specific level at a particular instant. The FAA considers the addition of a vibration indicator to be necessary in the interest of safety and that flight crews will be able to properly interpret the indicator readings.

One commentator expressed concern that the proposed vibration indicating system could not be used effectively as the principle means of detecting engine failure. The intent of the amendment does not, however, make the vibration indicator the sole or exclusive monitoring indicator. Rather, it is an addition to the present engine instrumentation and provides additional information on engine conditions.

One commentator proposed use of the term "mounting provisions" instead of "connection" in proposed § 33.29(b) in order to make the rule more general. The term "connection," is a general term and the FAA considers it more descriptive and less restrictive than the term "mounting provision."

It was suggested by a commentator that some engines with damped rotors would not reflect rotor unbalance with an externally mounted vibration monitoring system. The amendment to § 33.29 (b) does not require that only an externally mounted system be utilized, but permits any system which would indicate an unbalance of the rotor system. To ensure this intent, the term "vibration monitoring" has been deleted. This change makes the adopted rule less restrictive than the proposed rule while still requiring a system which will indicate rotor system unbalance.

Interested persons have been afforded an opportunity to participate in the making of these amendments and due consideration has been given to all matter presented.

These amendments are made under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1425), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, Parts 25 and 33 of the Federal Aviation Regulations are amended as follows, effective March 1, 1974:

1. Section 25.1305 is amended by adding a new paragraph (d)(3) to read as follows:

§ 25.1305 **Powerplant instruments.**

* * * * * * *

(d) * * *

(3) An indicator to indicate rotor system unbalance.

* * * * * *

2. A new § 33.29 is added to read as follows:

§ 33.29 **Instrument connection.**

(a) [Reserved]

(b) A connection must be provided on each turbojet engine for an indicator system to indicate rotor system unbalance.

Issued in Washington, D.C., on January 8, 1974.

ALEXANDER P. BUTTERFIELD,
Administrator.

[FR Doc.74-1027 Filed 1-14-74;8:45 am]

[Airspace Docket No. 73-SW-70]

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

Designation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate the Atlanta, Tex., transition area.

On November 15, 1973, a notice of proposed rule making was published in the FEDERAL REGISTER (38 FR 31542) stating the Federal Aviation Administration proposed to designate a transition area at Atlanta, Tex.

Interested persons were afforded an opportunity to participate in the rule

making through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., February 28, 1974, as hereinafter set forth.

In § 71.181 (39 FR 440), the following transition area is added:

ATLANTA, TEX.

That airspace extending from 700 feet above the surface within a 5-mile radius of Atlanta Municipal Airport (latitude 33°06' 10" N., longitude 94°11'40" W.) and within 3 miles each side of the 047° bearing from the NDB (latitude 33°06'13" N., longitude 94°11'25" W.) extending from the 5-mile radius area to a point 8 miles northeast of the NDB.

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

Issued in Fort Worth, Tex., on January 2, 1974.

ALBERT H. THURBURN,
Acting Director, Southwest Region.

[FR Doc.74-1026 Filed 1-14-74;8:45 am]

[Airspace Docket No. 73-GL-35]

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

Designation of Transition Area

On page 21502 of the FEDERAL REGISTER dated August 9, 1973, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate the transition area at Peru, Indiana.

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

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

This amendment shall be effective February 28, 1974.

This amendment is made under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Illinois, on December 20, 1973.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

In § 71.181 (39 FR 440), the following transition area is added:

PERU, IND.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Peru Airport (latitude 40°47'10"N., longitude 86°08'47"W.), excluding the area which overlies the Kokomo transition area.

[FR Doc.74-1025 Filed 1-14-74;8:45 am]

Title 15—Commerce and Foreign Trade

CHAPTER IX—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER A—GENERAL REGULATIONS

PART 908—MAINTAINING RECORDS AND SUBMITTING REPORTS ON WEATHER MODIFICATION ACTIVITIES

Provisions for Reporting Additional Information

In a notice published in the FEDERAL REGISTER of November 6, 1973 (38 FR 30563), the Administrator of the National Oceanic and Atmospheric Administration proposed to amend the rules on maintaining records and submitting reports on weather modification activities (37 FR 22974). Interested persons were given until December 6, 1973 to submit written views, objections, recommendations, or suggestions in connection with the proposed amendments. The few comments received in response to the notice have been considered in detail, but they did not provide any basis for revision of the proposed additions to the rules.

The purpose of these amendments to 15 CFR Part 908, is to provide for the reporting of the additional information required by NOAA to carry out the intent of the President's Directive to the Secretary of Commerce:

> • • • to expand his regulations to provide for Federal notification, including recommendations where appropriate, to operators and State officials in cases where a report disclosed that a proposed project may endanger persons, property, or the environment or the success of Federal research projects. Notifications will be available to the public.

Over the past 27 years, weather modification activities have been undertaken to secure benefits for man, and the results have been encouraging. Although there has been no evidence in this period that these activities have significantly endangered persons, property, or the environment, the President's Message recognizes that such activities may have the potential to cause adverse effects, if carried out without appropriate safeguards.

It is almost impossible to predetermine with certainty all of the effects of a given weather modification operation. For that reason, to minimize the possibility of harmful results, planning for weather modification operations usually includes project safeguards and consideration of environmental impact which will eliminate hazards that might be reasonably foreseen. The amendments, which require the reporting of current safety practices and environmental considerations, will provide a single source of information on the safety and environmental precautions used in weather modification activities in the United States. Compilations of these practices may form the basis for later publication of techniques generally used in the industry to avoid potential danger. The reported information will also help operators to anticipate, and hopefully avoid, possible interference of one experiment or operation by another.

Appropriate Federal agencies have agreed to report their weather modification activities to the Secretary of Commerce. This Federal reporting complements the reporting of non-Federal sponsored projects and provides for a central source of information on all weather modification activities in the United States.

The actions of the Department of Commerce under these amendments are not intended as, nor do they constitute, approval, disapproval, or regulation of weather modification operations. Any notification that may be made to operators and State officials on the basis of information received will be advisory only.

Therefore, pursuant to the authority contained in 15 U.S.C. 330–330e and 15 U.S.C. 313, and pursuant to a Directive to the Secretary of Commerce reflected in the President's February 15, 1973 State of the Union Message on Natural Resources and Environment, and the Fact Sheet accompanying the Message, the National Oceanic and Atmospheric Administration (NOAA) amends 15 CFR by additions to Part 908, adopting the rules set forth below. These rules will be administered by the Administrator, National Oceanic and Atmospheric Administration, on behalf of the Secretary of Commerce, pursuant to the Secretary's delegation of authority in section 3, subparagraph .01t of the Department of Commerce Organization Order 25–5A.

The amendments are as follows:

1. Change § 908.4(a)(7) by deleting the word "and" after the semi-colon.

2. Change § 908.4(a)(8) to § 908.4(a)(9).

3. Add § 908.4(a)(8) as follows:

§ 908.4 Initial report.

(a) • • •

(8) Answers to the following questions on project safeguards:

(i) Has an Environmental Impact Statement, Federal or State, been filed: Yes ____ No _____. If Yes, please furnish a copy as applicable.

(ii) Have provisions been made to acquire the latest forecasts, advisories, warnings, etc. of the National Weather Service, Forest Service, or others when issued prior to and during operations? Yes ____ No _____. If Yes, please specify on a separate sheet.

(iii) Have any safety procedures (operational constraints, provisions for suspension of operations, monitoring methods, etc.) and any environmental guidelines (related to the possible effects of the operations) been included in the operational plans? Yes ____ No _____. If Yes, please furnish copies or a description of the specific procedures and guidelines.

4. Add § 908.12(d) to read as follows:

§ 908.12 Public disclosure of information.

* * * * *

(d) When consideration of a weather modification activity report and related information indicates that a proposed project may significantly depart from the practices or procedures generally employed in similar circumstances to avoid danger to persons, property, or the environment, or indicates that the success of Federal research projects may be adversely affected if the proposed project is carried out as described, the Administrator will notify the operator(s) and State officials of such possibility and make recommendations where appropriate. The purpose of such notification shall be to inform those notified of existing practices and procedures or Federal research projects known to NOAA. Notification or recommendation, or failure to notify or recommend, shall not be construed as approval or disapproval of a proposed project or as an indication that, if carried out as proposed or recommended it may, in any way, protect or endanger persons, property, or the environment or affect the success of any Federal research project. Any advisory notification issued by the Administrator shall be available to the public and be included in the pertinent activity report file.

Effective date. These amendments shall be effective on February 15, 1974.

ROBERT M. WHITE,
Administrator.

[FR Doc.74-1077 Filed 1-14-74;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER A—PROCEDURES AND RULES OF PRACTICE

[Docket No. C-2479]

PART 13—PROHIBITED TRADE PRACTICES

Eccles Motor Company and Julian W. Eccles

Correction

In FR Doc. 73-27021, appearing at page 35301 in the issue for Thursday, December 27, 1973, in the italicized heading under the authority citation, the name "Julia W. Eccles" should read "Julian W. Eccles".

[Docket No. C-2120]

PART 13—PROHIBITED TRADE PRACTICES

Longines-Wittnauer, Inc. and Credit Services, Inc.

ORDER GRANTING REQUEST FOR CORRECTION

The Commission having inadvertently failed to delete paragraph I B(4) of the order to cease and desist issued on December 21, 1971 (37 FR 2579, Feb. 2, 1972), in FR Doc. 73-25475, appearing at page 33279 in the issue for Monday, December 3, 1973, accordingly by its Order Granting Request for Correction ordered that the October 30, 1973, Order Modifying the Cease and Desist Order be corrected by inserting the following paragraph:

It is further ordered, That Paragraph I B(4) be deleted from the order to cease and desist issued against respondents on December 21, 1971.

By the Commission.

Issued: December 11, 1973.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.74-1031 Filed 1-14-74;8:45 am]

SUBCHAPTER B—GUIDES AND TRADE PRACTICE RULES

PART 250—GUIDES FOR THE HOUSEHOLD FURNITURE INDUSTRY

Correction

In FR Doc. 73-26888, appearing at page 34992 in the issue for Friday, December 21, 1973, make the following changes:

1. In the 5th paragraph, the 10th line, reading "cerning it in advertising, labeling or" should be transferred below the 16th line which reads "designations or representations con-"

2. In § 250.5(d)(1), insert the word "and" after the semi-colon.

SUBCHAPTER C—REGULATIONS UNDER SPECIFIC ACTS OF CONGRESS

[Docket No. 206-12]

PART 303—RULES AND REGULATIONS UNDER THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACT

Novoloid; Addition to Generic Names and Definitions

On December 21, 1970, the Carborundum Co., Post Office Box 337, Niagara Falls, N.Y. 14302 (applicant), filed an application pursuant to § 303.8 (16 CFR 303.8) of the rules and regulations under the Textile Fiber Products Identification Act, 72 Stat. 1717, et seq., 79 Stat. 124, 15 U.S.C. § 70, et seq. (hereinafter referred to as "Act"), requesting that 16 CFR 303.7, setting forth generic names and definitions of manufactured textile fibers, be amended by adding thereto a new generic name and definition. The requested addition would cover a fiber which, applicant urges, should not be identified by any existing generic name because of being substantially different from fibers in present classifications, both in properties and chemical structure. The name and definition recommended by applicant are as follows:

Novolon [or novoloid]—a manufactured fiber containing at least 85 percent of a cross-linked novolac.

By letter of February 19, 1971, the Commission assigned to applicant's fiber the temporary designation "CA-0001," in accordance with § 303.8 (16 CFR 303.8) of the Commission's rules and regulations under the Act.

On February 25, 1972, a notice of proposed rule making was issued by the Commission in this proceeding and subsequently published in the FEDERAL REGISTER at 37 FR 4724, March 4, 1972. Such Notice announced that the Commission was considering the application, including the following questions:

(1) Whether the fiber described in the application may properly be designated by any existing generic name or names contained in 16 CFR 303.7, and

(2) What, if any, amendment to the rules and regulations under the Act, particularly § 303.7 thereof, may be necessary and proper with regard to matters raised in the application.

The notice further provided that interested parties could participate in this proceeding by submitting their views, arguments, or other pertinent data, in writing, to the Commission.

The applicant described the fiber as follows:

The composition of the fiber may be considered with reference to the basic aspects of the method by which such fibers may be made. A phenolicaldehyde novolac is prepared by condensing a phenolic compound and an aldehyde in the presence of an acid catalyst, a stoichiometric excess of the phenolic compound preferably and customarily being employed. The novolac so obtained is fiberized by any conventional method such as melt spinning. The resulting novolac fibers are then heated in an environment containing formaldehyde and an acid catalyst to effect curing, i. e., cross-linking, of the novolac. Such cross-linking occurs primarily by virtue of methylene bridges formed between the 2, 4, and/or 6 positions of the phenolic structural unit.

The term "phenolic compound" in the present context refers primarily to the compound phenol itself, from which most novolacs are prepared. However, it also encompasses phenol wherein one or more of the hydrogen atoms are substituted by a monovalent radical, provided, however, that the phenol is not so extensively substituted in the 2, 4 and/or 6 positions as to preclude subsequent cross-linking. Cresol is a primary example of such a substituted phenol. Similarly, the term "aldehyde" refers to any aldehyde capable of condensing with the phenolic compound to form a novolac. Formaldehyde is by far the most commonly used, but other aldehydes such as acetaldehyde may be employed. The novolac melt from which the instant fibers are formed preferably contains at least 50 percent of a novolac produced from phenol and formaldehyde.

Prior to fiberization, up to 15 percent of a suitable additive may be incorporated in the novolac, if desired, to obtain improvements in certain respects.

Applicant stated that the subject fiber is most significantly characterized by remarkable resistance to heat and flame, being infusible and nonflammable; that it is also substantially unaffected by many acids; and that it is insoluble in organic solvents.

The only party (other than applicant) who made submittals in this proceeding was E. I. du Pont de Nemours & Co., Inc. It stated it would support the application if applicant had presented convincing proof that its fiber had real commercial potential at present or in the foreseeable future. It objected, however, to a coined name for the proposed new generic class, preferring instead the term "novolac fiber."

The first question presented is whether any of the existing generic definitions of § 303.7 encompass CA–0001. Applicant and du Pont take the view that they do not. After examination of § 303.7 from this standpoint, it is concluded that CA–0001 is not covered by any of the classifications therein.

Applicant has demonstrated that CA–0001 is a useful and practical fiber which applicant is currently producing and marketing.

No objection has been made to the generic definition proposed by applicant to cover its fiber. After consideration of the matter the Commission has found such definition acceptable, except that it fails to specify whether the percentage figure used ("85 percent of a cross-linked novolac") is a weight or a mol percentage. The Commission has modified the definition to specify a by-weight percentage.

Finally, there is the question of a proper name for the new generic classification. Upon study of this matter the Commission has concluded that the coined term "novoloid" is the best choice in the circumstances.

Further, the Commission, in the interest of delineating the grounds on which it has based this decision and shall base future decisions as to the grant of generic names for textile fibers, sets out the following criteria for grant of such generic names.

1. The fiber for which a generic name is requested must have a chemical composition radically different from other fibers, and that distinctive chemical composition must result in distinctive physical properties of significance to the general public.

2. The fiber must be in active commercial use or such use must be immediately foreseen.

3. The grant of the generic name must be of importance to the consuming public at large, rather than to a small group of knowledgeable professionals such as purchasing officers for large Government agencies.

The Commission believes it is in the public interest to prevent the proliferation of generic names, and will adhere to a stringent application of the abovementioned criteria in consideration of any future applications for generic names and in a systematic review of any generic names previously granted which no longer meet these criteria.

After consideration of the views, arguments, and data submitted pursuant to the Notice of proposed rule making herein and other pertinent information and material available to the Commission, the Commission has determined to amend its rules and regulations under the Textile Fiber Products Identification Act in the manner set forth below.

Section 303.7, *Generic names and definitions for manufactured fibers*, of 16 CFR Part 303 is hereby amended by adding a new paragraph (r) to read as follows:

§ 303.7 Generic names and definitions for manufactured fibers.

* * * * *

(r) *Novoloid.* A manufactured fiber containing at least 85 percent by weight of a cross-linked novolac. (Sec. 7, 72 Stat. 1717; 15 U.S.C. 70e).

Effective date. The amendment to the Commission's rules and regulations prescribed herein shall become effective February 15, 1974.

The designation CA–0001 previously assigned to applicant's fiber for temporary use is hereby revoked as of the effective date of the above amendment.

By the Commission.

Issued: January 15, 1974.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.74–1066 Filed 1–14–74;8:45 am]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE

[T.D. 74–20]

PART 1—GENERAL PROVISIONS

Customs Laboratories

Section 1.6 of the Customs regulations lists the addresses and Customs regions of the several Customs laboratories. One Customs laboratory has been moved and several new ones have been established. In order to reflect these changes, it is necessary to amend the Customs regulations.

Accordingly, § 1.6, Customs Regulations, is revised as follows:

§ 1.6 Customs laboratories.

The addresses of the several Customs laboratories and the Customs regions served thereby are as follows:

Address	*Region*
408 Atlantic Avenue, Boston Massachusetts 02210	I
201 Varick Street, New York, New York 10014	II
103 South Gay Street, Baltimore, Maryland 21202	III
P.O. Box 2112, U.S. Customhouse, San Juan, Puerto Rico 00903	IV
Customhouse, 1–3, E. Bay Street, Savannah, Georgia 31401	IV
423 Canal Street, New Orleans, Louisiana 70130	V and VI
301 Broadway, San Antonio, Texas 78205	VI
861 6th Avenue, San Diego, California 92101	VII
300 South Ferry Street, San Pedro, California 90731	VII
630 Sansome Street, San Francisco, California 94111	VIII
610 S. Canal Street, Chicago, Illinois 60607	IX

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C. 66, 1624)

Because this amendment merely updates addresses, notice and public procedure thereon is found to be unnecessary and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

Effective date. This amendment shall be effective January 15, 1974.

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

Approved: January 3, 1974.

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

[FR Doc.74–1244 Filed 1–14–74;8:45 am]

[T.D. 74–21]

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

Public International Organizations Entitled to Free Entry Privileges

By Executive Order No. 11718 signed May 14, 1973 (38 FR 12797), the President designated the International Telecommunications Satellite Organization (INTELSAT) as an international organization entitled to enjoy certain privileges, exemptions, and immunities conferred by the International Organizations Immunities Act of December 29, 1945 (59 Stat. 669). At the same time, the President revoked this status for the Interim Communications Satellite Committee and the International Telecommunications Satellite Consortium.

Executive Order 11718 extends the benefits of section 3 of the International Organizations Immunities Act (22 U.S.C. 288b), providing for the duty-free treatment of the baggage and effects of alien officers and employees of international organizations, only to the representatives to the Board of Governors of INTELSAT and their alternates, and only to the extent those benefits were enjoyed by the representatives to the Interim Communications Satellite Committee and their alternates under Executive Order 11227.

The names of public international organizations currently entitled to free entry privileges are set forth in section 148.87(b) of the Customs Regulations, together with the number and date of the Executive Order by which they were designated.

§ 148.87(b) [Amended]

Section 148.87(b) is amended by the following addition (in proper alphabetical order) and deletions:

Addition:

Organization	Executive order	Date
International Telecommunications Satellite Organization (Intelsat) —Limited privileges only	11718	May 14, 1973

Deletions:

Organization	Executive order	Date
Interim Communications Satellite Committee	11227	June 2, 1965
International Telecommunications Satellite Consortium	11277	Apr. 30, 1968

(R.S. 251, as amended, secs. 498, 624, 46 Stat. 728, as amended, 759, sec. 1, 59 Stat. 669; 19 U.S.C. 66, 1498, 1624, 22 U.S.C. 288)

Inasmuch as these amendments merely correct the listing of organizations entitled by law to claim free entry privileges as public international organizations, notice and public procedure thereon are found to be unnecessary and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

[SEAL] VERNON D. ACREE,
Commissioner of Customs.

Approved: January 3, 1974.

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

[FR Doc.74-1246 Filed 1-14-74;8:45 am]

Title 25—Indians

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

SUBCHAPTER G—TRIBAL GOVERNMENT

PART 60—USE OR DISTRIBUTION OF INDIAN JUDGMENT FUNDS

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

Beginning on page 31430 of the FEDERAL REGISTER of November 14, 1973 (38 FR 31430), there was published a notice of proposed rule making to add a new Part 60 to 25 CFR relating to the preparation of proposed plans for the use or distribution of judgment funds appropriated in satisfaction of awards made by the Indian Claims Commission and the United States Court of Claims. The regulations were proposed pursuant to the Act of October 19, 1973 (Public Law 93-134; 87 Stat. 466, 467, 468).

Interested persons were given 53 days, beginning on November 14, 1973, and ending on January 5, 1974, in which to submit written comments, views or objections regarding the proposed regulations. Pursuant to section 6(c) of Public Law 93-134, a public hearing on the proposed regulations was held December 13, 1973, at Denver, Colorado, notice of which was published December 4, 1973, in the FEDERAL REGISTER (38 FR 33401). Before, at, and since the hearing, numerous comments, suggestions and objections, both oral and written, on the proposed regulations have been received. Careful consideration has been given to these views and the result has been to make the changes in the proposed regulations which are published below as final rules. The following sections of the proposed regulations were modified (sections not listed were not changed):

Section 60.1 *Definitions.* Deletions and modifications in the definitions were made to conform with the changes made in the other sections of Part 60.

Section 60.3 *Time limits.* This section was revised to eliminate self-imposed time limits which might in some cases prevent compliance with statutory deadlines. Other changes were made to reflect more completely the statutory provisions and to eliminate the detailing of administrative mechanics.

Section 60.4 *Conduct of hearings of record.* Revision of this section was made to authorize an Area Director to designate an appropriate Departmental official to conduct hearings in his stead.

Section 60.5 *Submittal of proposed plan by Secretary.* Modifications were made in this section to eliminate references to matters of internal administration. The last sentence was deleted as a possible interference with meeting the deadlines established by the Act.

Section 60.6 *Submittal of proposed legislation by Secretary.* This section was renumbered § 60.7. The last sentence of the section was eliminated as being unnecessary.

Section 60.7 *Extension of period for submitting plans.* This section was renumbered § 60.6.

Section 60.8 *Enrollment aspects of plans.* The first part of the section was modified to simplify the language and to eliminate the detailing of matters of internal administration. The last sentence was deleted as being unnecessary.

Section 60.9 *Programming aspects of plans.* This section was slightly modified to make it possible to consider all relevant factors in programming judgment funds.

Section 60.10 *Per capita payment aspects of plans and protection of funds accruing to minors and legal incompetents.* This section was revised to clarify its provisions and to provide fully for all authorized methods of handling per capita payments made to deceased beneficiaries, minors, and legal incompetents.

Section 60.11 *Investment of judgment funds.* This section was revised to provide, in addition to investment of judgment funds by the Secretary, for investments by tribes after approval of plans or enactment of use or distribution legislation.

Section 60.12 *Insuring the proper performance of effective plans.* The first sentence of the section was modified to reflect the possibility that an official of the Department of the Interior other than the Area Director might work with tribal governing bodies in establishing timetables.

Public Law 93-134 requires that plans for the use or distribution of judgments awarded by the Indian Claims Commission or the United States Court of Claims shall be submitted by the Secretary of the Interior to the Congress within one hundred and eighty (180) days after the appropriations of the funds to pay the judgments, or within 180 days of the date of the Act for judgments for which funds were appropriated before the date of the Act. An additional delay in the effective date of these regulations will further shorten the time remaining to prepare plans pursuant to them. The revisions made in the proposed regulations, and reflected in these final regulations, are in consonance with the comments received and within the limits of the underlying laws; and no benefits would be gained by deferring the effective date. Therefore, good cause exists and is so found that the 30-day deferred effective date or any other deferred effective date otherwise required by 5 U.S.C. section 553(d) should be dispensed with under the exception provided in subsection 553 (d)(3). Accordingly, the new Part 60 as written below will be effective on January 15, 1974.

Sec.

AUTHORITY: 5 U.S.C. 301; 87 Stat. 466, 467, 468.

§ 60.1 Definitions.

As used in this Part 60, terms shall have the meanings set forth in this section.

(a) "Act" means the Act of October 19, 1973 (P.L. 93-134; 87 Stat. 466, 467, 468).

(b) "Secretary" means the Secretary of the Interior or his authorized representative.

(c) "Commissioner" means the Commissioner of Indian Affairs or his authorized representative.

(d) "Area Director" means the Area Director or his equivalent of any one of the Area Offices of the Bureau of Indian Affairs or his authorized representative.

(e) "Superintendent" means the Superintendent or Officer in Charge of any one of the Agency Offices or other local offices of the Bureau of Indian Affairs or his authorized representative.

(f) "Congressional Committees" means the Committees on Interior and Insular Affairs of the Senate and House of Representatives of the United States.

(g) "Indian tribe or group" means any Indian tribe, nation, band, pueblo, community or identifiable group of Indians or Alaska Native entity.

(h) "Tribal governing body" means, as recognized by the Secretary, the governing body of a formally organized or recognized tribe or group; the governing body of any informally organized tribe or group, the governing body of a formally organized Alaska Native entity or recognized tribe in Oklahoma, and for the purposes of the Act the recognized spokesmen or representatives of any descendant group.

(i) "Plan" means the document submitted by the Secretary, together with all pertinent records, for the use or distribution of judgment funds, to the Congressional Committees.

(j) "Enrollment" means that aspect of a plan which pertains to making or bringing current a roll of members of an organized, reservation-based tribe with membership criteria approved or accepted by the Secretary, a roll of members of an organized or recognized entity in Oklahoma, or Alaska or elsewhere, or a roll prepared for the purpose of making per capita payments for judgments awarded by the Indian Claims Commission or United States Court of Claims; or which pertains to using an historical roll or records of names, including tribal rolls closed and made final, for research or other purposes.

(k) "Program" means that aspect of a plan which pertains to using part or all of the judgment funds for tribal social and economic development projects.

(l) "Per capita payment" means that aspect of a plan which pertains to the individualization of the judgment funds in the form of shares to tribal members or to individual descendants.

(m) "Use or distribution" means any utilization or disposition of the judgment funds, including programing, per capita payments, or a combination thereof.

(n) "Individual beneficiary" means a tribal member or any individual descendant, found by the Secretary to be eligible to participate in a plan, who was born on or prior to, and is living on, the approval date of the plan.

(o) "Approval date" means the date that a plan is approved by the Congress. Except for a plan disapproved by either House, the approval date of a plan shall be the sixtieth (60) day after formal submittal of a plan by the Secretary to the Congressional Committees, excluding days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three (3) calendar days to a day certain. In the event a proposed plan is disapproved by either House, or in the event the Secretary is unable to submit a plan and therefore proposes legislation, the approval date shall be the date of the enabling legislation for the disposition of the judgment funds.

(p) "Minor" is an individual beneficiary who is eligible to participate in a per capita payment and who has not reached the age of eighteen (18) years.

(q) "Legal incompetent" is an individual beneficiary eligible to participate in a per capita payment and who has been declared to be under a legal disability, other than being a minor, by a court of competent jurisdiction, including tribal courts.

(r) "Attorney fees and litigation expenses" means all fees and expenses incurred in litigating and processing tribal claims before the Indian Claims Commission or the United States Court of Claims.

§ 60.2 Purpose.

The regulations in this part govern the preparation of proposed plans for the use or distribution, pursuant to the Act, of all judgment funds awarded from the date of the Act to Indian tribes and groups by the Indian Claims Commission or the United States Court of Claims, excepting any tribe or group whose trust relationship with the Federal Government has been terminated and for which there exists legislation authorizing the disposition of its judgment funds; and of all funds deriving from judgments entered prior to the date of the Act for which there has been no enabling legislation.

§ 60.3 Time limits.

(a) The Secretary shall cause to begin as early as possible the necessary research to determine the identity of the ultimate or present day beneficiaries of judgments. Such research shall be done under the direction of the Commissioner of Indian Affairs. The affected tribes or groups shall be encouraged to submit pertinent data. All pertinent data, including cultural, political and historical material, and records, including membership, census and other rolls shall be considered. If more than one entity is determined to be eligible to participate in the use or distribution of the funds, the results of the research shall include a proposed formula for the division or apportionment of the judgment funds among or between the involved entities.

(b) The results of all research shall be provided to the governing bodies of all affected tribes and groups. The Area Director shall assist the affected tribe or group in arranging for preliminary sessions or meetings of the tribal governing body, or public meetings. The Area Director shall make a presentation of the results of the research and shall arrange for expertise of the Bureau of Indian Affairs to be available at these meetings to assist the tribe or group in developing a use or distribution proposal, bearing in mind that under the Act not less than twenty (20) per centum of the judgment funds, including investment income thereon, is to be used for tribal programs unless the Secretary determines that the particular circumstances of the affected Indian tribe clearly warrant otherwise.

§ 60.4 Conduct of hearings of record.

(a) As soon as appropriate after the tribal meetings have been held and the Commissioner has reviewed the tribal proposal(s), the Area Director, or such other official of the Department of the Interior as he shall designate to act for him, shall hold a hearing of record to receive testimony on the tribal proposal(s).

(b) The hearing shall be held after appropriate public notice beginning at least twenty (20) days prior to the date of such hearing, and after consultation with the governing body of the tribe or group regarding the date and location of the hearing, to obtain the testimony of members of the governing body and other representatives, spokesmen or members of the tribe or group on the proposal(s).

(c) All testimony at the hearing shall be transcribed and a transcript thereof shall be furnished to the Commissioner and the tribal governing body immediately subsequent to the hearing. Particular care shall be taken to insure that minority views are given full opportunity for expression either during the hearing or in the form of written communications by the date of the hearing.

(d) Whenever two or more tribes or groups are involved in the use or distribution of the judgment funds, including situations in which two or more Area Offices are concerned, every effort shall be made by the Area Director or Directors to arrange for a single hearing to be conducted at a time and location as convenient to the involved tribes and groups as possible. Should the tribes and groups not reach agreement on such time or place, or on the number of entities to be represented at the hearing, the Commissioner, after considering the views of the affected tribes and groups, shall within twenty (20) days of receipt of such advice by the Area Director, designate a location and date for such hearing and invite the participation of all entities he considers to be involved and the Commissioner's decision shall be final.

§ 60.5 Submittal of proposed plan by Secretary.

Subsequent to the hearing of record, the Commissioner shall prepare all pertinent materials for the review of the Secretary. Pertinent materials shall include:

(a) the tribal use or distribution proposal or any alternate proposals;

(b) a copy of the transcript of the hearing of record;

(c) a statement on the hearing of record and other evidence reflecting the extent to which such proposal(s) meets the desires of the affected tribe or group, including minority views;

(d) copies of all pertinent resolutions and other communications or documents received from the affected tribe or group, including minorities;

(e) a copy of the tribal constitution and bylaws, or other organizational document, if any; a copy of the tribal enrollment ordinance, if any; and a statement as to the availability or status of the membership roll of the affected tribe or group;

(f) a statement reflecting the nature and results of the investment of the judgment funds as of thirty (30) days of the submittal of the proposed plan, including a statement concerning attorney fees and litigation expenses;

(g) a statement justifying any compromise proposal developed by the Commissioner in the event of the absence of agreement among any and all entities on the division or apportionment of the funds, should two or more entities be involved;

(h) and a statement regarding the feasibility of the proposed plan, including a timetable prepared in cooperation with the tribal governing body, for the implementation of programing and roll preparation.

Within one hundred and eighty (180) days of the appropriation of the judgment funds the Secretary shall submit

a proposed plan, together with the pertinent materials described above, simultaneously to each of the Chairmen of the Congressional Committees, at the same time sending copies of the proposed plan and materials to the governing body of the affected tribe or group. The one hundred and eighty (180) day period shall begin on the date of the Act with respect to all judgments for which funds have been appropriated and for which enabling legislation has not been enacted.

§ 60.6 Extension of period for submitting plans.

An extension of the one hundred and eighty (180) day period, not to exceed ninety (90) days, may be requested by the Secretary or by the governing body of any affected tribe or group submitting such request to both Congressional Committees through the Secretary, and any such request shall be subject to the approval of both Congressional Committees.

§ 60.7 Submittal of proposed legislation by Secretary.

(a) Within thirty (30) calendar days after the date of a resolution by either House disapproving a plan, the Secretary shall simultaneously submit proposed legislation authorizing the use or distribution of the funds, together with a report thereon, to the Chairmen of both Congressional Committees, at the same time sending copies of the proposed legislation to the governing body of the affected tribe or group. Such proposed legislation shall be developed on the basis of further consultation with the affected tribe or group.

(b) In any instance in which the Secretary determines that circumstances are not conducive to the preparation and submission of a plan, he shall, after appropriate consultation with the affected tribe or group, submit proposed legislation within the 180-day period to both Congressional Committee simultaneously.

§ 60.8 Enrollment aspects of plans.

An approved plan that includes provisions for enrollment requiring formal adoption of enrollment rules and regulations shall be implemented through the publication of such rules and regulations in the FEDERAL REGISTER. Persons not members of organized or recognized tribes and who are are not citizens of the United States shall not, unless otherwise provided by Congress, be eligible to participate in the use or distribution of judgment funds, excepting heirs or legatees of deceased individual beneficiaries.

§ 60.9 Programing aspects of plans.

In assessing any tribal programing proposal the Secretary shall consider all pertinent factors, including the following: the percentage of tribal members residing on or near the subject reservation, including former reservation areas in Oklahoma, or Alaska Native villages; the formal educational level and the general level of social and economic adjustment of such reservation residents; the nature of recent programing affecting the subject tribe or group and particularly the reservation residents; the needs and aspirations of any local Indian communities or districts within the reservation and the nature of organization of such local entities; the feasibility of the participation of tribal members not in residence on the reservation; the availability of funds for programing purposes derived from sources other than the subject judgment; and all other pertinent social and economic data developed to support any proposed program.

§ 60.10 Per capita payment aspects of plans and protection of funds accruing to minors and legal incompetents.

(a) Per capita payments shall be made in accordance with conditions to be prescribed in the plan. The shares of decreased individual beneficiaries, enhanced by investment earnings, shall be held in special accounts until paid to the decedents' heirs or beneficiaries as provided in the plan.

(b) Protection of the shares of minors and legal incompetents shall be part of approved plans containing per capita payment aspects. The Commisioner shall insure the protection of such shares, whether they be handled individually or collectively. As in the case of the per capita shares of deceased beneficiaries, investment income on the per capita shares of minors and incompetents shall accrue to those shares and shall be the property of such minors and incompetents. Per capita shares and investment income accruing on the per capita shares of deceased individual beneficiaries, minor and incompetents, as well as the principal thereof, shall not be subject to State and Federal income taxes and shall not be considered as income or resources under the Social Security Act, as amended.

(c) All per capita shares or portions thereof which are not paid but which remain unclaimed with the Federal Government shall be maintained separately and be enhanced by investment, and shall be subject to the provisions of the Act of September 22, 1961 (75 Stat. 584). No per capita share or a portion thereof shall be transferred to the U.S. Treasury as "Monies Belonging to Individuals Whose Whereabouts are Unknown."

§ 60.11 Investment of judgment funds.

As soon as possible after the appropriation of judgment funds and pending approval of a plan or the enactment of legislation authorizing the use or distribution of the funds, the Commissioner shall invest such funds pursuant to 25 U.S.C. 162a. Investments of judgment funds and of investment income therefrom will continue to be made by the Commissioner after the approval of a plan or enactment of use or distribution legislation to the extent funds remain available for investment under such plan or legislation, and provided that thereafter investments of judgment funds made available for tribal use are not undertaken by the tribe pursuant to authorizing law. Invested judgment funds, including investment income therefrom, shall be withdrawn from investment only as currently needed under approved plans or legislation authorizing the use or distribution of such funds.

§ 60.12 Insuring the proper performance of approved plans.

A timetable prepared in cooperation with the tribal governing body shall be included in the plan submitted by the Secretary for the implementation of all programing and enrollment aspects of a plan. At any time within one calendar year after the approval date of a plan, the Area Director shall report to the Commisioner on the status of the implementation of the plan, including all enrollment and programing aspects, and thenceforth shall report to the Commissioner on an annual basis regarding any remaining or unfulfilled aspects of a plan. The Area Director shall include in his first and all subsequent annual reports a statement regarding the maintenance of the timetable, a full accounting of any per capita distribution, and the expenditure of all programing funds. The Commissioner shall report the deficient performance of any aspect of a plan to the Secretary, together with the corrective measures he has taken or intends to take.

Dated: January 11, 1974.

ROGERS C. B. MORTON,
Secretary of the Interior.

[FR Doc.74-1298 Filed 1-11-74;1:40 pm]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1954—PROCEDURES FOR THE EVALUATION AND MONITORING OF APPROVED STATE PLANS

Pursuant to the authority in sections 8(g)(2) and 18 of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 657(g)(2) and 667), (hereinafter referred to as the Act) 29 CFR Ch. XVII is amended by adding a new Part 1954.

The new Part 1954 contains interpretations of the statutory provisions of the Act and implementing regulations relating to evaluation of State plans approved under section 18(c) of the Act. Section 18(f) of the Act requires the Assistant Secretary to make a continuing evaluation of the manner in which each State having a plan approved under section 18(c) of the Act is carrying out such plan. This evaluation is to be made on the basis of reports submitted by the States and from the Assistant Secretary's own inspections.

Subpart B of the new Part describes the several reports required of States with approved plans. As part of the evaluation system, States will be required to submit quarterly and annual

reports to the appropriate Regional Office. Subpart B of the regulations also outlines another portion of the program for continuing evaluation of State programs through visits to States with approved plans and audits of the State programs.

Because of the continuing public interest in the approval and operation of State plans; the legal requirements of the Act to provide continuing evaluation of the plans; and the need to make a final determination on approval of the plan pursuant to section 18(e) of the Act, the Occupational Safety and Health Administration has decided to initiate a public complaint procedure under section 18(f) of the Act. This complaint procedure provides an opportunity for public input into the evaluation of the actual operations of the approved State plans just as previous regulations provided for such input into plan approval and review of changes to State plans. (See 29 CFR Part 1902 and 29 CFR Part 1953).

Such a complaint procedure for Federal grant-in-aid programs is recommended by the Administrative Conference of the United States[1] as a mechanism for affording program beneficiaries and interested persons the opportunity for involvement in the approval and evaluation process of Federal agency grant programs which will lead to improved program operations and demonstrate the agency's responsiveness to the public.

Subpart C of Part 1954, therefore, describes the procedures for submission of complaints from any interested person about the operation or administration of a State plan or plans. Response to these complaints constitutes another means by which the Assistant Secretary may secure additional data to assist his evaluation of approved State plans, as required by the Act. A complaint about State program administration (CASPA) may be made by any interested person and an investigation may be made and a report prepared if the oral or written complaint presents reasonable grounds to believe that the complaint is warranted. If it is determined that an investigation or report is not warranted, the complainant shall be notified and informed of the opportunity to obtain informal review of this determination. Where a report is prepared or an investigation made on the basis of the complaint a copy of the results will be furnished to the complainant as well as the State and become part of the evaluation of the State plan. The complainant's name will be considered confidential. In addition, by July 1, 1974, States with approved plans will also be required to establish a method or methods of notifying employees, employers and the public of these complaint procedures.

The new Part 1954 contains statutory interpretations and procedural rules based on these interpretations. Part 1954 was submitted for comment to the Advisory Committee on Intergovernmental Relations. No substantive comments or objections were received. To date, twenty-three State plans have been approved, the earliest on November 30, 1972. Because formal procedures for evaluation of the administration and operation of these plans are necessary to assure adequate protection of worker safety and health and to encourage State responsibilities for and improvement of their programs for worker safety and health, as mandated by the Act, the new Part 1954 shall be effective January 15, 1974.

Interested persons may however, submit written data, views and arguments concerning these regulations until February 14, 1974. The submissions are to be addressed to the Director, Office of Federal and State Operations 8th Floor, 1726 M Street NW., Washington, D.C. 20210. The regulations may be re-examined in light of these comments.

The new Part 1954 reads as follows:

Subpart A—General

Secs.
1954.1 Purpose and scope.
1954.2 Monitoring system.
1954.3 Concurrent authority. [Reserved]

Subpart B—State Monitoring Reports and Visits to State Agencies

1954.10 Reports from the States.
1954.11 Visits to State agencies.

Subpart C—Complaints About State Program Administration (CASPA)

1954.20 Complaints about State program administration.
1954.21 Processing and investigating a complaint.
1954.22 Notice provided by States.

AUTHORITY: Sec. 8(g)(2), Pub. L. 91-596, 84 Stat. 1600 (29 U.S.C. 657(g)(2)); sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).

Subpart A—General

§ 1954.1 Purpose and scope.

(a) Section 18(f) of the Williams-Steiger Occupational Safety and Health Act of 1970 (hereinafter referred to as the Act) provides that "the Secretary shall, on the basis of reports submitted by the State agency and his own inspections make a continuing evaluation of the manner in which each State having a plan approved * * * is carrying out such plan."

(b) This Part 1954 applies to the provisions of section 18(f) of the Act relating to the evaluation of approved plans for the development and enforcement of State occupational safety and health standards. The provisions of this Part 1954 set forth the policies and procedures by which the Assistant Secretary for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) under a delegation of authority from the Secretary of Labor (Secretary's Order 12-71, 38 FR 3754, May 12, 1971) will continually monitor and evaluate the operation and administration of approved State plans.

(c) Following approval of a State plan under section 18(c) of the Act, workplaces in the State are subject to a period of concurrent Federal and State authority. The period of concurrent enforcement authority must last for at least three years. Before ending Federal enforcement authority, the Assistant Secretary is required to make a determination as to whether the State plan, in actual operation, is meeting the criteria in section 18(c) of the Act including the requirements in Part 1902 of this chapter and the assurances in the approval plan itself. After an affirmative determination has been made, the provisions of sections 5(a)(2), 8 (except for the purpose of carrying out section 18(f) of the Act), 9, 10, 13, and 17 of the Act shall not apply with respect to any occupational safety or health issues covered under the plan. The Assistant Secretary may, however, retain jurisdiction under the above provisions in any proceeding commenced under sections 9 or 10 of the Act before the date of the determination under section 18(e) of the Act.

(d) During this period of concurrent Federal and State authority, the operation and administration of the plan will be continually evaluated under section 18(f) of the Act. This evaluation will continue even after an affirmative determination has been made under section 18(e) of the Act.

§ 1954.2 Monitoring system.

(a) To carry out the responsibilities for continuing evaluation of State plans under section 18(f) of the Act, the Assistant Secretary has established a State Program Performance Monitoring System. Evaluation under this monitoring system encompasses both the period before and after a determination has been made under section 18(e) of the Act. The monitoring system is a three phased system designed to assure not only that developmental steps are completed and that the operational plan is, in fact, at least as effective as the Federal program with respect to standards and enforcement, but also to provide a method for continuing review of the implementation of the plan and any modifications thereto to assure compliance with the provisions of the plan during the time the State participates in the cooperative Federal-State program.

(b) Phase I of the system begins with the initial approval of a State plan and continues until the determination required by section 18(e) of the Act is made. During Phase I, the Assistant Secretary will secure monitoring data to make the following key decisions: (1) What should be the level of Federal enforcement; (2) Should plan approval be continued; and (3) What level of technical assistance is needed by the State to enable it to have an effective program.

(c) Phase II of the system relates to the determination required by section 18(e) of the Act. The Assistant Secretary must decide, after no less than three years following approval of the plan, whether or not to relinquish Federal authority to the State for issues covered by the occupational safety and health program in the State plan. Phase II will be a comprehensive evaluation of

[1] Recommendation 31, Enforcement of Standards in Federal Grant-in-Aid Programs, adopted December 7, 1971.

the total State program, drawing upon all information collected during Phase I.

(d) Phase III of the system begins after an affirmative determination has been made under section 18(e) of the Act. The continuing evaluation responsibility will be exercised under Phase III, and will provide data concerning the total operations of a State program to enable the Assistant Secretary to determine whether or not the plan approval should be continued or withdrawn.

(e) The State program performance monitoring system provides for, but is not limited to, the following major data inputs: (1) Quarterly and annual reports of State program activity; (2) Visits to State agencies; (3) On-the-job evaluation of State compliance officers; and (4) Investigation of complaints about State program administration.

§ 1952.3 Concurrent authority. [Reserved]

Subpart B—State Monitoring Reports and Visits to State Agencies

§ 1954.10 Reports from the States.

(a) In addition to any other reports required by the Assistant Secretary under sections 18(c)(8) and 18(f) of the Act and § 1902.3(1) of this chapter, the State shall submit quarterly and annual reports as part of the evaluation and monitoring of State programs.[1]

(b) Each State with an approved State plan shall submit to the appropriate Regional Office an annual occupational safety and health report in the form and detail provided for in the report and the instructions contained therein.

(c) Each State with an approved State plan shall submit to the appropriate Regional Office a quarterly occupational safety and health compliance and standards activity report in the form and detail provided for in the report and the instructions contained therein.

§ 1954.11 Visits to State agencies.

As a part of the continuing monitoring and evaluation process, the Assistant Secretary or his representative shall conduct visits to the designated agency or agencies of State with approved plans at least every 6 months. An opportunity may also be provided for discussion and comments on the effectiveness of the State plan from other interested persons. These visits will be scheduled as needed. Periodic audits will be conducted to assess the progress of the overall State program in meeting the goal of becoming at least as effective as the Federal program. These audits will include case file review and follow-up inspections of workplaces.

Subpart C—Complaints About State Program Administration (CASPA)

§ 1954.20 Complaints about State program administration.

(a) Any interested person or representative of such person or groups of persons may submit a complaint concerning the operation or administration of any aspect of a State plan. The complaint may be submitted orally or in writing to the Assistant Regional Director for Occupational Safety and Health (hereinafter referred to as the Assistant Regional Director) or his representative in the Region where the State is located.

(b) Any such complaint should describe the grounds for the complaint and specify the aspect or aspects of the administration or operation of the plan which is believed to be inadequate. A pattern of delays in processing cases, of inadequate workplace inspections, or the granting of variances without regard to the specifications in the State plans, are examples.

(c)(1) If upon receipt of the complaint, the Assistant Regional Director determines that there are reasonable grounds to believe that an investigation should be made, he shall cause such investigation, including any workplace inspection, to be made as soon as practicable.

(2) In determining whether an investigation shall be conducted and in determining the timing of such investigation, the Assistant Regional Director shall consider such factors as: (i) The extent to which the complaint affects any substantial number of persons; (ii) The number of complaints received on the same or similar issues and whether the complaints relate to safety and health conditions at a particular establishment; (iii) Whether the complainant has exhausted applicable State remedies; and (iv) The extent to which the subject matter of the complaint is pertinent to the effectuation of Federal policy.

§ 1954.21 Processing and investigating a complaint.

(a) Upon receipt of a complaint about State program administration, the Assistant Regional Director will acknowledge its receipt and may forward a copy of the complaint to the designee under the State plan and to such other person as may be necessary to complete the investigation. The complainant's name and the names of other complainants mentioned therein will be deleted from the complaint and the names shall not appear in any record published, released or made available.

(b) In conducting the investigation, the Assistant Regional Director may obtain such supporting information as is appropriate to the complaint. Sources for this additional information may include "spot-check" follow-up inspections of workplaces, review of the relevant State files, and discussion with members of the public, employers, employees and the State.

(c) On the basis of the information obtained through the investigation, the Assistant Regional Director shall advise the complainant of the investigation findings and in general terms, any corrective action that may result. A copy of such notification shall be sent to the State and it shall be considered part of the evaluation of the State plan.

(d) If the Assistant Regional Director determines that there are no reasonable grounds for an investigation to be made with respect to a complaint under this Subpart, he shall notify the complaining party in writing of such determination. Upon request of the complainant, or the State, the Assistant Regional Director, at his discretion, may hold an informal conference. After considering all written and oral views presented the Assistant Regional Director shall affirm, modify, or reverse his original determination and furnish the complainant with written notification of his decision and the reasons therefore. Where appropriate the State may also receive such notification.

§ 1954.22 Notice provided by State.

(a)(1) In order to assure that employees, employers, and members of the public are informed of the procedures for complaints about State program administration, each State with an approved State plan shall adopt not later than July 1, 1974, a procedure not inconsistent with these regulations or the Act, for notifying employees, employers and the public of their right to complain to the Occupational Safety and Health Administration about State program administration.

(2) Such notification may be by posting of notices in the workplace as part of the requirement in § 1902.4(c)(2)(iv) of this chapter and other appropriate sources of information calculated to reach the public.

Signed at Washington, D.C., this 8th day of January 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74-1243 Filed 1-14-74;8:45 am]

[1] Such quarterly and annual reports forms may be obtained fro mthe Office of the Assistant Regional Director in whose Region the State is located.

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 2—DELEGATIONS OF AUTHORITY

Chief Medical Director

Section 2.93 is revised to read as follows:

§ 2.93 Chief Medical Director is delegated authority to enter into sharing agreements authorized under provisions of 38 U.S.C. 5053 and § 17.210 of this chapter and which may be negotiated pursuant to provisions of 41 CFR 8-3.204(c); contracts with medical schools, clinics and any other group or individual capable of furnishing such services to provide scarce medical specialist services at VA facilities (including, but not limited to, services of physicians, dentists, nurses, physicians' assistants, dentists' assistants, technicians, and other medical support personnel); and when a sharing agreement or contract for scarce medical specialist services is not warranted, contracts authorized under the provisions of 38 U.S.C. 213 for medical and ancillary services.

The delegation of authority is identical to § 17.98 of this chapter.

Approved: January 8, 1974.

By direction of the Administrator.

RUFUS H. WILSON,
Associate Deputy Administrator.

[FR Doc.74-1067 Filed 1-14-74;8:45 am]

PART 17—MEDICAL

Expansion of Health Care

On pages 31846 through 31853 of the FEDERAL REGISTER of November 19, 1973, there was published a notice of proposed regulatory development to amend §§ 17.30 through 17.365 to provide for expansion of health care. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

Three comments were received. One was favorable. One suggested utilizing services of local federally-funded community mental health centers and spelling out procedure for developing service contracts. These matters are not appropriate to be published in VA Regulations but will be considered at such time as procedural (manual) issues are developed. The third comment suggested that podiatrists' services be included within the term "medical services". A change to § 17.30(m) has been made to accomplish this change.

Effective date. These VA Regulations are effective September 1, 1973 except §§ 17.75 through 17.77 which are effective January 1, 1971 and §§ 17.37 introduction and paragraph (b); 17.38 introduction and paragraphs (b) and (c)(2); 17.40; and 17.352, 17.353, and 17.360 through 17.362 which are effective July 1, 1973.

Approved: January 8, 1974.

By direction of the Administrator.

RUFUS H. WILSON,
Associate Deputy Administrator.

1. In § 17.30, paragraphs (l) and (m) are amended to read as follows:

§ 17.30 Definitions.

* * * * *

(l) *Hospital care.* The term "hospital care" includes:

(1) Medical services rendered in the course of hospitalization of any veteran and transportation and incidental expenses for any veteran who is in need of treatment for a service-connected disability or is unable to defray the expense of transportation; and

(2) Such mental health services, consultation, professional counseling, and training (including (i) necessary expenses for transportation if unable to defray such expenses; or (ii) necessary expenses of transportation and subsistence in the case of a veteran who is receiving care for a service-connected disability, or in the case of a dependent or survivor of a veteran receiving care under the last sentence of section 613(b) of Title 38, United States Code under the terms and conditions set forth in the applicable Veterans Administration travel regulations of the members of the immediate family (including legal guardians) of a veteran or such a dependent or survivor of a veteran, or, in the case of a veteran or such dependent or survivor of a veteran who has no immediate family members (or legal guardian), the person in whose household such a veteran, or such a dependent or survivor certifies his intention to live, as may be necessary or appropriate to the effective treatment and rehabilitation of a veteran or such a dependent or a survivor of a veteran; and

(3) Medical services rendered in the course of the hospitalization of a dependent or survivor of a veteran receiving care in a Veterans Administration medical facility and transportation and incidental expenses for a dependent or survivor of a veteran who is in need of treatment for any injury, disease, or disability and is unable to defray the expense of transportation.

(m) *Medical services.* The term "medical services" includes, in addition to medical examination and treatment, such home health services as the Administrator determines to be necessary or appropriate for the effective and economical treatment of a disability of a veteran or a dependent or survivor of a veteran receiving care in a Veterans Administration medical facility, optometrists' and podiatrists' services, dental and surgical services, and except under provisions of § 17.60(e), dental appliances, wheelchairs, artificial limbs, trusses, and similar appliances, special clothing made necessary by the wearing of prosthetic appliances, and such other supplies as the Administrator determines to be reasonable and necessary.

* * * * *

2. The centerhead immediately preceding § 17.36 is changed and § 17.36 is revised to read as follows:

HOSPITAL OR NURSING HOME CARE AND MEDICAL SERVICES IN FOREIGN COUNTRIES

§ 17.36 Hospital or nursing home care and medical services in foreign countries other than the Philippines.

No person shall be entitled to receive hospital, nursing home or domiciliary care or medical services in a foreign country other than the Republic of the Philippines, except as provided in paragraphs (a) and (b) of this section:

(a) Hospital or nursing home care or medical services for otherwise eligible veterans who are citizens of the United States sojourning or residing abroad and in need of treatment for an adjudicated service-connected disability, or non-service-connected disability associated with and held to be aggravating a service-connected disability.

(b) Hospital or nursing home care or medical services for a veteran who has been found in need of vocational rehabilitation, and for whom an objective has been selected, or who is pursuing a course of vocational rehabilitation training, and who is medically determined to be in need of care or treatment for any of the following reasons:

(1) To make possible his entrance into a course of training; or

(2) To prevent interruption of a course of training; or

(3) To hasten the return to a course of training of a veteran in interrupted or leave status, when a cessation of instruction has become necessary because of illness, injury, or a dental condition.

3. Section 17.37 is revised to read as follows:

§ 17.37 Hospital or nursing home care in the Philippines in facilities other than Veterans Memorial Hospital.

Hospital or nursing home care may be authorized in the Republic of the Philippines in facilities other than the Veterans Memorial Hospital for any veteran, if:

(a) *For United States veterans.* He is a United States veteran and is eligible for hospital or nursing home care under § 17.47 (a) or (b), or a veteran who has been found in need of vocational rehabilitation, and for whom an objective has been selected, or who is pursuing a course of vocational rehabilitation training, and hospital care has been determined necessary for any of the reasons enumerated in § 17.36(b), or

(b) *For Commonwealth Army veterans or new Philippine Scouts.* He is a Commonwealth Army veteran or a new Philippine Scout in need of hospital or nursing home care for service-connected disability or non-service-connected disability associated with and held to be aggravating a service-connected disability and (1) facilities in the Veterans Memorial Hospital are being used to the maximum extent feasible in hospitalizing such veterans, or (2) he is suffering from leprosy, or (3) use of the facility is required in emergency circumstances.

4. In § 17.38, the headnote, the introductory portion preceding paragraph (a) and paragraphs (b)(2) and (c) are amended and paragraphs (d) and (e) are added so that the amended and added material reads as follows:

§ 17.38 Hospital or nursing home care at Veterans Memorial Hospital, Philippines.

Hospital or nursing home care at the Veterans Memorial Hospital, Quezon City, Republic of the Philippines, may be authorized by the United States Veterans Administration pursuant to the terms and conditions set forth in §§ 17.350 through 17.370, for the following persons:

* * * * *

(b) *For new Philippine Scouts.* Care at the Veterans Memorial Hospital may be authorized for any person who served as a new Philippine Scout, if:

* * * * *

(2) He enlisted before July 4, 1946, he is in need of care for non-service-connected disability, and he is unable to defray the expenses of such care and so states under oath.

(c) *For United States veterans.* (1) Care at the Veterans Memorial Hospital may be authorized for any service-connected disability of a veteran of service in the Armed Forces of the United States (including veterans of service in the Philippine Scouts under laws in effect prior to the enactment of section 14 of the Armed Forces Voluntary Recruitment Act of 1945), who is eligible for hospital care under § 17.47 (a) or (b).

(2) Care at the Veterans Memorial Hospital may be authorized for a veteran of any war for a non-service-connected disability if such veteran is unable to defray the expenses of necessary hospital care and so states under oath.

(d) *Transfers for nursing home care.* Transfer of any veteran hospitalized in the Philippines at Veterans Administration expense to a nursing home facility may be authorized subject to the following:

(1) The nursing home care facility is determined to meet the physical and professional standards prescribed by the Chief Medical Director, and

(2) The cost of the nursing home care in such institution does not exceed 50 per centum of the Veterans Memorial Hospital per diem rate jointly determined for each fiscal year by the two governments to be fair and reasonable.

(3) The nursing home care will not be for more than 6 months in the aggregate in connection with any one transfer, except in the case of a veteran whose hospitalization was primarily for a service-connected disability. In such case entitlement to nursing home care under this subparagraph is not subject to any limitation.

(e) *Extensions of community nursing home care beyond 6 months.* The Chief Medical Director or his designee may authorize, for any veteran whose hospitalization was not primarily for a service-connected disability, an extension of nursing care in a contract nursing care facility at Veterans Administration expense beyond 6 months for circumstances of an unusual nature such as when a medical and economic need continues to exist, additional time is required to complete other arrangements for care or when readmission to a hospital is not deemed professionally advisable despite terminal deterioration of the veteran's medical condition.

5. Sections 17.39 and 17.40 are revised to read as follows:

§ 17.39 Outpatient care in the Philippines for United States veterans.

Outpatient care in the Republic of the Philippines may be authorized for any United States veteran eligible for such care under § 17.60.

§ 17.40 Outpatient care for Commonwealth Army veterans and new Philippine Scout veterans.

Outpatient care may be authorized in Veterans Administration facilities by contract or agreement between the two governments for any Commonwealth Army veteran or new Philippine Scout veteran for the treatment of a service-connected disability, or for a nonservice-connected disability associated with and held to be aggravating a service-connected disability.

6. In § 17.46b, the headnote, the introductory portion preceding paragraph (a) and paragraphs (a) and (c) are amended to read as follows:

§ 17.46b Hospital care for certain retirees with chronic disability (Executive Orders 10122, 10400 and 11733).

Hospital care may be furnished when beds are available to members or former members of the uniformed services (Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, now National Oceanic and Atmospheric Administration hereinafter referred to as "NOAA", and Public Health Service) temporarily or permanently retired for physical disability or receiving disability retirement pay who require hospital care for chronic diseases and who have no eligibility for hospital care under laws governing the Veterans Administration, or who having eligibility do not elect hospitalization as Veterans Administration beneficiaries. Care under this section is subject to the following conditions:

(a) Persons defined in this section who are members or former members of the active military, naval, or air service must agree to pay the subsistence rate set by the Administrator of Veterans Affairs, except that no subsistence charge will be made for those persons who are members or former members of the Public Health Service, Coast Guard, Coast and Geodetic Survey now "NOAA", and enlisted personnel of the Army, Navy, Marine Corps, and Air Force.

* * * * *

(c) In the case of persons who are former members of the Coast and Geodetic Survey, care may be furnished under this section even though their retirement for disability was from the Environmental Science Services Administration or NOAA.

7. In § 17.47, paragraphs (a), (b), (c) (1), (d), and (f) are amended to read as follows:

§ 17.47 Eligibility for hospital, domiciliary or nursing home care of persons discharged or released from active military, naval, or air service.

Within the limits of Veterans Administration facilities, hospital, domiciliary, or nursing home care may be furnished the following applicants.

(a) Hospital or nursing home care for veterans in need of such care for an adjudicated service-connected disability or for a non-service-connected condition which is associated with and held to be aggravating such disability (see § 17.33 with respect to presumption relating to psychosis).

(b) Hospital or nursing home care:

(1) Hospital or nursing home care for veterans discharged or released for disability incurred or aggravated in line of duty when in need of hospital or nursing home care for the disability for which discharged or released, or for a non-service-connected condition which is associated with and held to be aggravating such disability.

(2) Hospital care for persons defined in § 17.46b who require hospitalization for chronic diseases incurred in line of duty.

(c) Hospital, nursing home or domiciliary care:

(1) Hospital or nursing home care for veterans discharged or released for disability incurred or aggravated in line of duty, or persons in receipt of or but for the receipt of retirement pay would be entitled to disability compensation for a service-connected disability, when suffering from non-service-connected disabilities requiring hospital care.

* * * * *

(d) Hospital or nursing home care for any veteran, domiciliary care for veterans of a war provided they swear they are unable to defray the expense of hospital or domiciliary care except veterans in receipt of pension shall not have to state under oath that they are unable to defray the expense of hospital or domiciliary care, and who are suffering from a disability, disease, or defect which, being susceptible to cure or decided improvement, indicates need for hospital care, or which, being essentially chronic in type, is producing disablement of such degree and of such probable persistency as will incapacitate from earning a living for a prospective period, and thereby indicates need for domiciliary care. Transportation at Government expense will not be provided to such veterans unless they make the statement under oath that they are unable to defray the expenses of transportation. The additional requirements for eligibility for domiciliary care enumerated in paragraph (c) (3) of this section are also for application to these veterans applying for domiciliary care.

* * * * *

(f) Hospital or nursing home care for any veteran for a non-service-connected disability if such veteran is 65 years of age or older.

8. In § 17.48, paragraphs (c) (2) and (f) are amended to read as follows:

§ 17.48 Considerations applicable in determining eligibility for hospital or domiciliary care.

* * * * *

(c) Under paragraph (d) of § 17.47: * * *

(2) "Unable to defray the expense of hospital or domiciliary care"—the affidavit of the applicant on VA Form 10–10 that he is unable to defray the expenses of hospital or domiciliary care or that he is unable to defray the expenses of transportation to and from a Veterans Administration facility will constitute sufficient warrant to furnish hospitalization or domiciliary care or Government transportation.

* * * * *

(f) Within the limits of Veterans Administration facilities, any veteran who is receiving hospital or nursing home care in a hospital under the direct and exclusive jurisdiction of the Veterans Administration, or hospital care in a Federal hospital under agreement, may be furnished medical services to correct or

treat any non-service-connected disability of such veteran, in addition to treatment incident to the disability for which he is hospitalized, if the veteran is willing, and such services are reasonably necessary to protect the health of such veteran.

9. In § 17.49, the headnote is amended; in paragraph (a)(3), subdivisions (vi) through (ix) are amended and subdivision (x) is added; and paragraph (c) is added so that the added and amended material reads as follows:

§ 17.49 Veterans Administration policy on priorities for hospital, nursing home and domiciliary care.

(a) *Priorities for hospital care.* Eligible persons will be admitted or transferred to a Veterans Administration hospital in the following order: • • •

(3) *Priority groups.* • • •

(vi) Group VI includes veterans eligible under § 17.47 (d) or (f) not hospitalized by the Veterans Administration (are not in hospitals or are in non-Veterans Administration hospitals but not under Veterans Administration authorization).

(vii) Group VII includes persons eligible under § 17.54 requiring hospital care.

(viii) Group VIII includes persons eligible under § 17.46 (b), (c), or (d) (active duty or retired military personnel, beneficiaries from other Federal agencies, veterans of nations allied with the United States in World War I or II, persons treated under sharing agreements, etc.).

(ix) Group IX includes patients in Veterans Administration hospitals who have requested transfer, at their own expense for personal reasons, to another appropriate Veterans Administration hospital which is not nearest their home, provided the clinical findings indicate that such patients will require hospital care for a period of 6 months or more in the latter hospital.

(x) Group X includes veterans eligible under § 17.47 (d) or (f) requiring hospital care (*a*) for an occupational injury or disease incurred in or as a result of their employment who are entitled to necessary medical and hospital treatment elsewhere at no expense to themselves by means of some form of industrial coverage provided by their employer or under a workmen's compensation statute or law or (*b*) who are entitled to necessary medical and hospital treatment elsewhere at no expense to themselves by reason of some other form of insurance. An applicant will be classified in paragraph (a)(3)(x) (*a*) or (*b*) of this section only when an employer or insurer has admitted liability and advised the Veterans Administration in writing that the veteran is eligible for the necessary medical and hospital care at no expense to himself. If such information is not available, the application will be placed in group VI and no action will be taken to ascertain liability prior to admission of the veteran.

• • • • •

(c) *Priorities for nursing home care.* Priorities for nursing home care will follow the same sequence as that provided in paragraph (a) of this section for hospital care, except in the case of nursing home care for a service-connected disability, priority will be given to veterans transferred from Veterans Administration hospitals to Veterans Administration nursing homes over veterans directly admitted.

10. Section 17.50 is revised to read as follows:

§ 17.50 Use of Department of Defense, Public Health Service or other Federal hospitals with beds allocated to the Veterans Administration.

Hospital facilities operated by the Department of Defense or the Public Health Service (or any other agency of the United States Government) may be used for the care of Veterans Administration patients pursuant to agreements between the Veterans Administration and the department or agency operating the facility. When such an agreement has been entered into and a bed allocation for Veterans Administration patients has been provided for in a specific hospital covered by the agreement, care may be authorized within the bed allocation for any veteran eligible under § 17.47. Care in a Federal facility not operated by the Veterans Administration, however, shall not be authorized for any military retiree whose sole basis for eligibility is under § 17.46b, or, except in Alaska and Hawaii, for any retiree of the uniformed services suffering from a chronic disability whose entitlement is under §§ 17.46b, 17.47(b)(2) or 17.47 (c)(2) regardless of whether he may have dual eligibility under other provisions of § 17.47.

11. In § 17.50b, paragraphs (a), (d), (e), and (f) are amended to read as follows:

§ 17.50b Use of public or private hospitals for veterans.

When it is in the best interests of the Veterans Administration and Veterans Administration patients, contracts may be entered into for the use of public or private hospitals for the care of veterans. When demand is only for infrequent use, individual authorizations may be used. Admissions in public or private facilities, however, subject to the provisions of § 17.50c, will only be authorized, whether under a contract or as an individual authorization, for any veteran, if:

(a) *For service-connected disability or disability for which discharged.* The veteran is in need of hospital care or medical services for an adjudicated service-connected disability, or for a disability for which he was discharged from service and which was incurred or aggravated in line of duty, or

• • • • •

(d) *For women veterans.* The veteran is a woman veteran in need of hospital care, or

(e) *For veterans in Puerto Rico and other possessions.* The veteran is a veteran in need of hospital care in the Commonwealth of Puerto Rico or other Territory, Commonwealth or possession of the United States (except the authority under this paragraph expires December 31, 1978), or

(f) *For veterans in Alaska or Hawaii.* The veteran is a veteran in need of hospital care in Alaska or Hawaii whose public or private hospital admission can be accommodated within an average daily patient load per thousand veteran population at Veterans Administration expense in Federal, public or private hospital facilities in Alaska or Hawaii not exceeding the average daily patient load per thousand veteran population hospitalized by the Veterans Administration within the 48 contiguous States (except the authority under this paragraph expires December 31, 1978), or

• • • • •

12. Sections 17.51, 17.51a, and 17.51b are revised to read as follows:

§ 17.51 Use of community nursing homes.

(a) Nursing home care in a contract public or private nursing home facility may be authorized for the following:

(1) Any veteran eligible for hospital care under § 17.47 (a), (b), (c), (d) or (f) who has attained the maximum hospital benefit and for whom a protracted period of nursing home care will be required.

(2) Any person who has been furnished care in any hospital of any of the Armed Forces, who the appropriate Secretary concerned has determined has received maximum hospital benefits but requires a protracted period of nursing home care, and who upon discharge therefrom will become a veteran.

(3) Any veteran who requires nursing home care for a service-connected disability without first requiring a period of hospitalization. Admission may be authorized upon a determination of need therefor by a physician employed by the Veterans Administration or, in areas where no such physican is available, by carrying out such function under contract or fee arrangement.

(b) Such nursing home care will be subject to the following restrictions:

(1) Any veteran eligible under paragraph (a)(1) of this section shall be transferred to the nursing home care facility from a hospital under the direct and exclusive jurisdiction of the Veterans Administration, except as provided for in § 17.51b, and

(2) The nursing home care facility is determined to meet the physical and professional standards prescribed by the Chief Medical Director, and

(3) The cost of the nursing home care will not exceed 40 percent of the cost of care furnished by the Veterans Administration in a general medical and surgical hospital as determined from time to time, and

(4) Except as provided for in § 17.51a, nursing home care will not be for more than 6 months in the aggregate in connection with any one transfer, except

in the case of a veteran whose hospitalization was primarily for a service-connected disability. In such case entitlement to nursing home care under this section is not subject to any time limitation.

(5) The standards prescribed by the Chief Medical Director and any report of inspection of institutions furnishing nursing home care to veterans shall, to the extent possible, be made available to all Federal, State, and local agencies charged with the responsibility of licensing or otherwise regulating or inspecting such institutions.

§ 17.51a Extensions of community nursing home care beyond 6 months.

The Chief Medical Director, his deputy, Associate Chief Medical Director for Operations, or the Director, Field Operations may authorize, for any veteran whose hospitalization was not primarily for service-connected disability, an extension of nursing care in a public or private nursing home care facility at Veterans Administration expense beyond 6 months for circumstances of an unusual nature such as when a medical and economic need continues to exist, additional time is required to complete other arrangements for care, or when readmission to a hospital is not deemed professionally advisable despite terminal deterioration of the veteran's medical condition.

§ 17.51b Transfers from facilities for nursing home care in Alaska and Hawaii.

Transfer of any veteran hospitalized in a non-Veterans Administration hospital facility at Veterans Administration expense to a community nursing home facility in Alaska or Hawaii may be authorized subject to the provisions of § 17.51, except paragraph (b)(1).

13. A new centerhead and § 17.54 are added to read as follows:

MEDICAL CARE FOR SURVIVORS AND DEPENDENTS OF CERTAIN VETERANS

§ 17.54 Medical care for survivors and dependents of certain veterans.

(a) Medical care may be provided for: (1) The wife or child of a veteran who has a total disability, permanent in nature, resulting from a service-connected disability, and (2) The widow or child of a veteran who died as a result of a service-connected disability who are not otherwise eligible for medical care as beneficiaries of the Armed Forces under the provisions of chapter 55 of title 10, United States Code (CHAMPUS).

(b) Medical care authorized by paragraph (a) of this section shall be provided in the same or similar manner and subject to the same or similar limitations as medical care furnished to certain dependents and survivors of active duty and retired members of the Armed Forces being furnished such care as beneficiaries of the Armed Forces. Furthermore, it shall be provided in accordance with the terms and conditions set forth in an agreement between the Administrator and the Secretary of Defense under which the Secretary shall include coverage for such medical care under the contract, or contracts, he enters into to provide medical care to beneficiaries of the Armed Forces, and under which the Administrator shall fully reimburse the Secretary for all costs and expenditures made for the purpose of affording the medical care authorized in this section.

(c) In limited situations, the Chief Medical Director or his designee may authorize care and treatment to the class of beneficiaries covered by this section in specialized Veterans Administration medical facilities which are uniquely equipped to provide the most effective care and treatment, and which are not otherwise being utilized for the care of veterans. Such medical care may be furnished on either an inpatient or outpatient basis and may be furnished in either Veterans Administration hospitals or in Veterans Administration outpatient clinics.

14. In § 17.60, the headnote and paragraphs (e), (f), and (h) are amended to read as follows:

§ 17.60 Outpatient care for eligible persons.

Medical services may be furnished to the following applicants under the conditions stated, except that applicants for dental treatment, as defined in paragraphs (a) to (d) inclusive of this section must also meet the applicable provisions of § 17.123:

* * * * *

(e) *For pre-hospital care.* Persons eligible for hospital care under § 17.47, where a professional determination is made that such care is reasonably necessary in preparation for admission of such persons or to obviate the need for bed care.

(f) *For post hospital care.* Persons eligible for hospital care under § 17.47 who have been granted hospital care, and outpatient care is reasonably necessary to complete treatment incident to such hospital care. (38 U.S.C. 612(f)(1)(B))

* * * * *

(h) *For veterans 80 percent or more disabled from a service-connected disability.* Outpatient care, except outpatient dental treatment, may be authorized to treat any non-service-connected disability of a veteran who has a service-connected disability rated at 80 percent or more.

* * * * *

15. The centerhead preceding § 17.75 is changed and §§ 17.75, 17.76 and 17.77 are revised to read as follows:

REIMBURSEMENT FOR LOSS BY NATURAL DISASTER OF PERSONAL EFFECTS OF HOSPITALIZED OR NURSING HOME PATIENTS

§ 17.75 Conditions of custody.

When the personal effects of a patient who has been or is hospitalized or receiving nursing home care in a Veterans Administration hospital or center were or are duly delivered to a designated location for custody and loss of such personal effects has occurred or occurs by fire, earthquake, or other natural disaster, either during such storage or during laundering, reimbursement will be made as provided in §§ 17.76 and 17.77.

§ 17.76 Submittal of claim for reimbursement.

The claim for reimbursement for personal effects damaged or destroyed will be submitted by the patient to the Director. The patient will separately list and evaluate each article with a notation as to its condition at the time of the fire, earthquake, or other natural disaster i.e. whether new, worn, etc. The date of the fire, earthquake, or other natural disaster will be stated. It will be certified by a responsible official that each article listed was stored in a designated location at the time of loss by fire, earthquake, or other natural disaster or was in process of laundering. He will further state whether the loss of each article was complete or partial, permitting of some further use of the article. The responsible official will certify that the amount of reimbursement claimed on each article of personal effects is not in excess of the fair value thereof at time of loss. The certification will be prepared in triplicate, signed by the responsible officer who made it, and countersigned by the Director of the hospital or center. After the above papers have been secured, voucher will be prepared, signed, and certified, and forwarded to the Fiscal Officer for his approval, payment to be made in accordance with fiscal procedure. The original list of property and certificate are to be attached to voucher.

§ 17.77 Claims in cases of incompetent patients.

Where the patient is insane and incompetent, he will not be required to make claim for reimbursement for personal effects lost by fire, earthquake, or other natural disaster as required under the provisions of § 17.76. The responsible official will make claim for him, adding the certification in all details as provided for in § 17.76. After countersignature of this certification by the Director, payment will be made as provided in § 17.76. and the amount thereby disbursed will be turned over to the Director for custody.

16. In § 17.78, that portion of paragraph (a) preceding subparagraph (1) is amended to read as follows:

§ 17.78 Adjudication of claims.

(a) *Claims comprehended.* Claims for reimbursing Veterans Administration employees for cost of repairing or replacing their personal property damaged or destroyed by patients or members while such employees are engaged in the performance of their official duties will be adjudicated by the Director of the station concerned. Such claims will be considered under the following conditions, both of which must have existed and, if either one is lacking, reimbursement or payment for the cost or repair of the damaged article will not be authorized:

* * * * *

17. The centerhead preceding § 17.80 is changed and § 17.80 is revised to read as follows:

PAYMENT AND REIMBURSEMENT OF THE EXPENSES OF MEDICAL SERVICES NOT PREVIOUSLY AUTHORIZED

§ 17.80 Payment or reimbursement of the expenses of hospital care and other medical services not previously authorized.

To the extent allowable, payment or reimbursement of the expenses of care, not previously authorized, in a private or public (or Federal) hospital not operated by the Veterans Administration, or of any medical services not previously authorized including transportation (except prosthetic appliances, similar devices, and repairs) may be paid on the basis of a claim timely filed, under the following circumstances:

(a) *For veterans with service-connected disabilities.* Care or services not previously authorized were rendered to a veteran in need of such care or services: (1) For an adjudicated service-connected disability; (2) for non-service-connected disabilities associated with and held to be aggravating a service-connected disability; (3) for any disability of a veteran who has a total disability permanent in nature resulting from a service-connected disability; (4) for any illness, injury or dental condition in the case of a veteran who is found to be in need of vocational rehabilitation and for whom an objective had been selected or who is pursuing a course of vocational rehabilitation training and is medically determined to have been in need of care or treatment for any of the reasons enumerated in § 17.36(b); and

(b) *In a medical emergency.* Care and services not previously authorized were rendered in a medical emergency of such nature that delay would have been hazardous to life or health, and

(c) *When Federal facilities are unavailable.* Veterans Administration or other Federal facilities were not feasibly available, and an attempt to use them beforehand would not have been reasonable, sound, wise, or practicable, or treatment had been or would have been refused.

18. Section 17.82 is revised to read as follows:

§ 17.82 Claimants.

A claim for payment or reimbursement of services not previously authorized may be filed by the veteran who received the services (or his guardian) or by the hospital, clinic, or community resource which provided the services, or by a person other than the veteran who paid for the services.

19. In § 17.83, the introductory portion preceding paragraph (a) is amended to read as follows:

§ 17.83 Preparation of claims.

Claims for costs of services not previously authorized shall be on such forms as shall be prescribed and shall include the following:

* * * * *

20. In § 17.84, the introductory portion preceding paragraph (a) and paragraph (d) are amended and paragraph (f) is revoked to read as follows:

§ 17.84 Where to file claims.

Claims for payment or reimbursement of the expenses of services not previously authorized should be filed as follows:

* * * * *

(d) *For services rendered in other foreign countries.* Claims for the expenses of care or services rendered in other foreign countries should be filed with the American Embassy or Consulate, and

* * * * *

(f) [Revoked]

21. In § 17.85, the introductory portion preceding paragraph (a) and paragraph (b) are amended and paragraph (c) is added so that the amended and added material reads as follows:

§ 17.85 Timely filing.

Claims for payment or reimbursement of the expenses of medical care or services not previously authorized must be filed within the following time limits:

* * * * *

(b) In the case of care or services rendered prior to a Veterans Administration adjudication allowing service connection, a claim must be filed within 2 years of the date of notification of such allowance of an original or reopened claim for service connection of the disability for which treatment was rendered, except payment will not be made for any care rendered more than 2 years prior to filing the original or reopened claim for service connection which resulted in allowance, or

(c) Claims for medical care and services rendered on or after January 1, 1971 for treatment of a non-service-connected illness or injury for a veteran who has a total disability permanent in nature resulting from a service-connected disability must be filed by August 2, 1975. Claims filed after August 2, 1975, will be subject to the time limit stated in paragraph (a) of this section.

22. Section 17.86 is revised to read as follows:

§ 17.86 Date of filing claims.

The date of filing any claim for payment or reimbursement of the expenses of medical care and services not previously authorized shall be the postmark date of a formal claim, or the date of any preceding telephone call, telegram, or other communication constituting an informal claim.

23. 17.88 and 17.89 are revised to read as follows:

§ 17.88 Retroactive payments prohibited.

When a claim for payment or reimbursement of expenses of services not previously authorized has not been timely filed in accordance with the provisions of § 17.85, the expenses of any such care or services rendered prior to the date of filing the claim shall not be paid or reimbursed. In no event will a bill or claim be paid or allowed for any care or services rendered prior to the effective date of any law, or amendment to the law, under which eligibility for the medical services at Veterans Administration expense has been established.

§ 17.89 Payment for treatment dependent upon preference prohibited.

No reimbursement or payment of services not previously authorized will be made when such treatment was procured through private sources in preference to available Government facilities.

24. Sections 17.95 and 17.96 are revised to read as follows:

§ 17.95 Authority to adjudicate reimbursement claims.

The Veterans Administration medical installation having responsibility for the fee basis program in the region or territory (including the Republic of the Philippines) served by such medical installation shall adjudicate all claims for the payment or reimbursement of the expenses of services not previously authorized rendered in the region or territory.

§ 17.96 Authority to adjudicate foreign reimbursement claims.

The Veterans Administration Hospital, Washington, D.C., shall adjudicate claims for the payment or reimbursement of the expenses of services not previously authorized rendered in any foreign country except the Republic of the Philippines.

25. Section 17.98 is revised to read as follows:

§ 17.98 Authority to approve sharing agreements, contracts for scarce medical specialist services and contracts for other medical services.

The Chief Medical Director is delegated authority to enter into: (a) Sharing agreements authorized under the provisions of 38 U.S.C. 5053 and § 17.210 and which may be negotiated pursuant to the provisions of 41 CFR 8-3.204(c); (b) contracts with medical schools, clinics, and any other group or individual capable of furnishing such services to provide scarce medical specialist services at Veterans Administration facilities (including but not limited to, services of physicians, dentists, nurses, physicians' assistants, dentists' assistants, technicians, and other medical support personnel); and (c) when a sharing agreement or contract for scarce medical specialist services is not warranted, contracts authorized under the provisions of 38 U.S.C. 213 for medical and ancillary services. The authority under this section generally will be exercised by approval of proposed contracts or agreements negotiated at the field station level. Such approval, however, will not be necessary in the case of any purchase order or individual authorization for which authority has been delegated in § 17.99. All such contracts and agreements will be negotiated pursuant to 41 CFR Chapters 1 and 8.

26. In § 17.100, paragraph (a)(1) is amended to read as follows:

§ 17.100 Transportation of claimants and beneficiaries.

Transportation at Government expense will be authorized eligible claimants and beneficiaries of the Veterans Administration for these purposes:

(a) *Admission.* (1) Hospital admission of applicants under §§ 17.47 (a) and (b) and 17.54.

* * * * *

27. In § 17.166, paragraph (a) is amended to read as follows:

§ 17.166 Aid for domiciliary care.

Aid may be paid to the designated State official for domiciliary care furnished in a recognized State home for any veteran if:

(a) The veteran is a veteran of a war or of service after January 31, 1955, and

* * * * *

28. In § 17.166a, the introductory portion of paragraph (a) preceding subparagraph (1) is amended to read as follows:

§ 17.166a Aid for nursing home care.

Aid may be paid to the designated State official for nursing home care furnished in a recognized State home for any veteran if:

(a) The veteran needs nursing home care and is a veteran of a war or of service after January 31, 1955, and in addition:

* * * * *

29. In § 17.166b, paragraph (a) is amended to read as follows:

§ 17.166b Aid for hospital care.

Aid may be paid to the designated State official for hospital care furnished in a recognized State home for any veteran if:

(a) The veteran is a veteran of a war or of service after January 31, 1955, and

* * * * *

30. Section 17.166c is revised to read as follows:

§ 17.166c Amount of aid payable.

The amount of aid payable to a recognized State home shall be at the per diem rates of $4.50 for domiciliary care, $6 for nursing home care, and $10 for hospital care. In no case shall the payments made with respect to any veteran exceed one-half of the cost of the veteran's care in the State home.

§ 17.170 [Amended]

31. The note immediately preceding § 17.170 is revised to read as follows:

NOTE: The purpose of the regulations concerning State home facilities for furnishing nursing home care is to effectuate the provisions of 38 U.S.C. 5031–5037 to assist the several States to construct State home facilities for furnishing nursing home care to war veterans and veterans with service after January 31, 1955.

32. In § 17.170, paragraph (f) is added to read as follows:

§ 17.170 Definitions.

* * * * *

(f) The term "veteran" means a veteran of a war or of service after January 31, 1955.

33. In § 17.171, paragraph (a) is amended to read as follows:

§ 17.171 Nursing home beds required for war veterans by State.

(a) For purposes of the regulations concerning State home facilities for furnishing nursing home care, Appendix "A" prescribes the number of beds required to provide adequate nursing home care to war veterans residing in each State. Such number does not exceed two and one-half beds per 1,000 war veteran population of such State.

* * * * *

34. In § 17.173(a), subparagraph (1) is amended and subparagraph (4) is added and paragraphs (c) and (d) are amended to read as follows:

§ 17.173 Applications with respect to projects.

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

(1) The amount of the grant requested with respect to such project which may not exceed 65 per centum of the estimated cost of construction of such project,

* * * * *

(4) Any comments or recommendations made by appropriate State clearing houses pursuant to policies outlined in Part I, Office of Management and Budget Circular A–95 (revised).

* * * * *

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

(1) There are sufficient funds available to make the grant requested with respect to such project,

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

(3) Such grant does not exceed 65 per centum of the estimated cost of construction of such project,

(4) The application contains such assurances as to use, title, financial support, reports and access to records, payment of prevailing rates of wages, and compliance with the provisions of Executive Order 11246 (3 CFR Ch. IV) as required in paragraph (b) of this section,

(5) The plans and specifications for such project are in accord with VA general standards, appendix "B", and,

(6) The construction of such project, together with other projects under construction, and other facilities will not exceed the two and one-half beds per thousand war veteran population limitation prescribed in § 17.171.

(d) The Administrator shall certify applications which he approves to the Secretary of the Treasury in the amount of the grant requested, but in no event an amount greater than 65 per centum of the estimated cost of construction of the project, and shall designate the appropriation from which it shall be paid. Such certification shall provide for payment to the applicant or, if designated by the applicant, the State home for which such project is being constructed or any other agency or instrumentality of the applicant. Such amount shall be paid by way of reimbursement, and in such installments consistent with the progress of construction as the Administrator may determine and certify for payment to the Secretary of the Treasury. Funds paid for the construction of an approved project will be used solely for carrying out such project as so approved.

35. Section 17.175 is revised to read as follows:

§ 17.175 Recapture provisions.

If, within 20 years after completion of any project for construction of facilities for furnishing nursing home care with respect to which a grant has been made under the regulations concerning State home facilities for furnishing nursing home care, such facilities cease to be operated by a State, a State home, or an agency or instrumentality of a State principally for nursing home care to war veterans, the United States shall be entitled to recover from the State which was the recipient of the grant or from the then owner of such facilities, 65 per centum of the then value of such facilities, as determined by agreement of the parties or by action brought in the district court of the United States for the district in which such facilities are situated (38 U.S.C. 5036).

36. In § 17.180, paragraph (e) is added to read as follows:

§ 17.180 Definitions.

* * * * *

(e) The term "veteran" for purposes of §§ 17.180 through 17.184 means a veteran of a war or of service after January 31, 1955.

37. Section 17.181 is revised to read as follows:

§ 17.181 Scope of grant program.

Subject to availability of an appropriation, a grant may be made to a State which has submitted, and has had approved by the Administrator, an application for assistance in remodeling, modification or alteration of existing domiciliary and hospital facilities in State homes providing care and treatment of war veterans and recognized by the Veterans Administration for the purpose of payment of Federal aid pursuant to 38 U.S.C. 641. The amount of the grant requested with respect to such project may not exceed 65 percent of the estimated total cost of construction of such project nor may one State receive a commitment of more than 20 percent of the

amount appropriated for the grant program for that fiscal year. Grants shall include fixed equipment included in construction contracts, but shall not be made for construction of new buildings or for additions to existing buildings.

38. In § 17.182(b), the period at the end of subparagraph (7) is changed to "; and" and a new subparagraph (8) is added; in paragraph (c), subparagraph (2) is amended, the period at the end of subparagraph (5) is changed to "; and" and a new subparagraph (6) is added; and paragraph (d) is amended so that the amended and added material reads as follows:

§ 17.182 Project applications.

* * * * *

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

* * * * *

(8) The proposal has been favorably reviewed by the appropriate State or local clearing house pursuant to policies outlined in Part I, Office of Management and Budget Circular A-95 (revised).

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

* * * * *

(2) Such grant does not exceed 65 percent of the estimated cost of construction of such project and does not result in a commitment of more than 20 percent of the amount appropriated for that fiscal year;

* * * * *

(6) The proposal has been favorably reviewed by the State or local clearing house pursuant to policies outlined in Part I, Office of Management and Budget Circular A-95 (revised).

(d) The Administrator shall certify applications which he approves to the Secretary of the Treasury in the amount of the grant requested but in no event an amount greater than 65 percent of the estimated (or actual) cost of construction of the project, which shall not have resulted in commitment in any fiscal year of more than 20 percent of the amount appropriated for that fiscal year, and shall designate the appropriation from which it shall be paid. Such certification shall provide for payment to the applicant or, if designated by the applicant, the State home for which such project is being constructed or any other agency or instrumentality of the applicant. Such amount shall be paid by way of reimbursement, and in such installments consistent with the progress of construction as the Administrator may determine and certify for payment to the Secretary of the Treasury. Funds paid for the construction of an approved project will be used solely for carrying out such project as so approved.

* * * * *

39. In § 17.210, the introductory portion preceding paragraph (a) is amended to read as follows:

§ 17.210 Sharing specialized medical resources.

Subject to such terms and conditions as the Chief Medical Director shall prescribe agreements may be entered into for sharing medical resources with other hospitals, including State or local, public or private hospitals or other medical installations having hospital facilities or medical schools or clinics in a medical community with geographical limitations determined by the Chief Medical Director, provided:

* * * * *

40. Sections 17.352 and 17.353 are revised to read as follows:

§ 17.352 Amounts and use of grant funds for the replacement and upgrading of equipment.

Grants awarded under § 17.351 shall not exceed the amounts provided by the appropriation acts of the Congress of the United States for the purpose. Funds appropriated for the upgrading and replacement of equipment at the Veterans Memorial Hospital, or for rehabilitating its equipment, shall remain available in consecutive fiscal years until expended, but in no event shall exceed the amount of $50,000 per year. It is not intended that such funds will be utilized to expand the hospital facilities. Upgrading of equipment, however, would permit purchase of new and additional equipment not now possessed by the hospital.

§ 17.353 Grants for education and training.

Grants to the Republic of the Philippines to assist the Veterans Memorial Hospital in medical education and training of health service personnel, which the Administrator may make under the authority cited in § 17.350, shall be subject to such terms and conditions as he shall prescribe. Among such terms and conditions to which the grants will be subject will be United States Veterans Administration approval of all education and training programs to be supported by grant funds. Grants under this section shall not exceed the amounts provided by the appropriation acts of the Congress of the United States for such purpose and in no event shall exceed $50,000 for each fiscal year during the 5 years beginning with fiscal year 1973.

41. Sections 17.360 and 17.361 are revised to read as follows:

§ 17.360 Payments for medical care in lieu of grants.

Subject to the provisions of §§ 17.361 through 17.370, payments in lieu of grants for reimbursement of medical expenses, may be made for hospital and nursing home care, outpatient care, and transportation furnished Commonwealth Army veterans or new Philippine Scout veterans in connection with treatment at the Veterans Memorial Hospital (or at a facility under contract or subcontract) authorized under § 17.37(b), 17.38 (a) or (b), 17.40, or 17.41. Costs for outpatient care shall be segregated from inpatient care costs. Hospital and nursing home costs shall be computed on the basis of per diem costs as agreed upon for each fiscal year by the Government of the United States and the Government of the Republic of the Philippines, and the expenses for services, supplies, and other items to be included in the per diem rate shall be as agreed upon by the two Governments.

§ 17.361 Limitations on payments for medical and nursing home care.

Payments in lieu of grants under § 17.360 shall not exceed the amounts provided by the appropriation act of the Congress of the United States for such purpose, and in no event shall exceed $2 million for each fiscal year during the 5 years beginning with fiscal year 1974. This sum shall include an amount not to exceed $250,000 for any one such fiscal year for nursing home care. In determining these limitations the following costs shall:

(a) Exclude all medical and nursing home care and transportation costs incurred in connection with authorized treatment at the Veterans Memorial Hospital of United States veterans, and

(b) Include all medical care and transportation costs incurred in connection with outpatient treatment authorized under § 17.40 for Commonwealth Army or new Philippine Scout veterans.

42. Section 17.362 is revised to read as follows:

§ 17.362 Acceptance of medical supplies as payment.

Upon request of the Government of the Republic of the Philippines, payment for medical and nursing home services for which payment may be authorized under § 17.360, may consist in whole or in part, of available medicines, medical supplies, or equipment furnished by the Veterans Administration to the Veterans Memorial Hospital at valuations determined by the Administrator. Such valuations shall not be less than the cost of the items and shall include the cost of transportation, arrastre, brokerage, shipping and handling charges.

43. Section 17.365 is revised to read as follows:

§ 17.365 Admission priorities.

In determining admissions or transfers of eligible Commonwealth Army veterans, new Philippine Scout veterans and United States veterans to Veterans Memorial Hospital, and in determining discharges, the following priorities shall be observed:

(a) First priority shall be given to the admission and retention of eligible Commonwealth Army veterans and new Philippine Scouts in need of care for service-connected disability or non-service-connected disability associated with and held to be aggravating a service-connected disability, and

(b) Second priority shall be given to the admission and retention of United States veterans who are in need of treatment for service-connected disabilities or non-service-connected disabilities associated with and held to be aggravating a service-connected disability, and

(c) Third priority shall be given the admission or retention of Commonwealth Army veterans, new Philippine

Scout veterans and United States veterans in need of hospital care for non-service-connected disabilities.

[FR Doc.74-1068 Filed 1-14-74;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER B—GRANTS

PART 35—STATE AND LOCAL ASSISTANCE

Subpart E—Grants for Construction of Treatment Works—Federal Water Pollution Control Act Amendments of 1972

STATE ALLOTMENTS

Section 205(a) of the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500) provides for the allotment to the States of sums not to exceed those authorized to be appropriated by section 207 of the Act. The formula for allotment of sums available to the States is determined by the provisions of section 205. These regulation amendments are promulgated reflecting a sum of $4 billion being allotted to the States based 50 percent on the ratios of Table I and 50 percent of Table II of House Public Works Committee Print No. 93-28, pursuant to P.L. 93-243 with no State receiving less than its Fiscal Year 1972 allotment. The allotment for Fiscal Year 1975 is rounded to the nearest $50 to be compatible with the Fiscal Year 1972 allotment.

In addition to the allotment of Fiscal Year 1975 contract authority, this promulgation also reflects editorial changes in the previously published allocation regulations, which are made on the basis of public and intra-agency comment, in the interest of clarifying the allocation mechanism.

Effective date. This regulation shall become effective immediately upon publication. Good cause for immediate effectiveness of this regulation is found in section 205(a) of the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500), which requires that the allotments contained herein be made by January 1 immediately preceding the beginning of the fiscal year for which funds are authorized.

Dated: January 9, 1974.

RUSSELL E. TRAIN,
Administrator.

Revise §§ 35.910-1 and 35.910-2 as follows:

§ 35.910-1 Allotment.

Allotments shall be made among the States from funds authorized to be appropriated pursuant to section 207 in the ratio that the most recent congressionally approved estimate of the cost of constructing all needed publicly owned treatment works in each State bears to the most recent congressionally approved estimate of the cost of construction of all needed publicly owned treatment works in all of the States. Computation of a State's ratio shall be carried out to the nearest ten thousandth percent (0.0001 percent) and allotted amounts will be rounded to the nearest thousand dollars except for Fiscal Year 1975 which will be rounded to the nearest fifty dollars.

§ 35.910-2 Reallotment.

(a) Sums allotted to a State under § 35.910-1 shall be available for obligation on and after the date of such allotment and shall continue to be available to such State for a period of one year after the close of the fiscal year for which such sums are authorized. Funds remaining unobligated at the end of the allotment period will be immediately reallotted by the Administrator, on the basis of the most recent allotment ratio to those States which have used their full allotment.

(b) Reallotted sums shall be added to the last allotments made to the States and shall be in addition to any other funds otherwise allotted, and be available for obligation in the same manner and to the same extent as such last allotment.

(c) Any sums which have been obligated under this subpart which remain after final payment, or after termination of a project, shall be credited to the State to which such sums were last allotted. Such released sums shall be added to the amounts last allotted to such State and shall be available for obligation in the same manner and to the same extent as such last allotment.

§ 35.910-3 Fiscal Year 1973 and 1974 Allotments.

(a) For Fiscal Years ending June 30, 1973 and June 30, 1974, sums of $2 billion and $3 billion, respectively, have been allotted on the basis of Table III of House Public Works Committee Print No. 92-50.

(b) The percentages used in computing the State allotments set forth in paragraph (c) of this section for Fiscal Years 1973 and 1974 are as follows:

State	Percentage	State	Percentage
Alabama	0.3612	Missouri	1.6556
Alaska	.2252	Montana	.1662
Arizona	.1346	Nebraska	.3708
Arkansas	.3536	Nevada	.2877
California	9.8176	New Hampshire	.8309
Colorado	.3166	New Jersey	7.7040
Connecticut	1.6810	New Mexico	.2108
District of Columbia	.7114	New York	11.0578
Delaware	.6565	North Carolina	.9229
Florida	3.6264	North Dakota	.0467
Georgia	.9730	Ohio	5.7737
Hawaii	.3303	Oklahoma	.4608
Idaho	.2177	Oregon	.8494
Illinois	6.2489	Pennsylvania	5.4214
Indiana	3.3662	Rhode Island	.4889
Iowa	1.1557	South Carolina	.6455
Kansas	.3742	South Dakota	.0948
Kentucky	.6599	Tennessee	1.1605
Louisiana	.9428	Texas	2.7694
Maine	0.9675	Utah	.1408
Maryland	4.2582	Vermont	.2218
Massachusetts	3.7576	Virginia	2.9143
Michigan	7.9814	Washington	.8906
Minnesota	2.0319	West Virginia	.4999
Mississippi	.3935	Wisconsin	1.7415
		Wyoming	.0263
		Guam	.0872
		Puerto Rico	.8845
		Virgin Islands	.0893
		American Samoa	.0048
		Trust Territory of Pacific Islands	.0378
			100.0000

(c) Based upon the percentages, the sums allotted to the States as of July 1, 1973, for Fiscal Years 1973 and 1974 are as follows:

State	Fiscal year 1973	Fiscal year 1974
Alabama	$7,224,000	$10,836,000
Alaska	4,504,000	6,756,000
Arizona	2,692,000	4,038,000
Arkansas	7,072,000	10,608,000
California	196,352,000	294,528,000
Colorado	6,332,000	9,498,000
Connecticut	33,620,000	50,430,000
Delaware	13,130,000	19,695,000
District of Columbia	14,228,000	21,342,000
Florida	72,528,000	108,792,000
Georgia	19,460,000	29,190,000
Hawaii	6,606,000	9,909,000
Idaho	4,354,000	6,531,000
Illinois	124,978,000	187,467,000
Indiana	67,324,000	100,986,000
Iowa	23,114,000	34,671,000
Kansas	7,484,000	11,226,000
Kentucky	13,198,000	19,797,000
Louisiana	18,856,000	28,284,000
Maine	19,350,000	29,025,000
Maryland	85,164,000	127,746,000
Massachusetts	75,152,000	112,728,000
Michigan	159,628,000	239,442,000
Minnesota	40,638,000	60,957,000
Mississippi	7,870,000	11,805,000
Missouri	33,112,000	49,668,000
Montana	3,324,000	4,986,000
Nebraska	7,416,000	11,124,000
Nevada	5,754,000	8,631,000
New Hampshire	16,618,000	24,927,000
New Jersey	154,080,000	231,120,000
New Mexico	4,216,000	6,324,000
New York	221,156,000	331,734,000
North Carolina	18,458,000	27,687,000
North Dakota	934,000	1,401,000
Ohio	115,474,000	173,211,000
Oklahoma	9,216,000	13,824,000
Oregon	16,988,000	25,482,000
Pennsylvania	108,428,000	162,642,000
Rhode Island	9,778,000	14,667,000
South Carolina	12,910,000	19,365,000
South Dakota	1,896,000	2,844,000
Tennessee	23,210,000	34,815,000
Texas	55,388,000	83,082,000
Utah	2,816,000	4,224,000
Vermont	4,436,000	6,654,000
Virginia	58,286,000	87,429,000
Washington	17,812,000	26,718,000
West Virginia	9,998,000	14,997,000
Wisconsin	34,830,000	52,245,000
Wyoming	536,000	804,000
Guam	1,744,000	2,616,000
Puerto Rico	17,690,000	26,535,000
Virgin Islands	1,786,000	2,679,000
American Samoa	96,000	144,000
Trust Territory of Pacific Islands	756,000	1,134,000
Total	2,000,000,000	3,000,000,000

§ 35.910-4 Fiscal Year 1975 Allotments.

(a) For the Fiscal Year ending June 30, 1975, a sum of $4 billion has been allotted based 50 percent on the ratios of Table I and 50 percent of Table II of House Public Works Committee Print No. 93-28, pursuant to P.L. 93-243.

(b) The percentages used in computing the State allotments set forth in paragraph (c) below, for Fiscal Year 1975 are as follows:

State	Percentage	State	Percentage
Alabama	0.8016	New York	12.4793
Alaska	0.3830	North Carolina	1.7929
Arizona	0.4066	North Dakota	0.0818
Arkansas	0.6069	Ohio	4.9184
California	11.6340	Oklahoma	1.1953
Colorado	0.7867	Oregon	0.8682
Connecticut	1.7687	Pennsylvania	5.6652
Delaware	0.5548	Rhode Island	0.5306
District of Columbia	0.9724	South Carolina	1.4223
Florida	4.1838	South Dakota	0.0907
Georgia	1.9369	Tennessee	1.2303
Hawaii	1.0463	Texas	1.6534
Idaho	0.2009	Utah	0.4217
Illinois	6.4173	Vermont	0.3001
Indiana	1.6196	Virginia	2.5096
Iowa	1.0012	Washington	1.6463
Kansas	1.0222	West Virginia	0.9598
Kentucky	1.6579	Wisconsin	1.3317
Louisiana	0.7245	Wyoming	0.0768
Maine	0.6670	Guam	0.0478
Maryland	1.3767	Puerto Rico	1.0385
Massachusetts	2.2945	Virgin Islands	0.0796
Michigan	4.7978	American Samoa	0.0147
Minnesota	1.6341	Trust Territory of the Pacific Islands	0.0133
Mississippi	0.5355		
Missouri	1.8960		
Montana	0.1421		
Nebraska	0.5314		
Nevada	0.4755		
New Hampshire	0.8920		
New Jersey	6.4769		
New Mexico	0.1869		

(c) Based upon the percentages set forth in paragraph (b) and allotment adjustments the sums allotted to the States as of January 1, 1974, are as follows:

Alabama	$33,785,150
Alaska	15,059,100
Arizona	17,695,750
Arkansas	23,860,100
California	457,420,100
Colorado	30,930,900
Connecticut	69,542,900
Delaware	21,815,300
District of Columbia	88,233,800
Florida	164,496,400
Georgia	76,153,000
Hawaii	41,140,000
Idaho	7,898,400
Illinois	252,311,700
Indiana	63,678,100
Iowa	39,364,800
Kansas	40,192,500
Kentucky	65,183,600
Louisiana	35,551,850
Maine	26,227,000
Maryland	54,128,100
Massachusetts	90,215,900
Michigan	188,637,400
Minnesota	64,247,300
Mississippi	22,346,700
Missouri	74,546,400
Montana	7,534,600
Nebraska	20,894,000
Nevada	18,695,600
New Hampshire	35,072,950
New Jersey	254,656,200
New Mexico	10,670,500
New York	490,654,200
North Carolina	70,494,200
North Dakota	6,876,100
Ohio	193,378,700
Oklahoma	46,997,400
Oregon	34,136,700
Pennsylvania	222,744,100
Rhode Island	20,864,000
South Carolina	55,922,000
South Dakota	7,308,800
Tennessee	48,371,800
Texas	106,900,250
Utah	16,579,600
Vermont	11,800,800
Virginia	98,672,400
Washington	64,730,500
West Virginia	37,735,700
Wisconsin	52,360,400
Wyoming	4,049,450
Guam	2,172,000
Puerto Rico	40,832,900
Virgin Islands	3,130,900
American Samoa	576,700
Trust Territory of Pacific Islands	524,300

Allotment adjustment has been made for those States that would receive an allotment that would be less than their Fiscal Year 1972 allotment. The allotment of those States which fall below their Fiscal Year 1972 allotment will be restored to their Fiscal Year 1972 allotment using funds from the total allotment. Remaining funds will be allocated to States (excluding the States with allotment adjustment) based on adjusted percentages. Minimum allotment amounts are determined on the basis of Table III of House Public Works Committee Print 93–28.

[FR Doc.74–1057 Filed 1–14–74;8:45 am]

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to Surcharge and Management of Parking Supply Regulations

Between November 6 and December 12, 1973, the Environmental Protection Agency, acting under court order, promulgated or approved transportation control plans in the FEDERAL REGISTER for 30 major urban areas. Many aspects of these plans have been highly controversial, but without doubt the most dispute has centered on parking surcharge measures to be implemented in ten air quality regions or portions of regions in California, Massachusetts, New Jersey, and the District of Columbia area, and on regulations providing for the review of all new parking facilities over a certain size limit in these and other jurisdictions. On the basis of information and studies available to EPA at the time of promulgation, each of these measures appeared to be most effective in carrying out the mandate of the law.

When the House Committee on Interstate and Foreign Commerce reported out its version of the Energy Emergency Act on December 10, 1973, it included a provision forbidding the imposition of parking surcharges by EPA without the consent of Congress. In addition, the Committee directed the Administrator to submit a study to Congress within six months on the necessity and desirability of such fees to achieve air quality standards.

This provision was then amended on the floor of the House to also forbid the requiring of bus/carpool lanes and the review of new parking facilities without prior Congressional approval.

The Conference Committee, in its draft report on the Energy Emergency Act, retained the prohibition on surcharges without prior Congressional approval. The prohibition on bus/carpool lanes was dropped, and the prohibition on review of new parking facilities was changed to a grant of authority to the Administrator to suspend such review until January 1, 1975. It was the understanding both of the Administrator and of the conferees that this authority would extend to "indirect source" regulations insofar as they concerned parking facilities, and that the authority would be exercised if granted. The Administrator would have been required to submit a report to Congress on the necessity, economic impact, and relation to other Federal transportation programs of all three types of control measures.

The Energy Emergency Act was not passed by Congress for reasons completely unrelated to the amendments to the Clean Air Act which it contained. Even so, it is my judgment that the provisions it contains respecting transportation controls should be regarded as firm congressional guidance on that issue. On the House side, these provisions were reported out by the same committee that has jurisdiction over the Clean Air Act, and were made more stringent by the full House. The Conference Committee contained three members of the Senate Subcommittee on Air and Water Pollution, in which the transportation control provisions of the Clean Air Amendments of 1970 originated. These members participated with their counterparts on the House side in a special subcommittee of the conferees to consider the Clean Air Act, and the language in the draft conference report represents their agreement.

The Clean Air Act, even as it now stands, does not authorize the imposition before mid-1977 of any transportation control measures which are not "reasonably available" at the time they are imposed. In making my determination of what measures are in fact "reasonably available" under the statute, I do not believe I may properly ignore such strong expressions of intent on the part of those who wrote it as set forth above. Accordingly, I am by this notice taking the following actions to conform all transportation control plans promulgated by EPA to the expressed intent of Congress:

1. All surcharge regulations are being withdrawn. This includes general surcharge regulations in California, the District of Columbia area, and Massachusetts, as well as "employer incentive" regulations in California and New Jersey which by their language explicitly require surcharges. This will not prevent EPA from approving any surcharge which may be adopted and submitted either by a state as part of an implementation plan or by an employer as part of an incentive plan, although in no case will the adoption of surcharges be made a condition of plan approval. The "employer incentive" regulations in California and New Jersey will be replaced

with more generally worded regulations on the schedules previously announced in notices of proposed rulemaking affecting these two states.

2. All regulations providing for the review of new parking facilities to determine their individual impact on air quality are being mended to defer the date of review of these facilities until January 1, 1975. This will also be the effective date of any review of parking facilities under the "indirect source" regulations which are currently required by court order to be promulgated on or before January 31, 1974.

In addition to these steps, EPA will also make the study and write the report called for in the conference bill and will report its findings and conclusions to the Congress as specified. The Agency looks forward to productive discussion with the Congress of transportation control measures generally. Such measures, if properly and prudently applied, can contribute significantly to the reduction of automobile caused air pollution and to the creation of improved metropolitan environments in the years to come.

The preparation of this report to Congress will provide additional material for the factual and policy background against which Congress and EPA can jointly explore the questions raised by the use of parking surcharges in transportation control plans. In addition, the year's delay in implementing parking review will make possible a thorough reexamination of the current parking regulations, and the report should also assist that process. Local governments will be able to use this time to develop region-wide parking management plans that can remove the need for any EPA promulgation. A number of local governments have already begun this process and have requested EPA assistance. To further encourage this effort, the Agency will within the next six months issue general guidelines for developing such plans. Where local plans are submitted on or before October 15, 1974, EPA will defer any potential case-by-case review of individual parking facilities until the submitted plan can be fully evaluated.

In view of the fact that his notice simply carries out Congressional instructions which but for unrelated events would have been law by now, the Administrator finds that good cause exists for making these regulations effective January 15, 1974. In the case of parking review regulations, good cause is also provided by the need to remove uncertainty and delay in the construction of building projects, particularly those projects which are currently under construction and have applied for permits under the regulations as they now stand.

This notice of final rulemaking is issued under authority of sections 110 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 1857c-5 and 1857g(a).

Dated: January 9, 1974.

RUSSELL E. TRAIN,
Administrator.

Part 52 of 40 CFR Ch. I is amended as follows:

1. The following sections are revoked and reserved:

a. Subpart F—§§ 52.248, 52.249, and 52.250.

b. Subpart W—§§ 52.1150 and 52.1137.

c. Subpart FF—§ 52.1590.

d. Subpart WW—§ 52.2488.

2. The following paragraphs in the sections specified are revoked, and the succeeding paragraphs are redesignated accordingly:

a. In subpart J, paragraph (d)(3) of § 52.476.

b. In subpart V, paragraph (d)(3) of § 52.1080.

c. In subpart W, paragraphs (b), (c), and (d) of § 52.1136.

d. In subpart VV, paragraph (b)(3) of § 52.2435.

3. The following paragraphs of the following sections are amended by deleting the phrases "August 15, 1973", "November 12, 1973", "November 13, 1973", and "February 15, 1974" wherever they appear, and substituting in each case the phrase "January 1, 1975":

a. Subpart C—paragraphs (c), (d), and (h) of § 52.86.

b. Subpart D—paragraphs (c), (d), and (h) of § 52.139.

c. Subpart F—paragraphs (c), (d), and (g) of § 52.251.

d. Subpart J—paragraphs (c) and (d) of § 52.493.

e. Subpart V—paragraphs (c) and (d) of § 52.1103 and paragraphs (c), (d), and (j) of § 52.1111.

f. Subpart W—paragraph (d) of § 52.1135.

g. Subpart FF—paragraphs (c), (d), and (g) of § 52.1588.

h. Subpart NN—paragraphs (c), (d), and (h) of § 52.2040.

i. Subpart SS—paragraphs (c) and (d) of § 52.2295.

j. Subpart VV—paragraphs (c) and (d) of § 52.2443.

k. Subpart WW—paragraphs (c), (d), and (h) of § 52.2486.

4. In Subpart D, the second sentence of paragraph (k) of § 52.139 is amended by substituting "October 15, 1974" for "April 1, 1974". The third sentence in that paragraph is amended by deleting the phrase "By June 1, 1974".

5. In Subpart F, paragraph (j) of § 52.251 is amended by changing "March 31, 1974" to "October 15, 1974".

6. In Subpart SS, paragraph (1) of § 52.2295 is amended by changing "December 1, 1973" to "December 1, 1974".

[FR Doc.74-1058 Filed 1-14-74;8:45 am]

Title 45—Public Welfare

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

PART 177—FEDERAL, STATE AND PRIVATE PROGRAMS OF LOW-INTEREST LOANS TO VOCATIONAL STUDENTS AND STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

Special Allowances

Subparagraph (3) of § 177.4(c), *Special allowances*, which deals with the payment to lenders of the allowances authorized by section 2 of the "Emergency Insured Student Loan Act of 1969" (Pub. L. 91-95) is amended to provide for the payment of such an allowance for the period October 1, 1973, through December 31, 1973, inclusive.

In light of the directives in the Emergency Insured Student Loan Act of 1969 with respect to the factors that the Secretary of Health, Education, and Welfare is to consider and the officials with whom he is to consult in setting the rate of the special allowance, and since a comment period would cause delay of at least 30 days, following each quarterly 3-month period, before lenders could apply for the special allowance for such period, it has been determined pursuant to 5 U.S.C. 553 that the solicitation of comment as to the rate of the special allowance for any particular quarter is both unnecessary and contrary to the public interest. The amendment to § 177.4(c)(3) effected hereby will therefore become effective immediately.

Section 177.4(c)(3) is amended as follows:

§ 177.4 **Payment of interest benefits, administrative cost allowances and special allowance.**

* * * * *

(c) *Special allowances.* * * *

(3) Special allowances are authorized to be paid as follows:

* * * * *

(xviii) For the period October 1, 1973, through December 31, 1973, inclusive, a special allowance is authorized to be paid in an amount equal to the rate of two and one-half percent per annum of the average unpaid balance of disbursed principal of eligible loans.

(Sec. 2, 83 Stat. 141)

Dated: January 3, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

Approved: January 11, 1974.

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

(Catalog of Federal Domestic Assistance No. 13.460 Guaranteed Student Loan Program)

[FR Doc.74-1317 Filed 1-10-74;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19823, FCC 74-22]

PART 73—RADIO BROADCAST SERVICES

FM Table of Assignments for Certain States

In the matter of amendment of § 73.202(b), FM Broadcast Stations (Brattleboro, Vt.; Ship Bottom, N.J.; Derby, Kans.; Amherst, Mass.; Tallulah, La.; Wadesboro, N.C.; Jena, La.; Bowling Green, Mo.; Chillicothe, Ill.; and Butler, Mo.). Docket No. 19823, RM-2131, RM-2202, RM-2190, RM-2204, RM-2159, RM-2207, RM-2189, RM-2220, RM-2191, RM-2221, RM-2233.

1. The Commission has under consideration its notice of proposed rule making adopted September 11, 1973, FCC 73-945 (38 FR 26465), inviting comments on a number of changes in the FM Table of Assignments (§ 73.202(b) of the rules). With the exception of the proposal for Wadesboro, North Carolina, all proposals were unopposed. Except as noted, the population figures were taken from the 1970 U.S. Census. The communities, channel assignments proposed, and petitioning parties are as follows:

RM-2131	Channel 244A to Brattleboro, Vermont (Southern Vermont Broadcasters, Inc.).
RM-2159	Channel 261A to Ship Bottom, New Jersey (Max L. Raab).
RM-2189	Channel 240A to Derby, Kansas (Benjamin Foster and Hank Parkinson).
RM-2190	Channel 224A to Brattleboro, Vermont (Radio Brattleboro, Inc.).
RM-2191	Channel 265A to Amherst, Massachusetts (Hampshire County Broadcasting Co.).[1]
RM-2202	Channel 285A to Tallulah, Louisiana (Radio Station KTLD).[1]
RM-2204	Channel 272A to Wadesboro, North Carolina (Carolinas Advertising, Inc.).[2]
RM-2207	Channel 257A to Jena, Louisiana (Radio Station KCKW).
RM-2220	Channel 265A to Bowling Green, Missouri (Pike County Broadcasting Co.).
RM-2221	Channel 232A to Chillicothe, Illinois (William D. Englebrecht).
RM-2233	Channel 288A to Butler, Missouri (Bates County Broadcasting Co.).

2. In each of the above cases, the petitioning party seeks the assignment of a first channel without requiring any other changes in the FM Table of Assignments. With the exception of Amherst, Mass., Tallulah, La. and Wadesboro, N.C., which require the transmitters to be located short distances from the communities, each assignment can be made in conformance with the Commission's minimum mileage separation rule. (See footnote 1.) Each petitioning party stated its intent to apply for the channel, if assigned, and to build a station if authorized.

3. We have given careful consideration to all comments, supporting statements and other pleadings, and find it in the public interest to assign the proposed FM channels to the above-listed communities with the exception of Wadesboro, N.C. (See paragraph 5, below.) While in two cases the original proponents did not come forward with comments, we are adopting these as well as the nine which were supported, since they appear generally meritorious. In the Notice of Proposed Rule Making in this proceeding, we set out the economic and other information pertaining to the need for a first FM assignment in each of the communities. We shall, therefore, not repeat it in this document.

[1] In order to meet the minimum spacing requirements of our rules, a site 2 miles southwest of Amherst, Mass., would be required; a site 6 miles southwest of Wadesboro, N.C., would be required; and a site west of Tallulah, La. would be required.

4. *Brattleboro, Vermont.* With reference to the two separate petitions filed, each proposing the assignment of a first FM channel to Brattleboro, Vermont (population 12,239), we stated in our Notice of Proposed Rule Making that it was not clear from the petitions whether, if two channels were assigned to Brattleboro, each petitioner would be willing to build a station there. We requested the petitioners to furnish information on this point as well as information as to whether Brattleboro could support two FM stations. In comments filed by Radio Brattleboro, Inc. (RM-2190) (petitioner proposing assignment of 224A), petitioner states that, if the channel is assigned, it will immediately file its application notwithstanding the assignment of a second FM channel since it feels that Brattleboro has a need for the type of service it can provide and further states that it is confident that Brattleboro's rapid growth can adequately sustain two FM channels. It points out an increase in actual and proposed residential home construction at Brattleboro as indicating the growth that is occurring there. Petitioner further states that coupled with the increase in housing is an expansion in Brattleboro's major industries. It notes, for example, that present local producers of paper look to a 5 percent to 8 percent a year increase in production with a total employment gain of 25 percent by 1977. Petitioner contends that although Brattleboro and Windham County (population 33,074), in which it is located, are rapidly growing, Brattleboro does not have a single FM channel assigned to it nor does any community in Windham County, and since allocation of two FM channels can be made, there is no reason for the residents of Brattleboro to continue to be deprived of the mass communications facilities that are designed to meet the public needs and interests. In comments filed by Southern Vermont Broadcasters, Inc. (Rm-2131), (petitioner proposing assignment of Channel 244A) petitioner states it will expeditiously apply to activate Channel 244A regardless of whether Channel 224A is assigned to Brattleboro. Petitioner feels there is ample revenue potential in the area which would certainly support its proposed FM facility. It notes that at present both Brattleboro AM stations (Class IV) serve the communities surrounding Brattleboro only to a limited extent during the day and almost not at all at night. In petitioner's opinion the additional market areas which will be opened to it by the greater coverage radius offered by an FM facility will provide the revenues necessary to underwrite the cost of operating that facility. Moreover, petitioner believes that if each of the Class IV AM stations is given an opportunity to add FM facilities (the AM licensees are the petitioners herein) they could remain on a par technically and program service to the area will be improved since the stations will be forced to continue competing for listeners by presenting attractive programming, which would not be the case if only one FM outlet were available in the community.

5. We believe that the two proposed FM channels should be assigned to Brattleboro. The two channel assignments would provide for two Class A FM stations which would cover larger areas at night with broadcast service than presently available from the two Class IV AM stations. In addition, considering the size of Brattleboro and its anticipated growth, and since the assignments can be made without any adverse effect on other stations, we are of the view that the assignment of the channels would serve the public interest.

6. *Wadesboro, North Carolina.* The Notice, on the basis of a petition filed by Carolinas Advertising, Inc., licensee of standard broadcast Station WADE, proposed assignment of Channel 272A to Wadesboro, North Carolina. It noted that Wadesboro, with a population of 3,977 persons, is the seat of Anson County (population 23,488) and has a daytime-only AM station. Carolinas Advertising filed comments in support of the proposed assignment.

7. Comments were also filed by Robert Broadcasting Company, Inc., urging the assignment of Channel 272A to Pageland, South Carolina,[3] instead of Wadesboro, North Carolina. Pageland is located some 22 miles southwest of Wadesboro. Robert Broadcasting asserts that Pageland does not have a broadcast outlet and that assigning the channel to Pageland will give it the first diversity of local expression since none of the principals of petitioner has any connection with the Pageland weekly newspaper. It contends that Pageland has a population of 2,122 persons and is located in Chesterfield County which has a population of 33,667 persons. The government of Pageland, it avers, is a mayor-council form with the mayor and the four councilmen serving two-year terms of office and the county is governed by a three-member board of commissioners who are elected for two-year terms. It states that Pageland has a police department and a 24-man volunteer fire department, and that there are five major industries in Pageland, which employ 758 persons. Robert Broadcasting further states that if the channel is assigned to Pageland, it will promptly construct and operate the station.

8. Since it appears that Channel 272A is the only Class A channel presently available for assignment to this area which could be assigned without requiring changes in the presently existing assignments, a determination must be made as to whether assignment of the channel to Wadesboro or Pageland would better serve the public interest. Wadesboro, a county seat, has a population of 3,977 persons and has a daytime-only AM station. An FM channel here would provide for a first local nighttime broadcast outlet. On the other hand, Pageland with a population of 2,122 is not a county seat

[2] The station would have to be located 7 miles east of Pageland.

and does not have a broadcast station. Thus a channel here would provide for a first local broadcast outlet. A study made by the staff on the basis of the Roanoke Rapids and Goldsboro, N.C., criteria (9 F.C.C. 2d 672 (1967)) indicates that a Wadesboro station would provide a first FM service to approximately 440 persons and a second FM service to approximately 8,800 persons, while a Pageland station would provide a first FM service to approximately 1,060 persons and add a second service to approximately 4,630 persons. On balance, it appears that it would better serve the public interest to assign Channel 272A to Pageland where a station could provide a first FM service to a larger segment of the population than an FM station at Wadesboro, as well as provide a first fulltime local broadcast outlet. This would be in accordance with the FM allocation priorities.

9. Authority for the adoption of the amendments contained herein appears in section 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

10. In view of the foregoing, *it is ordered*, That effective February 19, 1974, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended to read as follows:

City	*Channel No.*
Illinois:	
Chillicothe	232A
Kansas:	
Derby	240A
Louisiana:	
Jena	257A
Tallulah	285A
Massachusetts:	
Amherst	265A
Missouri:	
Bowling Green	265A
Butler	288A
New Jersey:	
Ship Bottom	261A
South Carolina:	
Pageland	272A
Vermont:	
Brattleboro	224A, 244A

11. *It is further ordered*, That this proceeding is terminated.

Adopted: January 3, 1974.

Released: January 7, 1974.

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

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

[FR Doc.74-1075 Filed 1-14-74;8:45 am]

Title 49—Transportation

CHAPTER I—DEPARTMENT OF TRANSPORTATION

SUBCHAPTER A—HAZARDOUS MATERIALS REGULATIONS BOARD

[Docket No. HM-57; Amdt. No. 172-22]

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

Classification and Packaging of Corrosive Materials; Correction

On December 28, 1973, the Hazardous Materials Regulations Board published several amendments to the Department's Hazardous Materials Regulations (38 FR 35467), one of which contained an error for caustic potash in the List of Hazardous Materials. Therefore, the Board has changed the entry "Caustic potash, dry, solid, flake, bead, or granular. *See* potassium hydroxide, dry, etc." in FR Doc. 73-27101 (Amdt. No. 172-22) to read as follows:

Article	Classed as—	Exemptions and packing (see sec.)	Label required if not exempt	Maximum quantity in 1 outside container by rail express
Caustic potash, dry, solid, flake, bead, or granular.	Cor	173.244, 173.245b	Corrosive	100 pounds.

(Secs. 831-835, title 18 U.S.C., sec. 9, Department of Transportation Act (49 U.S.C. 1657), and title VI and sec. 902(h), Federal Aviation Act of 1958 (49 U.S.C. 1421-1430, 1472 (h), and 1655(c)).

Issued in Washington, D.C. on January 8, 1974.

ALAN I. ROBERTS,
Secretary, Hazardous Materials Regulations Board.

[FR Doc.74-1055 Filed 1-14-74;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[AMENDMENT NO. 3 TO REVISED SERVICE ORDER NO. 1108]

PART 1033—CAR SERVICE

Reading Co. and Lehigh Valley Railroad Co.

JANUARY 10, 1974.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 9th day of January 1974.

Upon further consideration of Revised Service Order No. 1108 (37 FR 28634; 38 FR 5876, and 23792) and good cause appearing therefor:

It is ordered, That:

§ 1033.1108 Reading Company, Richardson Dilworth and Andrew L. Lewis, Jr., trustees, authorized to operate over tracks of Lehigh Valley Railroad Company, John F. Nash and Robert C. Haldeman, trustees. [Amended]

Revised Service Order No. 1108 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 15, 1974, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., January 15, 1974.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

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

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-1242 Filed 1-14-74;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

On August 16, 1973, notice of proposed rulemaking Governing the Taking and Importing of Marine Mammals, as required by title I of the Marine Mammal Protection Act of 1972 (Pub. L. 92-522) was published in the FEDERAL REGISTER (38 FR 22133).

Forty-five days were given within which any person wishing to do so could file written comments, suggestions or objections pertaining to the proposed regulations with the Director, National Marine Fisheries Service, Washington, D.C. 20235.

Twenty-two comments on the published proposed rule making were received. After consideration of all relevant material presented by interested persons, the proposed rulemaking is hereby adopted as final regulations, subject to the changes set out below. In addition, as a result of the enactment of the Endangered Species Act of 1973 (Pub. L. 93-205), certain additional changes were made in the definitions as well as the prohibitions.

1. *Part 216 Marine Mammals, Taking and Importing.*

(a) Under the table of contents of Subpart B, § 216.14, the words, "Proof of Compliance" have been deleted and the words, "Marine Mammals Taken Before the Act" have been added.

(b) Under the table of contents of Subpart C, § 216.26 *Collection of certain dead marine mammal parts* has been added.

(c) Under the table of contents of Subpart D, § 216.32 *Undue economic hardship* has been deleted and § 216.33 is redesignated as § 216.32; § 216.34 is redesignated as § 216.33, and § 216.35 is redesignated as § 216.34.

2. In the definition of marine mammal in § 216.3, the words "and physiologically" have been deleted.

3. Section 216.14 has been amended. In § 216.14 the title "Proof of compliance" has been deleted and retitled "Marine mammals taken before the Act" and a new text added. The new text sets out requirements which must be met with regard to the importation of marine mammals taken before the effective date of the Act, and the importation of marine mammal products deriving from such pre-Act mammals.

4. In § 216.23, paragraph (b)(ii) has been renumbered (b)(iii) and a new text for paragraph (b)(ii) has been added.

5. In § 216.23(b), paragraph (b)(ii) has been renumbered (b)(iii) and (b)(iii) renumbered (b)(iv) and a new text for paragraph (b)(ii) has been added.

6. In the paragraph following § 216.23(c)(vi), the words "or other agent" have been inserted between "tannery" and "shall" in the seventh line.

7. A new § 216.26 *Collection of certain dead marine mammal parts* has been added to Subpart C. The new section allows the collection of bones, teeth, and ivory of dead marine mammals from beaches, subject to certain requirements.

8. In § 216.31(a)(7) the phrase, "Secretary may request" has been deleted. A new paragraph (a)(8) has been added.

9. Section 216.32 *Undue economic hardship* has been deleted in its entirety. Sections 216.33, 216.34, and 216.35, have been renumbered §§ 216.32, 216.33, and 216.34, respectively.

10. In that part of § 216.40, listing ports through which marine mammals or marine mammal products which are not to be forwarded or transshipped within the United States may be imported; the words, "Alaska—Juneau, Anchorage, Fairbanks" have been added.

11. In the first sentence of § 216.62, "15" days has been changed to "30" days.

12. In paragraph (c) of § 216.64, the sum "$10,000" has been changed to "$5,000" on the 11th line of the text.

In addition to the changes described above, it has been determined to propose a list of items which qualify as "authentic native articles of handicraft and clothing." Since this would involve new material which was not covered by the proposed rule making of August 16, 1973, the list will be published as a proposal in the FEDERAL REGISTER in the near future with opportunity for public comment.

This regulation is effective January 15, 1974.

Dated: January 11, 1974.

ROBERT W. SCHONING,
Director, National Marine Fisheries Service.

Subpart A—Introductions

Subpart B—Prohibitions

Subpart C—General Exceptions

Subpart D—Special Exceptions

Subpart E—Designated Ports

Subpart F—Penalties and Procedures for Their Assessment

AUTHORITY: Title I of the Marine Mammal Protection Act of 1972, 86 Stat. 1027 (16 U.S.C. 1361–1407), Pub. L. No. 92–522.

Subpart A—Introduction

§ 216.1 Purpose of regulations.

The regulations in this part implement the Marine Mammal Protection Act of 1972, 86 Stat. 1027, 16 U.S.C. 1361–1407, Public Law 92–522, which, among other things, restricts the taking, possession, transportation, selling, offering for sale, and importing of marine mammals.

§ 216.2 Scope of Regulations.

This Part 216 applies solely to marine mammals and marine mammal products as defined in § 216.3. For regulations under the Act, with respect to other marine mammals and marine mammal products, see 50 CFR Part 18.

§ 216.3 Definitions.

In addition to definitions contained in the Act, and unless the context otherwise requires, in this Part 216:

"Act" means the Marine Mammal Protection Act of 1972, 86 Stat. 1027, 16 U.S.C. 1361–1407, Public Law 92–522.

"Alaskan Native" means a person defined in the Alaska Native Claims Settlement Act (43 U.S.C. sec. 1602(b)) (85 Stat. 588) as a citizen of the United States who is of one-fourth degree or more Alaska Indian (including Tsimishian Indians enrolled or not enrolled in the Metlaktla Indian Community), Eskimo, or Aleut blood, or combination thereof. The term includes any Native, as so defined, either or both of whose adoptive parents are not Natives. It also includes, in the absence of proof of a minimum blood quantum, any citizen of the United States who is regarded as an Alaska Native by the Native village or group, of which he claims to be a member and whose father or mother is (or, if deceased, was) regarded as Native by any Native village or Native group. Any such citizen enrolled by the Secretary of the Interior pursuant to section 5 of the Alaska Native Claims Settlement Act shall be conclusively presumed to be an Alaskan Native for purposes of this part.

"Authentic native articles of handicrafts and clothing" means items made by an Indian, Aleut or Eskimo which (a) were commonly produced on or before December 21, 1972, and (b) are composed wholly or in some significant respect of natural materials, and (c) are significantly altered from their natural form and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or similar mass copying devices. Improved methods of production utilizing modern implements such as sewing machines or modern tanning techniques at a tannery registered pursuant to § 216.23(c) may be used so long as no large scale mass production industry results. Traditional native handicrafts include, but are not limited to, weaving, carving, stitching, sewing, lacing, beading, drawing, and painting. The formation of traditional native groups, such as a cooperative, is permitted so long as no large scale mass production results.

"Commercial fishing operation" means the lawful harvesting of fish from the marine environment for profit as part of an on-going business enterprise. Such term shall not include sport fishing activities whether or not carried out by charter boat or otherwise, and whether or not the fish so caught are subsequently sold.

"Endangered Species" means a species or subspecies of marine mammal listed as "endangered" pursuant to the Endangered Species Act of 1973, 87 Stat. 884, P.L. 93–205 (see Part 17 of this title).

"Incidental catch" means the taking of a marine mammal (1) because it is directly interfering with commercial fishing operations, or (2) as a consequence of the steps used to secure the fish in connection with commercial fishing operations: *Provided*, That a marine mammal so taken must immediately be returned to the sea with a minimum of injury and further, that the taking of a marine mammal, which otherwise meets the requirements of this definition shall not be considered an incidental catch of that mammal if it is used subsequently to assist in commercial fishing operations.

"Marine environment" means the oceans and the seas, including estuarine and brackish waters.

"Marine mammal" means those specimens of the following orders, which are morphologically adapted to the marine environment, whether alive or dead, and any part thereof, including but not limited to, any raw, dressed or dyed fur or skin: Cetacea (whales and porpoises), Pinnipedia, other than walrus (seals and sea lions).

"Native village or town" means any community, association, tribe, band, clan or group.

"Pregnant" means pregnant near term.

"Secretary" shall mean the Secretary of Commerce or his authorized representative.

"Subsistence" means the use of marine mammals taken by Alaskan Natives for food, clothing, shelter, heating, transportation, and other uses necessary to maintain the life of the taker or those who depend upon the taker to provide them with such subsistence.

"Take" means to harass, hunt, capture, collect, or kill, or attempt to harass, hunt, capture, collect, or kill, any marine mammal, including, without limitation, any of the following: The collection of dead animals, or parts thereof; the restraint or detention of a marine mammal, no matter how temporary; tagging a marine mammal; or the negligent or intentional operation of an aircraft or vessel, or the doing of any other negligent or intentional acts which result in the disturbing or molesting of a marine mammal.

"Threatened species" means a species of marine mammal listed as "threatened" pursuant to the Endangered Species Act of 1973, 87 Stat. 884, Pub. L. 93–205.

"Wasteful manner" means any taking or method of taking which is likely to result in the killing of marine mammals beyond those needed for subsistence or for the making of authentic native articles of handicrafts and clothing or which results in the waste of a substantial portion of the marine mammal and includes, without limitation, the employment of a method of taking which is not likely to assure the capture or killing of a marine mammal, or which is not immediately followed by a reasonable effort to retrieve the marine mammal.

§ 216.4 Other laws and regulations.

(a) *Federal.* Nothing in this part, nor any permit issued under authority of this part, shall be construed to relieve a person from any other requirements imposed by a statute or regulation of the United States, including any applicable statutes or regulations relating to wildlife and fisheries, health, quarantine, agriculture, or customs.

(b) *State laws or regulations.* Section 109 of the Act provides that on or after December 21, 1972, no State may adopt any law or regulation with regard to the taking of marine mammals, or enforce any existing law or regulation which relates to the taking or protection of marine mammals. Any State may adopt laws or regulations relating to the taking or protection of any species or population stocks of marine mammals if the Secretary determines after review by him that such laws or regulations will be consistent with the provisions of the Act and the regulations in this part. In no event, however, will the Secretary approve any State laws or regulations which:

(1) Purport to authorize a State to issue permits in situations which would require a Federal permit under the Act unless and until appropriate Federal regulations have been issued under section 103 of the Act, and where appropriate, the Secretary has waived the moratorium on such taking or importation under section 101(a)(3) of the Act; or

(2) Purport to authorize a State to issue permits for scientific research or for public display (except that a State may, under authority of a general scientific research permit granted by the Secretary to it, assign individual scientific research permits to State employees or representatives of State universities or other State agencies, subject to the provisions of the general permit); or

(3) Purport to authorize the State to grant exemptions from the Act on the grounds of economic hardship.

(c) Any State may obtain a review and determination of its existing laws and regulations from the Secretary by submitting a written request to that effect to the Director, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, accompanied by the following documents, unless otherwise specified by the Secretary:

(1) A complete set of laws and regulations to be reviewed, certified as complete, true and correct, by the appropriate State official;

(2) A scientific description by species and population stock of the marine mammals to be subjected to such laws and regulations;

(3) A description of the organization staffing and funding for the administration and enforcement of the laws and regulations to be reviewed;

(4) A description where such laws and regulations provide for discretionary authority on the part of State officials to issue permits, of the procedures to be used in granting or withholding such permits and otherwise enforcing such laws; and

(5) Such other materials and information as the Secretary may request or which the State may deem necessary or advisable to demonstrate the compatibility of such laws and regulations with the policy and purposes of the Act and the rules and regulations issued thereunder.

(d) In making a determination with respect to any State laws and regulations, the Secretary shall take into account:

(1) Whether such laws and regulations are consistent with the purposes and policies of the Act and the rules and regulations issued thereunder;

(2) The extent to which such laws and regulations are consistent with, or constitute an integrated management or protection program with, the laws and regulations of other jurisdictions whose activities may affect the same species or stocks or marine mammals; and

(3) The existence of or preparations for an overall State program regarding the protection and management of marine mammals to which the laws and regulations under review relate.

(e) To assist States in preparing laws and regulations relating to marine mammals, the Secretary will also, at the written request of any State, make a preliminary review of any such proposed laws or regulations. Such review will be strictly advisory in nature and shall not be binding upon the Secretary. Upon adoption of previously reviewed laws and regulations, the same shall be subject to a complete review for a final determination pursuant to these regulations. To be considered for preliminary review, all legislative and regulatory proposals must be forwarded to the Director, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, and certified by the appropriate State official. In addition, they shall be accompanied to the extent available with the same materials required under paragraph (b) above, unless otherwise provided by the Secretary.

(f) All determinations by the Secretary (other than as a result of preliminary reviews of proposed laws and regulations) shall be final and binding on the parties.

(g) The implementation and enforcement of all State laws and regulations previously approved by the Secretary pursuant to this section shall be subject to continuous monitoring and review by the Secretary pursuant to such rules and regulations as he may adopt. Any modifications, amendments, deletions or additions to laws or regulations previously approved shall be deemed to be new laws and regulations for the purposes of these regulations and shall require review and approval by the Secretary before their adoption.

(h) Notwithstanding the foregoing, nothing herein shall prevent (1) the taking of a marine mammal by a State or local government official pursuant to § 216.22 of the regulations in this part, or (2) the adoption or enforcement of any law or regulation relating to any marine mammal taken or imported prior to the effective date of the Act.

Subpart B—Prohibitions

§ 216.11 Prohibited Taking.

Except as otherwise provided in Subparts C and D of this Part 216, it is unlawful for;

(a) Any person, vessel, or conveyance subject to the jurisdiction of the United States to take any marine mammal on the high seas, or

(b) Any person, vessel, or conveyance to take any marine mammal in waters or on lands under the jurisdiction of the United States, or

(c) Any person subject to the jurisdiction of the United States to take any marine mammal during the moratorium.

§ 216.12 Prohibited importation.

(a) Except as otherwise provided in Subparts C and D of this Part 216, it is unlawful for any person to import any marine mammal or marine mammal product into the United States.

(b) Regardless of whether an importation is otherwise authorized pursuant to Subparts C and D of this Part 216, it is unlawful for any person to import into the United States any:

(1) Marine mammal:

(i) Taken in violation of the Act, or

(ii) Taken in another country in violation to the laws of that country;

(2) Any marine mammal product if

(i) The importation into the United States of the marine mammal from which such product is made would be unlawful under paragraph (b)(1) of this section, or

(ii) The sale in commerce of such product in the country of origin if the product is illegal.

(c) Except in accordance with an exception referred to in Subpart C and §§ 216.31 (regarding scientific research permits only) and 216.32 of this Part 216, it is unlawful to import into the United States any:

(1) Marine mammal which was pregnant at the time of taking.

(2) Marine mammal which was nursing at the time of taking, or less than 8 months old, whichever occurs later.

(3) Specimen of an endangered or threatened species of marine mammal.

(4) Specimen taken from a depleted species or stock of marine mammals, or

(5) Marine mammal taken in an inhumane manner.

(d) It is unlawful to import into the United States any fish, whether fresh, frozen, or otherwise prepared, if such fish was caught in a manner proscribed by the Secretary of Commerce for persons subject to the jurisdiction of the United States, whether or not any marine mammals were in fact taken incident to the catching of the fish.

§ 216.13 Prohibited uses, possession, transportation, and sales.

It is unlawful for:

(a) Any person to use any port, harbor or other place under the jurisdiction of the United States for any purpose in any way connected with a prohibited taking or an unlawful importation of any marine mammal or marine mammal product; or

(b) Any person subject to the jurisdiction of the United States to possess any marine mammal taken in violation of the Act or these regulations, or to transport, sell, or offer for sale any such marine mammal or any marine mammal product made from any such mammal.

(c) Any person subject to the jurisdiction of the United States to use in a commercial fishery, any means or method of fishing in contravention of regulations and limitations issued by the Secretary of Commerce for that fishery to achieve the purposes of this Act.

§ 216.14 Marine mammals taken before the Act.

(a) Section 102(e) of the Act provides, in effect, that the Act shall not apply to any marine mammal taken prior to December 21, 1972, or to any marine mammal product, consisting of or composed in whole or in part of, any marine mammal taken before that date. This prior status of any marine mammal or marine mammal product may be established by submitting to the Director, National Marine Fisheries Service prior to, or at the time of importation, an affidavit containing the following:

(1) The Affiant's name and address;

(2) Identification of the Affiant;

(3) A description of the marine mammals or marine mammal products which the Affiant desires to import;

(4) A statement by the Affiant that, to the best of his knowledge and belief, the marine mammals involved in the application were taken prior to December 21, 1972;

(5) A statement by the Affiant in the following language:

> The foregoing is principally based on the attached exhibits which, to the best of my knowledge and belief, are complete, true and correct. I understand that this affidavit is being submitted for the purpose of inducing the Federal Government to permit the importation of -- under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and regulations promulgated thereunder, and that any false statements may subject me to the criminal penalties of 13 U.S.C. 1001, or to penalties under the Marine Mammal Protection Act of 1972.

(b) Either one of two exhibits shall be attached to such affidavit, and will contain either:

(1) Records or other available evidence showing that the product consists of or is composed in whole or in part of marine mammals taken prior to the effective date of the Act. Such records or other evidentiary material must include information on how, when, where, and by whom the animals were taken, what processing has taken place since taking, and the date and location of such processing; or

(2) A statement from a government agency of the country of origin exercising jurisdiction over marine mammals that any and all such mammals from which the products sought to be imported were derived were taken prior to December 21, 1972.

(c) No pre-Act marine mammal or pre-Act marine mammal product may be imported unless the requirements of this section have been fulfilled.

(d) This section has no application to any marine mammal or marine mammal product intended to be imported pursuant to §§ 216.21, 216.31 or 216.32.

Subpart C—General Exceptions

§ 216.21 Actions permitted by international treaty, convention, or agreement.

The Act and these regulations shall not apply to the extent that they are inconsistent with the provisions of any international treaty, convention or agreement, or any statute implementing the same relating to the taking or importation of marine mammals or marine mammal products, which was existing and in force prior to December 21, 1972, and to which the United States was a party. Specifically, the regulations in Subpart B of this part and the provisions of the Act shall not apply to activities carried out pursuant to the Interim Convention on the Conservation of North Pacific Fur Seals signed at Washington on February 9, 1957, and the Fur Seal Act of 1966, 16 U.S.C. 1151–1187, as in each case, from time to time amended.

§ 216.22 Taking by State or local government officials.

(a) A State or local government official or employee may take a marine mammal in the normal course of his duties as an official or employee, and no permit shall be required, if such taking:

(1) Is accomplished in a humane manner;

(2) Is for the protection or welfare of such mammal or for the protection of the public health or welfare; and

(3) Includes steps designed to insure return of such mammal, if not killed in the course of such taking, to its natural habitat.

In addition, any such official or employee may, incidental to such taking, possess and transport, but not sell or offer for sale, such mammal and use any port, harbor, or other place under the jurisdiction of the United States. All steps reasonably practicable under the circumstances shall be taken by any such employee or official to prevent injury or death to the marine mammal as the result of such taking. Where the marine mammal in question is injured or sick, it shall be permissible to place it in temporary captivity until such time as it is able to be returned to its natural habitat. It shall be permissible to dispose of a carcass of a marine mammal taken in accordance with this subsection whether the animal is dead at the time of taking or dies subsequent thereto.

(b) Each taking permitted under this Section shall be included in a written report to be submitted to the Secretary every six months beginning December 31, 1973. Unless otherwise permitted by the Secretary, the report shall contain a description of:

(1) The animal involved;

(2) The circumstances requiring the taking;

(3) The method of taking;

(4) The name and official position of the State official or employee involved;

(5) The disposition of the animal, including in cases where the animal has been retained in captivity, a description of the place and means of confinement and the measures taken for its maintenance and care; and

(6) Such other information as the Secretary may require.

§ 216.23 Native exceptions.

(a) *Taking.* Notwithstanding the prohibitions of Subpart B of this Part 216, but subject to the restrictions contained in this section, any Indian, Aleut, or Eskimo who resides on the coast of the North Pacific Ocean or the Arctic Ocean may take any marine mammal without a permit, if such taking is:

(1) By Alaskan Natives who reside in Alaska for subsistence, or

(2) For purposes of creating and selling authentic native articles of handicraft and clothing, and

(3) In each case, not accomplished in a wasteful manner.

(b) *Restrictions.*

(1) No marine mammal taken for subsistence may be sold or otherwise transferred to any person other than an Alaskan Native or delivered, carried, transported. or shipped in interstate or foreign commerce, unless:

(i) It is being sent by an Alaskan Native directly or through a registered agent to a tannery registered under subsection (c) of this section for the purpose of processing, and will be returned directly or through a registered agent to the Alaskan Native; or

(ii) It is sold or transferred to a registered agent in Alaska for resale or transfer to an Alaskan Native; or

(iii) It is an edible portion and it is sold in an Alaskan Native village or town.

(2) No marine mammal taken for purposes of creating and selling authentic native articles of handicraft and clothing may be sold or otherwise transferred to any person other than an Indian, Aleut or Eskimo, or delivered, carried, transported or shipped in interstate or foreign commerce, unless:

(i) It is being sent by an Indian, Aleut or Eskimo directly or through a registered agent to a tannery registered under subsection (c) of this section for the purpose of processing, and will be returned directly or through a registered agent to the Indian, Aleut or Eskimo; or

(ii) It is sold or transferred to a registered agent for resale or transfer to an Indian, Aleut, or Eskimo; or

(iii) It has first been transformed into an authentic native article of handicraft or clothing; or

(iv) It is an edible portion and sold (A) in an Alaskan Native village or town, or (B) to an Alaskan Native for his consumption.

(c) Any tannery, or person who wishes to act as an agent, within the jurisdiction of the United States may apply to the Director, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, for registration as a tannery or an agent which may possess and process marine mammal products for Indians, Aleuts, or Eskimos. The application shall include the following information:

(i) the name and address of the applicant;

(ii) a description of the applicant's procedures for receiving, storing, processing, and shipping materials;

(iii) a proposal for a system of bookkeeping and/or inventory segregation by which the applicant could maintain accurate records of marine mammals received from Indians, Aleuts, or Eskimos, pursuant to this section;

(iv) such other information as the Secretary may request;

(v) a certification in the following language:

I hereby certify that the foregoing information is complete, true and correct to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining the benefit of an exception under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and regulations promulgated thereunder, and that any false statement may subject me to the criminal penalties of 18 U.S.C. 1001, or to penalties under the Marine Mammal Protection Act of 1972.

(vi) the signature of the applicant.

The sufficiency of the application shall be determined by the Secretary, and in that connection, he may waive any requirement for information, or require any elaboration or further information deemed necessary. The registration of a tannery or other agent shall be subject to such conditions as the Secretary prescribes, which may include, but are not limited to, provisions regarding records, inventory segregation, reports, and inspection. The Secretary may charge a reasonable fee for processing such applications, including an appropriate apportionment of overhead and administrative expenses of the Department of Commerce.

(d) Notwithstanding the preceding provisions of this section, whenever, under the Act, the Secretary determines any species of stock of marine mammals to be depleted, he may prescribe regulations pursuant to section 103 of the Act upon the taking of such marine animals by any Indian, Aleut, or Eskimo and, after promulgation of such regulations, all takings of such marine mammals shall conform to such regulations.

§ 216.24 Taking incidental to commercial fishing operations.

(a) Until October 21, 1974, marine mammals may be taken incidental to the course of commercial fishing operations, and no permit shall be required, so long as the taking constitutes an incidental catch. In any event, it shall be the immediate goal that the incidental kill or incidental serious injury of marine mammals permitted in the course of commercial fishing operations be reduced to insignificant levels approaching zero mortality and serious injury rate.

(b) In furtherance of the Secretary's research and development program under section 111 of the Act, the following regulations shall apply: Any duly authorized agents of the Secretary may from time to time, after timely oral or written notice to the vessel owner or charterer board and/or accompany commercial fishing vessels documented under the laws of the United States, whenever the Secretary determines that there is space available, on regular fishing trips, for the purpose of conducting research or observation operations. Such research and observation operations shall be carried out in such manner as to minimize interference with commercial fishing operations. No master, charterer, operator or owner of such vessel shall impair or in any way interfere with the research or observations being carried out. The Secretary shall provide for the payment of all reasonable costs directly related to the quartering and maintaining of such agents on board such vessels.

§ 216.25 Exempted marine mammals and marine mammal products.

(a) The provisions of the Act and these regulations shall not apply:

(1) To any marine mammal taken before December 21, 1972, or

(2) To any marine mammal product if the marine mammal portion of such product consists solely of a marine mammal taken before such date.

(b) The prohibitions contained in § 216.12(c) (3) and (4) shall not apply to marine mammals or marine mammal products imported into the United States before the date on which a notice is published in the FEDERAL REGISTER with respect to the designation of the species or stock concerned as depleted or endangered.

(c) Section 216.12(b) shall not apply to articles imported into the United States before the effective date of the foreign law making the taking or sale, as the case may be, of such marine mammals or marine mammal products unlawful.

§ 216.26 Collection of certain marine mammal parts.

(a) Any bones, teeth or ivory of any dead marine mammal may be collected from a beach or from land within ¼ of a mile of the ocean. The term "ocean" includes bays and estuaries.

(b) Marine mammal parts so collected may be retained if registered within 30 days with an agent of the National Marine Fisheries Service, or an agent of the Bureau of Sport Fisheries and Wildlife.

(c) Registration shall include (1) the name of the owner, (2) a description of the article to be registered and (3) the date and location of collection.

(d) Title to any marine mammal parts collected under this section is not transferable unless consented to, in writing, by the Secretary.

Subpart D—Special Exceptions

§ 216.31 Scientific research permits and public display permits.

(a) The Director may issue permits authorizing the taking and importation

of marine mammals for scientific research. Any person desiring to obtain a scientific research or display permit may make application therefore to the Secretary. Such application shall be in writing, addressed to the Director, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, and shall contain the following information:

(1) The name, address, and phone number of the applicant;

(2) A statement of the purpose, date, location and manner of the taking or importation;

(3) A description of the marine mammal or the marine mammal product to be taken or imported, including the species or subspecies involved; the population stock, when known; the number of specimens or products (or the weight thereof, where appropriate); and the anticipated age, size, sex, and condition (i.e. whether pregnant or nursing) of the animals involved;

(4) If the marine mammal is to be taken and transported alive, or held for public display, a complete description of the manner of transportation, care, and maintenance, including the type, size, and construction of the container or artificial environment; arrangements for feeding and sanitation; a statement of the applicant's qualifications and previous experience in caring for and handling captive marine mammals and a like statement as to qualifications of any common carrier or agent to be employed by the applicant to transport the animal; and a written certification of a licensed veterinarian knowledgeable in the field of marine mammals that he has personally reviewed the arrangements for transporting and maintaining the animal and that in his opinion they are adequate to provide for the well-being of the animal;

(5) If the application is for a scientific research permit, a detailed description of the scientific research project or program in which the marine mammal or marine mammal product is to be used including a copy of the research proposal relating to such program or project and the names and addresses of the sponsor or cooperating institutions and the scientists involved;

(6) If the application is for a scientific research permit, and if the marine mammal proposed to be taken or imported is listed as an endangered or threatened species or has been designated by the Secretary as depleted, a detailed justification of the need for such a marine mammal, including a discussion of possible alternatives, whether or not under the control of the applicant;

(7) If the application is for a public display permit, a detailed description of the proposed use to which the marine mammal or marine mammal product is to be put, including the manner, location, and times of display, whether such display is for profit, an estimate of the numbers and types of persons who it is anticipated will benefit for such display, and whether and to what extent the display is connected with educational or scientific programs.

There shall also be included a complete description of the enterprise seeking the display permit and its educational and scientific qualifications, if any;

(8) Such other information as the Secretary may request.

(9) A certification in the following language:

I hereby certify that the foregoing information is complete, true and correct to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining a permit under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and regulations promulgated thereunder, and that any false statement may subject me to the criminal penalties of 18 U.S.C. 1001, or to penalties under the Marine Mammal Protection Act of 1972.

(10) Such application shall be signed by the applicant.

The sufficiency of the application shall be determined by the Secretary and in that connection, he may waive any requirement for information, or require any elaboration or further information deemed necessary.

(b) Upon receipt of an application for a scientific research permit or a public display permit, the Secretary shall forward the application to the Marine Mammal Commission together with a request for the recommendations of the Commission and the Committee of Scientific Advisors on Marine Mammals on the permit application. In order to comply with the time limits provided in these regulations, the Secretary shall request that such recommendation be submitted within 30 days of receipt of the application by the Commission. If the Commission or the Committee, as the case may be, does not respond within 30 days from the receipt of such application by the Commission, the Secretary shall advise the Commission in writing that failure to respond within 45 days from original receipt of the application (or such longer time as the Secretary may establish) shall be considered as a recommendation from the Commission and the Committee that the permit be issued. The Secretary may also consult with any other person, institution or agency concerning the application.

(c) Permits applied for under this section shall be issued, suspended, modified and revoked pursuant to regulations contained in § 216.33. In determining whether to issue a scientific research permit, the Secretary shall, among other criteria, consider whether the proposed taking or importation will be consistent with the policies and purposes of the Act; and whether the granting of the permit is required to further a bone fide and necessary or desirable scientific purpose, taking into account the benefits anticipated to be derived from the scientific research contemplated and the effect of the proposed taking or importation on the population stock and the marine ecosystem. In determining whether to issue a public display permit, the Secretary shall, among other criteria, consider whether the proposed taking or importation will be consistent with the policies and purposes of the Act: whether a substantial public benefit will be gained from the display contemplated, taking into account the manner of the display and the anticipated audience on the one hand, and the effect of the proposed taking or importation on the population stocks of the marine mammal in question and the marine ecosystem on the other; and the applicant's qualifications for the proper care and maintenance of the marine mammal or the marine mammal product, and the adequacy of his facilities.

(d) Permits applied for under this section shall contain terms and conditions as the Secretary may deem appropriate, including

(1) The number and kind of marine mammals which are authorized to be taken or imported;

(2) The location and manner in which such marine mammals may be taken or from which they may be imported;

(3) The period during which the permit is valid;

(4) The methods of transportation, care and maintenance to be used with live marine mammals;

(5) Any requirements for reports or rights of inspections with respect to any activities carried out pursuant to the permit;

(6) The transferability or assignability of the permit;

(7) The sale or other disposition of the marine mammal, its progeny or the marine mammal product; and

(8) A reasonable fee covering the costs of issuance of such permit, including an appropriate apportionment of overhead and administrative expenses of the Department of Commerce.

§ 216.32 Waivers of the moratorium. [Reserved]

§ 216.33 Procedures for issuance of permits and modification, suspension or revocation thereof.

(a) Whenever application for a permit is received by the Secretary which the Secretary deems sufficient, he shall, as soon as practicable, publish a notice thereof in the FEDERAL REGISTER. Such notice shall set forth a summary of the information contained in such application. Any interested party may, within 30 days after the date of publication of such notice, submit to the Secretary his written data or views with respect to the taking or importation proposed in such application and may request a hearing in connection with the action to be taken thereon.

(b) If a request for a hearing is made within the 30-day period referred to in paragraph (a) of this section, or if the Secretary determines that a hearing would otherwise be advisable, the Secretary may, within 60 days after the date of publication of the notice referred to in paragraph (a) of this section, afford

to such requesting party or parties an opportunity for a hearing. Such hearing shall also be open to participation by any interested members of the public. Notice of the date, time, and place of such hearing shall be published in the FEDERAL REGISTER not less than 15 days in advance of such hearing. Any interested person may appear in person or through representatives at the hearing and may submit any relevant material, data, views, comments, arguments, or exhibits. A summary record of the hearing shall be kept.

(c) As soon as practicable but not later than 30 days after the close of the hearing (or if no hearing is held, as soon as practicable after the end of the 30 days succeeding publication of the notice referred to in paragraph (a) of this section) the Secretary shall issue or deny issuance of the permit. Notice of the decision of the Secretary shall be published in the FEDERAL REGISTER within 10 days after the date of the issuance or denial and indicate where copies of the permit, if issued, may be obtained.

(d) Any permit shall be subject to modification, suspension, or revocation by the Secretary in whole or in part in accordance with these regulations and the terms of such permits. The permittee shall be given written notice by registered mail, return receipt requested, of any proposed modification, suspension, or revocation. Such notice shall specify:

(1) The action proposed to be taken along with a summary of the reasons therefore; and

(2) The steps which the Permittee may take to demonstrate or achieve compliance with all lawful requirements;

(3) Shall advise the permittee that he is entitled to a hearing thereon, if a written request for such a hearing is received by the Secretary within 10 days after receipt of the aforesaid notice or such other date as may be specified in the notice by the permittee. The time and place for the hearing, if requested by the permittee, shall be determined by the Secretary and written notice thereof given to the permittee by registered mail, return receipt requested, not less than 15 days prior to the date of hearing specified. The Secretary may, in his discretion, allow participation at the hearing by interested members of the public. The permittee and others participating may submit all relevant material, data, views, comments, arguments, and exhibits at the hearing. A summary record shall be kept of any such hearing.

(e) The Secretary shall make a decision regarding the proposed modification, suspension, or revocation, as soon as practicable after the close of the hearing, or if no hearing is held, as soon as practicable after the close of the 10-day period during which a hearing could have been requested. Notice of the modification, suspension, or revocation shall be published in the FEDERAL REGISTER within 10 days from the date of the Secretary's decision. In no event shall the proposed action take effect until notice of the Secretary's decision is published in the FEDERAL REGISTER.

§ 216.34 Possession of permits.

(a) Any permit issued under these regulations must be in the possession of the person to whom it is issued (or an agent of such person) during:

(1) The time of the authorized taking or importation;

(2) The period of any transit of such person or agent which is incident to such taking or importation; and

(3) Any other time while any marine mammal taken or imported under such permit is in the possession of such person or agent.

(b) A duplicate copy of the issued permit must be physically attached to the container, package, enclosure, or other means of containment, in which the marine mammal is placed for purposes of storage, transit, supervision, or care.

Subpart E—Designated Ports

§ 216.40 Importation at designated ports.

Any marine mammal or marine mammal product which is subject to the jurisdiction of the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce and is intended for importation into the United States shall be subject to the provisions of 50 CFR Part 14.

For the information of importers, designated ports of entry for the United States are:

New York, N.Y.
Miami, Fla.
Chicago, Ill.
San Francisco, Calif.
Los Angeles, Calif.
New Orleans, La.
Seattle, Wash.
Honolulu, Ha.

additionally, marine mammals or marine mammal products which are entered into Alaska, Hawaii, Puerto Rico, Guam, American Samoa or the Virgin Islands and which are not to be forwarded or transhipped within the United States may be imported through the following ports:

Alaska—Juneau, Anchorage, Fairbanks
Hawaii—Honolulu
Puerto Rico—San Juan
Guam—Honolulu, Ha.
American Samoa—Honolulu, Ha.
Virgin Islands—San Juan, P.R.

Importers are advised to see 50 CFR Part 14 for importation requirements and information.

Subpart F—Penalties and Procedures for Their Assessment

§ 216.51 Penalties.

Any person who violates any provision of the Act or of any permit or regulation, including without limitation, conditions imposed by the Secretary with respect to the taking, importing, maintenance or transporting of marine mammals or marine mammal products, issued thereunder may be assessed a civil penalty by the Secretary of not more than $10,000 for each violation. Each unlawful taking or importation shall be a separate offense.

§ 216.52 Notice of proposed assessment; opportunity for hearing.

(a) Prior to the assessment of a civil penalty pursuant to section 105(a) of the Act, a notice of proposed assessment issued by the Secretary shall be served personally or by registered or certified mail, return receipt requested, upon the person believed to be subject to a penalty (the respondent). The notice shall contain:

(1) A concise statement of the facts believed to show a violation;

(2) A specific reference to the provisions of the Act, regulations, or permit allegedly violated; and

(3) The amount of penalty proposed to be assessed.

The notice shall inform the respondent that he has 20 days from receipt of the notice in which to request a hearing or to waive it. The request or waiver shall be in writing and addressed to the Director, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235. The notice shall further inform the respondent that if he does not respond to the notice within the 20 days allowed, he shall be deemed to have waived his right to a hearing and to have consented to the making of an assessment without a hearing.

(b) With his request for a hearing or with his written waiver of a hearing, the respondent may submit objections to the proposed assessment. He may deny the existence of the violation or ask that no penalty be assessed or that the amount be reduced. The respondent must set forth in full all facts supporting his denial of the alleged violation or his request for relief.

§ 216.53 Waiver of hearing; assessment of penalty.

(a) If a written waiver of a hearing is timely made, or if a hearing is deemed to have been waived as provided in § 216.52(a), the Secretary shall proceed either to make an assessment of a civil penalty or to rescind the proposed assessment, taking into consideration such showing as may have been made by respondent pursuant to § 216.52(b). Such action shall become the final administrative decision of the Secretary when rendered, and any civil penalty assessed shall be collected in accordance with § 216.62. Notice of such final decision shall be promptly sent to the respondent by registered or certified mail, return receipt requested.

(b) If, despite the waiver of a hearing, the Secretary believes that there are material facts at issue which cannot otherwise be satisfactorily resolved, he may refer the case to an administrative law judge as provided in § 216.54.

§ 216.54 Appointment of Administrative Law Judge and Agency Representative; notice of hearing.

(a) If a written request for a hearing has been timely made, or the Secretary determines, pursuant to § 216.53(b), that a hearing should be held, the case shall be assigned to an administrative law

judge appointed pursuant to 5 U.S.C. 3105. Written notice of the assignment shall promptly be given to the respondent, together with the name and address of the person who will present evidence on behalf of the Secretary at the hearing (the agency representative), and thereafter all pleadings and other documents shall be filed directly with the administrative law judge, with a copy served on the agency representative or the respondent as the case may be.

(b) The Secretary shall deliver to the administrative law judge a copy of the notice of proposed assessment, any response of the respondent thereto, and other materials deemed relevant to the case and shall furnish to the respondent a copy of any such materials not already in respondent's possession.

(c) The administrative law judge shall promptly cause to be served on the parties notice of the time and place of the hearing, which shall not be less than 10 days after service of the notice of hearing except in extraordinary circumstances.

§ 216.55 Failure to appear; official transcript; record for decision.

(a) If the respondent fails to appear at the hearing, he will be deemed to have consented to a decision being rendered on the record made at the hearing.

(b) The Secretary shall provide the services of an official reporter who shall make the [only] official transcript of the proceedings. Copies of the official transcript may be obtained from the official reporter upon payment of the charges therefor.

(c) The transcript of testimony and exhibits, together with all papers and requests filed in the proceedings, shall constitute the exclusive record for decision.

§ 216.56 Duties and powers of the Administrative Law Judge.

It shall be the duty of the administrative law judge to inquire fully into the facts as they relate to the matter before him. Upon assignment to him and before submission of the case, pursuant to § 216.60, to the Secretary, the administrative law judge shall have authority to

(1) Rule on offers of proof and receive relevant evidence;

(2) Take or cause depositions to be taken whenever the ends of justice would be served thereby;

(3) Regulate the course of the hearing and, if appropriate, exclude from the hearing persons who engage in misconduct, and strike all testimony of witnesses refusing to answer any questions ruled to be proper which are related to such questions;

(4) Hold conferences for the settlement or simplification of the issues by consent of the parties or upon his own motion;

(5) Dispose of procedural requests, motions or similar matters and order hearings reopened prior to issuance of the administrative law judge's report and recommendations;

(6) Grant requests for appearance of witnesses or production of documents;

(7) Limit lines of questioning or testimony which are immaterial, irrelevant, or unduly repetitious;

(8) Examine and cross-examine witnesses and introduce into the record documentary or other evidence;

(9) Request the parties at any time during the hearing to state their respective positions concerning any issue in the case or theory in support thereof;

(10) Continue, at his discretion, the hearing from day-to-day, or adjourn it to a later date or to a different place;

(11) Take official notice of any matters not appearing in evidence in the record which are among the traditional matters of judicial notice; or of technical or scientific facts within the general or specialized knowledge of the Department of Commerce as an expert body; or of a document required to be filed with or published by a duly constituted Government body: *Provided,* That the parties shall be given notice, either during the hearing or by reference in the administrative law judge's decision, of the matters so noticed, and shall be given adequate opportunity to show the contrary;

(12) Prepare, serve, and submit his report and recommendations pursuant to § 216.60;

(13) Take any other action necessary and not prohibited by this section.

§ 216.57 Appearance of the respondent and the agency representative.

The respondent and the agency representative shall have the right to appear at such hearing in person, by counsel, or by other representative, to examine and cross-examine witnesses to the extent required for a full and true disclosure of the facts, to conduct oral argument at the close of testimony and to introduce into the record relevant documentary or other evidence, except that the participation of either party shall be limited to the extent prescribed by the administrative law judge.

§ 216.58 Evidence.

All evidence which is relevant, material, reliable, and probative, and not unduly repetitious or cumulative, shall be admissible in the hearing.

§ 216.59 Filing of briefs.

The respondent and the agency representative may submit a brief to the administrative law judge. The original and one copy of such brief shall be filed within 7 days after the close of the hearing, except that the administrative law judge may, for good cause, grant an extension of such time for filing.

§ 216.60 Decisions.

(a) After the close of the hearing and the receipt of briefs, if any, the administrative law judge shall expeditiously prepare an initial decision. The initial decision shall contain findings of fact, conclusions, and the reasons or basis therefor, upon the materials issues presented, and shall specifically find whether the respondent committed the violations alleged and, if so, the amount of the civil penalty to be assessed.

(b) The administrative law judge shall cause his initial decision to be served on the respondent and the agency representative within 20 days after the close of the hearing or the receipt of all briefs, whichever is later, and shall forthwith transfer the record in the case to the Secretary.

(c) Within 10 days of receipt of the initial decision of the administrative law judge, either the respondent or the agency representative may file with the Secretary an appeal of the initial decision. If no appeal is received within such period, the initial decision shall become the final administrative decision of the Secretary. If an appeal is received within such period, the Secretary shall render a final decision after considering the record and the appeal. Notice of an appeal by either party shall be promptly given in writing to the other party and notice of the Secretary's final decision upon appeal shall be promptly given in writing to both parties.

§ 216.61 Remission or mitigation.

For good cause shown, the Secretary may at any time remit or mitigate the assessment of a civil penalty made under the provisions of these regulations.

§ 216.62 Payment of penalty.

The respondent shall have 30 days from receipt of the final assessment decision within which to pay the penalty assessed. Upon a failure to pay the penalty, the Secretary may request the Attorney General to institute a civil action in the appropriate United States District Court to collect the penalty.

§ 216.63 Forfeiture and return of seized property.

(a) Whenever any cargo or marine mammal or marine mammal product has been seized pursuant to 107 of the Act, the Secretary shall expedite any proceedings commenced under these regulations.

(b) Whenever a civil penalty has been assessed by the Secretary under these regulations, any cargo, marine mammal, or marine mammal product seized pursuant to 107 of the Act shall be subject to forfeiture. If respondent voluntarily forfeits any such seized property or the monetary value thereof without court proceedings, the Secretary may apply the value thereof, if any, as determined by the Secretary, toward payment of the civil penalty.

(c) Whenever a civil penalty has been assessed under these regulations, and whether or not such penalty has been paid, the Secretary may request the Attorney General to institute a civil action in an appropriate United States District Court to compel forfeiture of such seized property or the monetary value thereof to the Secretary for disposition by him in such manner as he deems appropriate. If no judicial action to compel forfeiture is commenced within

30 days after final decision-making assessment of a civil penalty, pursuant to § 216.60, such seized property shall immediately be returned to the respondent.

(d) If the final decision of the Secretary under these regulations is that respondent has committed no violation of the Act or of any permit or regulations issued thereunder, any marine mammal, marine mammal product, or other cargo seized from respondent in connection with the proceedings under these regulations, or the bond or other monetary value substituted therefor, shall immediately be returned to the respondent.

(e) If the Attorney General commences criminal proceedings pursuant to section 105(b) of the Act, and such proceedings result in a finding that the person accused is not guilty of a criminal violation of the Act, the Secretary may institute proceedings for the assessment of a civil penalty under this part: *Provided,* That if no such civil penalty proceedings have been commenced by the Secretary within 30 days following the final disposition of the criminal case, any property seized pursuant to section 107 of the Act shall be returned to the respondent.

(f) If any seized property is to be returned to the respondent, the Regional Director shall issue a letter authorizing such return. This letter shall be dispatched to the respondent by registered mail, return receipt requested, and shall identify the respondent, the seized property, and, if appropriate, the bailee of the seized property. It shall also provide that upon presentation of the letter and proper identification, the seized property is authorized to be released. All charges for storage, care, or handling of the seized property accruing 5 days or more after the date of the return receipt shall be for the account of the respondent: *Provided,* That if it is the final decision of the Secretary under these regulations that the respondent has committed the alleged violation, all charges which have accrued for the storage, care, or handling of the seized property shall be for the account of the respondent.

§ 216.64 Holding and bonding.

(a) Any marine mammal, marine mammal product, or other cargo seized pursuant to section 107 of the Act shall be delivered to the appropriate Regional Director of the National Marine Fisheries Service (see § 201.2 of this title) or his designee, who shall either hold such seized property or arrange for the proper handling and care of such seized property.

(b) Any arrangement for the handling and care of seized property shall be in writing and shall state the compensation to be paid. The Regional Director of the National Marine Fisheries Service, or his designee, shall attempt immediately to notify the respondent by telephone, but in any case shall, within 48 hours of the receipt of the seized property, dispatch notice thereof by registered or certified mail, return receipt requested, to the respondent. Such notice shall describe the property seized, including its declared value, and state the time, place, and reason for the seizure. Such notice shall also give the name and telephone number of a person in the Regional Director's Office who may be contacted regarding such seized property.

(c) The Regional Director of the National Marine Fisheries Service, upon written request of the respondent, may permit the respondent to post a bond or other surety satisfactory to the Regional Director, in lieu of the seized property: *Provided,* That posting of bond or other surety will not be permitted in the case of a living marine mammal seized under the Act. Such bond or other surety shall be in the amount of $5,000 for each alleged violation, as determined by the Regional Director, or an amount equal to the value of the seized property, whichever is greater. Such posting of bond or other surety will not be permitted unless the Regional Director is convinced that the respondent intends to maintain possession or control of the seized property until all proceedings regarding the seized property are completed; or unless the Regional Director is convinced that release of the seized property will not adversely interfere with such proceedings or with the purposes of the Act.

§ 216.65 Enforcement officers.

Enforcement Agents of the National Marine Fisheries Service shall enforce the provisions of the Act and may take any actions authorized by the Act with respect to enforcement. In addition, the Secretary may utilize, by agreement, the personnel, services, and facilities of any other Federal Agency for the purposes of enforcing this Act. Pursuant to the terms of section 107(b) of the Act, the Secretary may also designate officers and employees of any State or of any possession of the United States to enforce the provisions of this Act.

[FR Doc.74-1261 Filed 1-14-74;8:45 am]

Proposed Rules

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

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 46]

SHELLED NUTS

Volume of Composite Fiber-Bodied Containers

Notice is given that a petition has been filed jointly by Owens-Illinois, Inc., Toledo, OH 43666, and the Planters Peanut Division of Standard Brands, Inc., 200 Jackson Ave., Suffolk, VA 23434, proposing amendment of the standard of fill of containers for shelled nuts in rigid or semirigid containers (21 CFR 46.52) to provide for determining the volume of cylindrical fiber-bodied containers intended as an alternative to metal cans for packaging shelled nuts.

Grounds given in the petition in support of the proposal are: (1) The standard includes methods for determining the volume of containers of irregular shape (including glass jars), box-shaped containers, cylindrical containers without indented ends, and cylindrical containers with indented ends (specifically metal cans with ends attached by double seams), but does not provide for determining the volume of cylindrical fiber-bodied containers with indented ends: (2) There is a significant market potential for the fiber-bodied containers; and, (3) The use of such containers would be in consonance with the current emphasis on the development of packaging material more readily biodegradable and more easily recycled.

In the development of the fiber-bodied container the petitioners state that they have attempted to duplicate the inside volume of a comparable metal can. To provide strength, however, the body wall of the fiber-bodied container is about 0.030 inch thicker than that of a metal can (0.040 inch as opposed to 0.010 inch).

The method prescribed in § 46.52(b)(2)(iii) for determining the inside volume of metal cans with indented ends considers the inside diameter to be the outside diameter at the double seam minus one-eighth inch. The petitioners state that a greater amount would have to be subtracted from the outside diameter if the same method is to be applied to the fiber-bodied containers with indented ends and having a 0.030 inch thicker wall. Accordingly, the petitioners propose that an additional 0.060 inch (one-sixteenth inch), or a total of three-sixteenths inch be subtracted from the outside diameter of the fiber-bodied containers measured at the double seam. The petitioners contend that the proposed change would have a significant effect on the calculated volume and, consequently, on the calculated percent fill of container for the shelled nuts.

The Commissioner of Food and Drugs proposes, in addition to the petitioners' proposal, certain editorial changes in § 46.52 to improve the wording of paragraph (b)(2)(iii) which sets forth methods for determining the volumes of cylindrical containers.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055, as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that § 46.52 be amended in paragraph (b)(2)(iii) as follows:

§ 46.52 Shelled nuts in rigid or semirigid containers; fill of containers; label statement of substandard fill.

* * * * *

(b) * * *

(2) * * *

(iii) For cylindrical containers, calculate the container volume in cubic centimeters as the product of the height times the square of the diameter, both measured in inches, times 12.87; or as the product of the height times the square of the diameter, both measured in centimeters, times 0.7854. For containers that do not have indented ends, use the inside height and inside diameter as the dimensions. For metal cans with indented ends (that is, metal cans with ends attached by double seams), consider the height to be the outside height at the double seam minus three-eighths inch (0.953 centimeter) and the diameter to be the outside diameter at the double seam minus one-eighth inch (0.318 centimeter). For fiber-bodied containers with indented ends (that is, fiber-bodied cans with metal ends attached by double seams), consider the height to be the outside height at the double seam minus three-eighths inch (0.953 centimeter) and the diameter to be the outside diameter at the double seam minus three-sixteenths inch (0.476 centimeter).

* * * * *

Interested persons may, on or before March 18, 1974, file with the Hearing Clerk, Food and Drug Administration, Room 6-86, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: January 4, 1974.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.74-1015 Filed 1-14-74;8:45 am]

[21 CFR Part 1040]

LASER PRODUCTS

Proposed Performance Standard

Correction

In FR Doc. 73-25614, appearing at page 34084 in the issue of Monday, December 10, 1973, make the following changes:

1. In the last line of § 1040.10(b)(13), the last letter, "h", should read "r".

2. In the fifth line of § 1040.10(f)(1)(iv)(*b*), insert numeral "I" between the words "Class" and "or".

3. In the first line of § 1040.10(f)(7), the first word "ocation", should read "Location".

4. In the second line of the penultimate paragraph, "1973" should read "1974".

Social Security Administration

[20 CFR Part 416]

[Regulations No. 16]

SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart N—Determinations, Reconsiderations, Hearings, Appeals, and Judicial Review

POLICIES AND PROCEDURES

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553) that the amendments to the regulations set forth in tentative form are proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments provide policies and procedures with respect to determinations and reconsideration, hearings, Appeals Council review, and the right to judicial review.

The rules set forth in the proposed regulations will be applied by the Social Security Administration in order to administer the Supplemental Security Income program during the period from January 1, 1974, when the new program becomes effective, until final regulations are adopted.

Prior to the final adoption of the proposed amendments to the regulations, consideration will be given to any data,

views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, on or before February 14, 1974.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

The proposed amendments are to be issued under the authority contained in sections 1102, and 1601–1634, 49 Stat. 647, as amended, 86 Stat. 1465–1478; 42 U.S.C. 1302, 1381–1385.

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

Dated: December 27, 1973.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: January 9, 1974.

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

Part 416 of 20 CFR Ch. III is amended as follows:

1. Sections 416.1401–1405 are added to proposed Subpart N to read as follows:

Sec.
416.1401 General.
416.1403 Determinations.
416.1404 Notice of initial determination.
416.1405 Effect of initial determination.

§ 416.1401 General.

The provisions contained in this Subpart N relate to determinations under title XVI (Supplemental Security Income) and administrative and judicial review. The provisions herein govern in determining whether a determination is subject to review and set forth the conditions and procedures for reconsideration, hearings, Appeals Council review, and the right to judicial review of initial determinations.

§ 416.1403 Determinations.

(a) *Initial determinations.* The Administration shall, with respect to the application (or conversion) of, or on behalf of, any individual who is or claims to be an eligible individual or eligible spouse and with respect to redeterminations pursuant to section 1611(c)(1) of the Act, make findings of fact setting forth pertinent conclusions and an initial determination with respect to eligibility for supplemental security income benefits and the amount of such benefits. For the purposes of this subpart, the following determinations are also considered initial determinations:

(1) A determination with respect to waiver of recovery of an overpayment;

(2) A determination that payment will be made to a representative payee on behalf of a recipient; except that such a determination with respect to an individual under age 18 or with respect to an individual adjudged legally incompetent or with respect to an individual determined to be a drug addict or an alcoholic shall not be considered an initial determination;

(3) A determination that penalties are to be imposed for failure to report the occurrence of certain events; and

(4) A determination that a recipient is a drug addict or alcoholic.

(b) *Other determinations.* Determinations with respect to presumptive disability for the payment of benefits prior to a determination of disability and eligibility for, or amount of, emergency cash advances are not considered initial determinations.

§ 416.1404 Notice of initial determination.

(a) Written notice of an initial determination shall be mailed to the party to such determination at his last known address and to his representative, if any, except that such notice shall not be required in the case of a determination that a party's eligibility for benefits has ended because of such party's death.

(b) If thei nitial determination denies, in whole or in part, the application of a party, the notice of the determination shall state the basis for such determination.

(c) If the initial determination is that a party's eligibility for benefits has ended or that benefits are to be suspended or that a reduction or adjustment is to be made in the amount of benefits, the notice of such determination shall state the basis for the determination and shall provide notice and opportunity for an evidentiary hearing before such determination is effectuated except as otherwise provided in Subpart M of this Part.

(d) Each notice of an initial determination shall inform the party of his right to the pertinent administrative appellate process.

§ 416.1405 Effect of initial determination.

The initial determination shall be final and binding upon the party or parties to such determination unless it is reconsidered in accordance with §§ 416.1408–416.1423, or it is revised.

[FR Doc.74-1194 Filed 1-14-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Parts 56, and 61]

[CGD 73-248P]

MARINE ENGINEERING

Clarification Amendments

Correction

In FR Doc. 73-26178 in the issue of Tuesday, December 11, 1973 on page 34122 the following changes should be made:

1. In § 56.60–1, in paragraph 5.d.1. the quoted material in the third line should read "ductile iron."

2. Delete the paragraph under § 56.60–5 and substitute the following: 8. By adding the words "(High temperature applications)" to the heading of § 56.60–5.

§ 61.15–5 [Amended]

9. By amending § 61.15–5 by striking the 4th sentence in pargaraph (b) and inserting the following words: "A pipe with a nominal size of 3 inches or less is not required to be hydrostatically tested."

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 73-SW-69]

ALTERATION OF TRANSITION AREA

Proposed Alteration

On November 15, 1973, a notice of proposed rule making was published in the FEDERAL REGISTER (38 FR 31541) stating that the Federal Aviation Administration proposed to alter the 700-foot transition area at Minden, La.

Subsequent to publication of the notice of proposed rule making, an additional instrument approach procedure has been established on the Minden, La., NDB which will require additional controlled airspace for aircraft executing the approach procedure. The airspace docket is hereby amended to further alter the Minden, La., 700-foot transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before February 14, 1973, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (39 FR 440), the Minden, La., transition area is amended to read:

MINDEN, LA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Minden-Webster Airport (latitude 32°39'00" N., longitude 93°18'00" W.) and within 2.5 miles each side of Shreveport VORTAC 105° T (098° M) radial extending from the 5-mile radius area to 25 miles east of the VORTAC; within 3 miles each side of the 021° T (015° M) bearing from the NDB (latitude 32°38'28" N., longitude 93°18'06" W.) extending from the 5-mile radius area to 8 miles north of the NDB; within 3 miles each side of the 186° T (180° M) bearing from the NDB extending from the 5-mile radius area to 8 miles south of the NDB.

The proposed alteration of the transition area will provide controlled airspace for aircraft executing instrument approach procedures predicated on the Minden, La., NDB.

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

Issued in Fort Worth, TX., on December 28, 1973.

ALBERT H. THURBURN,
Director, Southwest Region.

[FR Doc.74-1029 Filed 1-14-74;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 73-SW-85]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the Camden, Ark., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before January 15, 1974, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (39 FR 440), the Camden, Ark., transition area is amended to read:

CAMDEN, ARK.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Harrell Airport (latitude 33°37'00" N., longitude 92°45'45" W.) and within 2 miles each side of the 012° T (006° M) bearing from the Camden RBN (latitude 33°37'15" N., longitude 92°45'45" W.), extending from the 5-mile radius area to 8 miles north of the RBN and 2.5 miles each side of the El Dorado, Ark., VORTAC (33°15'21.7" N., 92°44'37'6" W.) 356° T (350° M) radial extending from the 5-mile radius area to 20 miles north of the El Dorado VORTAC.

Alteration of the transition area is to provide controlled airspace for an instrument approach procedure to the Harrell Airport predicated on the El Dorado VORTAC.

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

Issued in Fort Worth, TX, on January 2, 1974.

A. H. THURBURN,
Acting Director, Southwest Region.

[FR Doc.74-1028 Filed 1-14-74;8:45 am]

Federal Railroad Administration

[49 CFR Chapter II]

[Docket No. RSOR-3, Notice 1]

PROTECTION OF RAILROAD EMPLOYEES WHILE INSPECTING, REPAIRING OR SERVICING RAILROAD EQUIPMENT

Advance Notice of Proposed Safety Regulations

The Federal Railroad Administration (FRA) is studying possible courses of action with respect to the development of safety regulations which would require railroads to take certain protective measures to assure the safety of railroad employees engaged in the inspection, repair and servicing of trains, locomotives and other railroad rolling equipment. The rules would apply to railroads that are part of the general railroad system of transportation and to railroads operating exclusively in rapid transit, commuter, or other short-haul passenger service in a metropolitan or suburban area.

BACKGROUND

The Association of American Railroads' (AAR) Standard Code of Operating Rules is the foundation for the operating rules and practices of most railroads. Using the AAR Code as a guideline, each railroad constructs, interprets and applies its rules as it sees fit according to the conditions under which it operates.

Rule 26 of the AAR Code provides:

A blue signal, displayed at one or both ends of an engine, car or train, indicates that workmen are under or about it; when thus protected it must not be coupled to or moved. Each class of workmen will display the blue signals and the same workmen are alone authorized to remove them. Other equipment must not be placed on the same track so as to intercept the view of the blue signals, without first notifying the workmen. When emergency repair work is to be done under or about engine or cars in a train and a blue signal is not available, the engineman will be notified and protection must be given those engaged in making repairs.

Most railroads have issued rules corresponding in varying degrees to these AAR rules. However, application, interpretation and observance of these rules differ greatly from railroad to railroad, and in many cases, from location to location on the same railroad. This situation results in confusion and uncertainty as to the procedures to be followed in a given situation. Experience proves that this confusion and uncertainty may have tragic consequences. Moreover, the railroads' failure to strictly enforce these protective rules has contributed to a number of serious injuries and fatalities to railroad employees working under or about rolling equipment. The FRA believes that many of these injuries and fatalities could have been avoided if adequate mandatory rules had been in effect and observed.

The FRA has recently taken initial steps toward the development of minimum standards for railroad operating rules. On May 14, 1973 the FRA published in the FEDERAL REGISTER (38 FR 12617) a notice of proposed rule making which would require railroads to provide the FRA with certain information concerning their operating practices. In addition, an advance notice of proposed rule making, requesting public participation and comment on the nature of rules to eliminate the most troublesome causes of serious train accidents resulting from human factors, was published in the FEDERAL REGISTER of August 9, 1973 (38 FR 21503). It was anticipated that the information furnished as a result of these notices would assist the FRA in the development of uniform Federal operating requirements. Rule making proceedings pursuant to these notices are still in progress.

PUBLIC PARTICIPATION REQUESTED

The purpose of this advance notice is to solicit public participation and comment on the nature of the rules to be developed by FRA to protect railroad employees who must work on, under and between locomotives and cars while performing inspection, repair and servicing tasks.

Specific advice is requested on the following points:

(1) Should these rules be promulgated in the form of minimum standards, allowing individual railroads to enforce their own more stringent rules; or should the Federal standards require absolute uniformity of application to all railroads.

(2) How may Rule 26 of the AAR Code and similar rules issued by various railroads be strengthened and clarified to improve safety?

(3) What measures should be required to protect employees working on equipment located in a hump yard? What measures should be taken to secure manual and remotely-controlled switches providing entrance to a track where employees are working on or under equipment? What controls should be exercised over the placement and removal of these protective measures? Should written records of the protective measures taken be required?

(4) What measures should be taken to protect employees working on or under equipment that is located on other than hump yard track? Should these measures be required during initial terminal and other train air brake tests?

Communications should identify the docket number and notice number and be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590. Communications received before March 1, 1974, will be considered by FRA in development of a notice of proposed rule making. Comments received after that date will be considered so far as practicable. All comments received will be available both before and after the closing date for communications, for examination by interested persons during regular business hours in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

This advance notice is issued under the authority of sec. 202, 84 Stat. 971, 45 U.S.C. 431; Sec. 1.49(n) of the Regulations of the Office of the Secretary of Transportation, 49 C.F.R. 1.49(n).

Issued in Washington, D.C. on January 9, 1974.

JOHN W. INGRAM,
Administrator.

[FR Doc.74-1237 Filed 1-14-74;8:45 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 73-33; Notice 1]

LAMPS, REFLECTIVE DEVICES AND ASSOCIATED EQUIPMENT

Motor Vehicle Safety Standards

Correction

In FR Doc. 74-106 appearing on page 822 in the issue of January 3, 1974 the proposed effective date in the second column, reading "February 4, 1974", should read "Thirty days after publication of the final rule in the FEDERAL REGISTER".

[49 CFR Part 573]

[Docket No. 69-31; Notice 5]

DEFECT REPORTING REQUIREMENTS

Proposed Extensions and Modifications

This notice proposes several amendments to the Defect Reports regulation, appearing in 49 CFR Part 573. The proposal would extend the requirements of the regulation to manufacturers of motor vehicle equipment, modify the information required to be reported in defect and quarterly reports including deletion of the requirement for the reporting of production figures, and make other modifications below. The Defect Reports regulation was issued February 17, 1971 (36 FR 3064).

The regulation would be amended to require the filing of defect information reports (§ 573.4) by manufacturers of motor vehicle equipment, including manufacturers of tires. When equipment has been used as original equipment in the vehicles of more than one vehicle manufacturer, a separate defect report would be required from the equipment manufacturer and from each vehicle manufacturer using the equipment. When equipment is used as original equipment in the vehicles of only one manufacturer, only one report would be required, and either the vehicle or equipment manufacturer would be permitted to submit it. Equipment manufacturers would bear sole responsibility for reporting defects in aftermarket equipment. In addition to submitting the information presently required to be submitted by vehicle manufacturers, equipment manufacturers (other than tire manufacturers) would be required to include the name and address, where known, of each distributor, dealer, and vehicle manufacturer to whom potentially defective equipment has been sold, and the number of items sold to each. The proposal will provide NHTSA with more comprehensive defect information in situations involving motor vehicle equipment, particularly in situations where the defect involves equipment not manufactured specifically for the vehicles of one vehicle manufacturer. Such situations have arisen in the past several years, usually involving multistage vehicles. In these cases, the equipment manufacturer has generally been in a better position than the individual vehicle manufacturers to determine whether a defect existed, and to provide much of the information required in the defect information report. The NHTSA has tentatively determined that the most effective way to obtain this information is to make the equipment manufacturer directly responsible for reporting it.

The proposal would also require equipment manufacturers who conduct defect notification campaigns directed at distributors, dealers, or purchasers to file quarterly reports (§ 573.5). The NHTSA recognizes that equipment manufacturers, except for tire manufacturers, are not required by law to conduct notification campaigns unless the NHTSA formally orders such a campaign pursuant to proceedings under section 113(e) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1402(e)). In the past, however, numerous equipment manufacturers who have discovered safety related defects in their products have voluntarily conducted campaigns. The proposed amendment would not enlarge the duties of manufacturers of equipment under the National Traffic and Motor Vehicle Safety Act to notify distributors, dealers, or purchasers, and would require the filing of quarterly reports only when such notification campaigns are conducted.

The proposed amendment would revoke the requirement that manufacturers include in quarterly reports the production figures for vehicles they manufacture. Based on its experience with this requirement, the NHTSA has decided that the information is not of sufficient benefit to justify the cost to manufacturers of providing it. Revoking the requirement will eliminate the need for filing quarterly reports by manufacturers who are not conducting notification campaigns.

The regulation would also be amended to specifically state that vehicles and equipment found not to conform to a motor vehicle safety standard, except for inconsequential nonconformities, will be considered to contain safety related defects. There is apparently some confusion as to whether a nonconformity to a safety standard is a safety related defect under the Safety Act. The NHTSA position has been that all but inconsequential nonconformities are safety related defects, and to eliminate further ambiguity this regulation would require that a nonconformity with a safety standard, except for one deemed inconsequential in its relation to safety, must be reported similarly to other safety related defects. Nonconformities that are determined not to be safety related defects would be required to be reported under a separate provision.

The requirements pertaining to the furnishing to NHTSA of notices, bulletins, and other communications to dealers and purchasers, where more than one dealer or purchaser is involved, for all defects whether or not safety related (§ 573.7), would similarly be extended to equipment manufacturers. Among equipment manufacturers, however, only manufacturers of tires would be required to maintain owner lists (§ 573.6). Tire manufacturers are the only equipment manufacturers presently required under the Safety Act to maintain the names and addresses of first purchasers.

There has been some question whether a defect report must be filed regarding vehicles in the hands of distributors and dealers. The NHTSA has taken the position that, under the existing regulatory provisions, defect reports must be filed regarding vehicles that have been delivered to dealers, as well as those that have been delivered to purchasers.

The NHTSA does not believe there is justification for continuing to allow vehicles that have left the immediate control of the manufacturer to be exempt from the reporting requirements. The practice has tended to hide from the NHTSA and the public the precise details of these motor vehicle defects. In practice, apart from situations where such defects may not have been reported at all, they have been reported in many instances only after the manufacturer has privately corrected them. This is not

consistent with the purpose of section 113 of the Safety Act, as implemented by the Defect Reports regulation, that immediate notice of defects be provided to the agency in order that it can, if it determines it necessary, make specific defect information available to the public. In the case of NHTSA, the information is closely related to its ability to monitor the correction of vehicles found to be defective. The practice further allows manufacturers to avoid compliance with section 113, and both the Defect Reports and Defect Notification (49 CFR Part 577) regulations, when it later appears that the requirements applied with respect to at least some of the vehicles involved. This notice, therefore, proposes that defect and quarterly reports include all defective vehicles and equipment that have been transported from their place of final manufacture.

The proposal also suggests some changes in the information presently supplied in both defect information and quarterly reports (apart from those changes necessitated solely by applying the requirements to equipment manufacturers). In the defect information report, the requirement for identifying affected vehicles would be modified to list separate criteria for passenger cars, vehicles other than passenger cars, and motor vehicle equipment. The revised criteria are intended to facilitate the identification of vehicles and equipment for the purposes of submitting the report. The information required as part of quarterly reports, including the number of vehicles inspected, found to contain the defect, and corrected, would be replaced by requirements that each of the following be reported: the total number of vehicles inspected, the number needing and receiving corrective action, the number needing but not receiving corrective action, and the number not needing corrective action. This information would provide a more complete picture to NHTSA of the extent of campaign completion, and resolve what appears to be some confusion as to meaning of 'inspected" under the existing requirements.

Some changes have been proposed in the present language of the standard for purely editorial purposes. In addition, the address to which information is to be submitted has been revised.

In light of the above, it is proposed that 49 CFR Part 573, Defect Reports be revised to read as set forth below.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Comment closing date: April 16, 1974.

Proposed effective date: 180 days from date of publication of the final rule.

Issued on January 9, 1974.

JAMES B. GREGORY,
Administrator.

PART 573—DEFECT REPORTS

Section

AUTHORITY: (Secs. 108, 112, 113, and 119, Public Law 89-563, 80 Stat. 718 as amended, Sections 2, 4 Public Law 91-265, 84 Stat. 262 (15 U.S.C. 1397, 1401, 1402, 1408); delegation of authority at 49 CFR 1.51) unless otherwise noted.

§ 573.1 Scope.

This part specifies requirements for manufactureres to maintain lists of owners of defective motor vehicles and tires, and for reporting to the National Highway Traffic Safety Administration safety related and other defects in motor vehicles and motor vehicle equipment, for reporting nonconformities to motor vehicle safety standards, for providing quarterly reports on defect notification campaigns, and for providing copies to NHTSA of communications regarding defects with distributors, dealers, and purchasers.

§ 573.2 Purpose.

The purpose of this part is to inform NHTSA of defective and noncomplying motor vehicles and items of motor vehicle equipment, and to obtain information for NHTSA on the adequacy of manufacturers' defect notification campaigns, on corrective action, on owner response, and to compare the defect incidence rate among different groups of vehicles.

§ 573.3 Application.

This part applies to manufacturers of complete motor vehicles, incomplete motor vehicles, and motor vehicle equipment, with respect to all vehicles and equipment that have been transported from their place of final manufacture.

In the case of vehicles or equipment manufactured outside the United States, compliance with §§ 573.4 and 573.5 by either the fabricating manufacturer or the importer of the vehicle or item of equipment with respect to a particular defect shall be considered compliance by both. In the case of vehicles manufactured in two or more stages, compliance with §§ 573.4 and 573.5 by either the manufacturer of the incomplete vehicle or one of the subsequent manufacturers of the vehicle shall be considered compliance by all manufacturers. In the case of motor vehicle equipment used as original equipment in the vehicles of only one vehicle manufacturer, compliance §§ 573.4 and 573.5 by either the vehicle or equipment manufacturer shall be considered compliance by both. For purposes of this part, a manufacturer of tires includes an owner of a tire brand name that is not owned by the tire manufacturer.

§ 573.4 Defect information report.

(a) Each manufacturer shall furnish a defect information report to the NHTSA for each defect in his vehicles or items of equipment that he or the Administrator determines to be related to motor vehicle safety, including any nonconformity with a motor vehicle safety standard except a nonconformity having an inconsequential relationship to motor vehicle safety.

(b) Each defect information report shall be submitted not more than 5 working days after a defect in a vehicle or item of equipment has been determined to be safety related, or a noncompliance with a motor vehicle safety standard has been discovered. Information required by paragraph (c) of this section that is not available within that period shall be submitted as it becomes available. Each manufacturer submitting new information relative to a previously submitted report shall refer to the notification campaign number when a number has been assigned by the NHTSA.

(c) Each manufacturer shall include in each defect information report the information specified below. Manufacturers of motor vehicles and tires shall include only the information specified in paragraphs (c)(1) through (8) of this section. Manufacturers of motor vehicle equipment other than tires shall include, in addition, the information specified in paragraph (c)(9) of this section.

(1) The manufacturer's name: The full corporate or individual name of the fabricating manufacturer of the vehicle or item of equipment shall be spelled out, except that such abbreviations as "Co." or "Inc.", and their foreign equivalents, and the first and middle initials of individuals, may be used. In the case of imported vehicles or items of equipment, the agent designated by the fabricating manufacturer pursuant to section 110(e) of the National Traffic and Motor Vehicle Safety Act (15 USC 1399(e)) shall be also stated. If the fabricating manufacturer is a corporation that is controlled by another corporation that assumes responsibility for compliance with all requirements of this part, the name of the controlling corporation may be used.

(2) Identification of the vehicles or items of equipment potentially containing the defect.

(i) In the case of passenger cars, the identification shall be by the make, line, vehicle identification number, model year, the inclusive dates (month and year) of manufacture, and any other data necessary to describe the affected vehicles.

(ii) In the case of vehicles other than passenger cars, the identification shall be by body style or type, vehicle identification number, inclusive dates (month and year) of manufacture, GVWR or class for trucks, displacement (cc) for motorcycles, and number of passengers for buses.

(iii) In the case of items of motor vehicle equipment, the identification shall be by generic name of the component (tires, child seating systems, axles, etc.), part number, size and function if applicable, the inclusive dates (month and year) of manufacture, and any other descriptive information necessary to identify the item.

(3) The total number of vehicles or items of equipment potentially containing the defect, and the number of vehicles or items of equipment in each group identified pursuant to paragraph (c) 2 of this section.

(4) The percentage of vehicles or items of equipment specified pursuant to paragraph (c) (2) of this section estimated to actually contain the defect.

(5) A description of the defect, including both a brief summary and a detailed description, with graphic aids as necessary, of the nature and physical location (if applicable) of the defect.

(6) A chronology of all principal events that were the basis for the determination that the defect related to motor vehicle safety, including all warranty claims, field service bulletins, and other information, with their dates of receipt.

(7) A statement of measures to be taken to repair the defect.

(8) Three copies of all notices, bulletins, and other communications that relate directly to the defect and are sent to more than one manufacturer, distributor, dealer, or purchaser. These copies shall be submitted to the NHTSA not later than they are initially sent to manufacturers, distributors, dealers, or purchasers.

(9) (For manufacturers of equipment other than tires) The name and address (where known) of each distributor and dealer of such manufacturer, and the name of each vehicle manufacturer, to whom a potentially defective item of equipment has been sold, the number of such items sold to each, and the date of delivery.

§ 573.5 Quarterly reports.

(a) Each manufacturer who is conducting a defect notification campaign to manufacturers, distributors, dealers, or purchasers, shall submit to NHTSA a report in accordance with paragraphs (b), (c), and (d) of this section, not more than 25 working days after the close of each calendar quarter.

(b) Each report shall include the following information, identified by and in the order of the subparagraph headings of this paragraph, with respect to each notification campaign conducted within the period of time specified in paragraph (d) of this section.

(1) The notification campaign number assigned by NHTSA.

(2) The date notification began and the date completed.

(3) The number of vehicles or items of equipment involved in the notification campaign.

(4) The number of vehicles or items of equipment estimated to contain the defect.

(5) The number of vehicles or items of equipment inspected (the sum of paragraphs (b) 6, 7, and 8 of this section.

(6) The number of vehicles or items of equipment needing and receiving corrective action.

(7) The number of vehicles or items of equipment needing but not receiving corrective action.

(8) The number of vehicles or items of equipment not needing corrective action.

(9) The number of vehicles or items of equipment determined to be unreachable for inspection due to export, theft, scrapping, failure to receive certified letter, or other reasons (specify). The number of vehicles or items of equipment in each category shall be specified.

(c) If the manufacturer determines that the original information submitted under paragraphs (b) (3) and (4) of this section is incorrect, revised figures and an explanatory note shall be submitted. If the nature of the defect prevents determination of the information required by paragraphs (b) (6), (7), and (8) of this section, the manufacturer shall include a brief explanation. Information supplied in response to paragraphs (b) (5), (6), (7), and (8) of this section shall be cumulative totals.

(d) Unless otherwise directed by the NHTSA, the information specified in paragraph (b) of this section, with respect to each notification campaign, shall be included in each quarterly report for six consecutive quarters, beginning with the quarter in which the campaign was initiated, (i.e., the date of initial mailing of the defect notification to owners) or until corrective action has been completed on all defective vehicles involved in the campaign, whichever occurs sooner.

§ 573.6 Owner lists.

Each manufacturer of motor vehicles or tires shall maintain in a form suitable for inspection, such as computer information storage devices or card files, a list of the names and addresses of each first purchaser for a purpose other than resale of his vehicles or tires, and of any other owner known to the manufacturer, for each vehicle or tire involved in a safety defect notification campaign initiated after the effective date of this part. In the case of motor vehicles, the list shall include the vehicle identification number for each vehicle. In the case of tires, the list shall include the tire identification number for each tire. Each list shall show the status of correction with respect to each vehicle or tire involved in each notification campaign, updated as of the end of each quarterly reporting period specified in § 573.5(d) of this part. Each list shall be retained, beginning with the date on which the defect information report required by § 573.4 of this part is initially submitted to the NHTSA, for 5 years in the case of a defect involving motor vehicles, and for 3 years in the case of a defect involving tires.

§ 573.7 Noncompliance with a Federal motor vehicle safety standard.

Each manufacturer shall furnish a report containing the information required with respect to defects by § 573.4 (c) (1) through (5) of this part for each noncompliance with a Federal motor vehicle safety standard that he determines to have an inconsequential relationship to motor vehicle safety. The report shall be furnished within 5 days of the determination to the Office of Standards Enforcement, National Highway Traffic Safety Administration, Washington, D.C. 20590.

§ 573.8 Notices, bulletins, and other communications.

Each manufacturer shall furnish the Administration a copy of all notices, bulletins, and other communications, other than those required to be submitted pursuant to § 573.4(c) (8) of this part, sent to more than one manufacturer, distributor, dealer, or purchaser, regarding any defect in his vehicle or items of equipment, whether or not safety-related. Copies shall be submitted monthly, not more than 5 working days after the last day of each month.

§ 573.9 Address for submitting required reports and other information.

All required reports and other information except that required pursuant to § 573.7 of this part shall be submitted to the Office of Defects Investigation, National Highway Traffic Safety Administration, Washington, D.C. 20590.

[FR Doc.74-1056 Filed 1-14-74;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 207, 208, 212, 214]

[EDR 261; Docket No. 26301]

CHARTER FLIGHTS

Certain Split Charter Operations

Notice is hereby given that the Civil Aeronautics Board has under consideration proposed amendments to Parts 207, 208, 212 and 214 of its Economic Regulation proposed amendments to Parts 207, tions (14 CFR Parts 207, 208, 212 and 214) to prohibit direct air carriers and foreign air carriers from combining on the same aircraft one or more split charters, operated by an indirect air carrier under any of our Special Regulations, with one or more split charters of the

"prior affinity" type, involving the same person acting as travel agent for the "prior affinity" charter.

The principal features of the proposed rule are set forth in the attached explanatory statement and the proposed amendments are set forth in the proposed rules. The amendments are proposed under authority of sections 101(3), 204(a), 401 and 402 of the Federal Aviation Act of 1958, as amended (72 Stat. 737, 743, 754 and 757, as amended; 49 U.S.C. 1301, 1324, 1371 and 1372).

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before February 15, 1974, will be considered by the Board before taking final action upon the proposed rules. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712 Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

EXPLANATORY STATEMENT

Under the Board's present general charter rules applicable to direct air carriers and foreign air carriers, various specified types of passenger charters are permitted to be carried on the same aircraft as split charters (i.e., charters for less than the entire capacity of an aircraft) so long as each such split charter covers at least 40 seats.[1] These charter rules include no prohibition against combining on the same aircraft split charters of the various authorized types.

Thus, under the existing rules, the same person may engage part of an aircraft's capacity for one or more split charters as an indirect air carrier operating charters authorized by one or more of our Special Regulations,[2] and he may also engage part of the same aircraft as an agent or representative of a "prior affinity" group.[3]

It has come to our attention that enforcement problems have arisen as a result of the practice of certain persons acting as indirect air carriers with respect to split charters on aircraft for which they have also engaged split charter space as purported agents for "prior affinity" groups. Basically, the problem represents a particular ramification of the general difficulty of adequately enforcing our "prior affinity" rules,[4] in that the mere opportunity to combine this type of charter on the same aircraft with one or more of the various types of charters authorized under our Special Regulations, creates a situation conducive to unlawful charter operations. Thus, the same person is enabled to market both types of charters, acting ostensibly as a mere agent (i.e., in a non-entrepreneurial capacity) with respect to one charter and as a risk-taking indirect air carrier with respect to another charter; yet, in actuality he intends to regard the aggregate of charter space which he has engaged as available for allocation among prospective participants in either type of charter, depending upon requirements which develop in the course of his marketing, and then to revise the various charter contracts to conform to the number of seats already sold.

We have therefore tentatively concluded that it would be desirable to amend our general charter regulations so as to preclude the continuation of the above-described practice. Accordingly, the amendments to Parts 207, 208, 212 and 214 proposed herein would prohibit combining on the same aircraft one or more split charters operated by an indirect air carrier who is also acting as agent with respect to one or more split charters of the "prior affinity" type.

PROPOSED RULE

It is proposed to amend Parts 207, 208, 212, and 214 of the Board's Economic regulations (14 CFR Parts 207, 208, 212, and 214) as follows:

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

1. Amend § 207.11(c)(6) by adding a further proviso at the end thereof, to read as follows:

§ 207.11 Charter flight limitations.

* * * * * *

(c) * * *

(6) * * * *Provided,* That with respect to paragraph (c) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats: *And provided further,* That paragraph (c) of this section shall not be construed to apply to movements of property: *And provided further,* That with respect to paragraph (c) of this section a person engaging less than the entire capacity of an aircraft as agent or representative of a group of persons pursuant to paragraph (c)(2) of this section may not engage any space on the same aircraft as an indirect air carrier operating one or more charters pursuant to paragraph (c)(3), (4), (5), or (6) of this section.

PART 208—TERMS, CONDITIONS, AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATION

2. Amend § 208.6(c)(6) by adding a further proviso at the end thereof to read as follows:

§ 208.6 Charter flight limitations.

* * * * * *

(c) * * *

(6) * * * *Provided,* That with respect to paragraph (c) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats: *And provided further,* That paragraph (c) of this section shall not be construed to apply to movements of property: *And provided further,* That with respect to paragraph (c) of this section a person engaging less than the entire capacity of an aircraft as agent or representative of a group of persons pursuant to paragraph (c)(2) of this section may not engage any space on the same aircraft as an indirect air carrier operating one or more charters pursuant to paragraph (c)(3), (4), (5), or (6) of this section.

PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS

3. Amend § 212.8(b)(6) by adding a further proviso at the end thereof to read as follows:

§ 212.8 Charter flight limitations.

* * * * * *

(b) * * *

(6) * * * *Provided,* That with respect to paragraph (b) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats: *And provided further,* That paragraph (b) of this section shall not be construed to apply to movements of property: *And provided further,* That with respect to paragraph (b) of this section a person engaging less than the entire capacity of an aircraft as agent or representative of a group of persons pursuant to paragraph (b)(2) of this section may not engage any space on the same aircraft as an indirect air carrier operating one or more charters pursuant to paragraph (b)(3), (4), (5), or (6) of this section.

PART 214—TERMS, CONDITIONS, AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS AUTHORIZING CHARTER TRANSPORTATION ONLY

4. Amend § 214.7(b)(5) by adding a further proviso at the end thereof to read as follows:

§ 214.7 Charter flight limitations.

* * * * * *

(b) * * *

(5) * * * *Provided,* That paragraph (b) of this section shall not apply with respect to any foreign air carrier to the extent that its permit authorizes it to engage in "planeload" charter foreign air transportation of persons: *And provided further,* That with respect

[1] See §§ 207.11(c), 208.6(c), 212.8(b), and 214.7(b).

[2] For example, as an overseas military personnel charter operator, under Part 372; or a travel group charter organizer, under Part 372a; or an inclusive tour operator, under Part 378.

[3] This type of charter, popularly known as an "affinity charter," is provided for in our general charter rules for direct air carriers and foreign air carriers, and does not involve the services of an indirect air carrier.

[4] We have recently adverted on various occasions to the broader problems entailed by our "prior affinity" charter rules. See, for example, the Preamble to our Travel Group Charter rule, (14 CFR Part 372a) SPR-61 (mimeo, p. 1); and the Explanatory Statement to our Proposed Rule to suspend Prior Affinity Charter Authority, EDR-237.

to paragraph (b) of this section each person engaging less than the entire capacity of the aircraft shall contract and pay for 40 or more seats: *And provided further,* That with respect to paragraph (b) of this section a person engaging less than the entire capacity of an aircraft as agent or representative of a group of persons pursuant to paragraph (b)(2) of this section may not engage any space on the same aircraft as an indirect air carrier operating one or more charters pursuant to paragraph (b)(3), (4), or (5) of this section.

[FR Doc.74-1233 Filed 1-14-74;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 74]

[Docket No. 19918, RM-2235]

FM RADIO BROADCAST TRANSLATOR STATIONS

Operation Requirements; Notice of Proposed Rule Making

1. The Commission has before it for consideration a petition, filed pursuant to § 1.401 of the rules, by the National Association of Broadcasters (NAB), on July 30, 1973, requesting that the Commission amend § 74.1232(d) of the Commission's rules, pertaining to FM radio broadcast translator stations, and comments filed in connection therewith.[1] Section 74.1232(d) of the Commission's rules prohibits operation of a commercial FM translator station by the licensee of the FM station whose programs are to be rebroadcast (primary station) or anyone connected therewith or financially supported directly or indirectly, by such licensee, if the translator station would provide reception to places beyond the primary station's predicted 1 mV/m contour and within the predicted 1 mV/m contour of another FM broadcast station assigned to a different community. Section 74.1201(b) of the Commission's rules defines a commercial FM translator as one which rebroadcasts the signals of a commercial FM broadcast station. By its terms, § 74.1232(d) is limited in its application to the licensees of primary stations, anyone financially supported, directly or indirectly, by such licensee, or anyone connected with such licensee. Any other applicant may be authorized to construct and operate an FM translator, wherever proposed, irrespective of the primary station's predicted 1 mV/m contour or the location of the predicted 1 mV/m contours of other FM stations.

2. NAB has expressed grave concern over the impact which FM translators, authorized to permittees who are not the licensees of their primary stations (so-called "community-type" or "non-licensee owned" translators) have on existing FM stations within whose predicted 1 mV/m contours such translators would provide reception. In essence, NAB asks that the same restrictions be applied to community-type commercial FM translators as now applies to licensee-owned translators. RMBA would go further; RMBA would enlarge the restricted zone to include the predicted 1 mV/m contour of any standard broadcast station as well as to FM broadcast stations and would make the rule applicable to all FM translators, whether commercial or noncommercial educational. All of the parties filing comments supported the petition; Communications Investment Corporation (CIC), licensee of stations KALL and KALL-FM, Salt Lake City, Utah, supported the petition to the extent that it would entail a review of the rule, but expressed reservations as to the proposed restrictions on community-type translators. CIC stated that it would frame the rule to provide that no FM translator would be authorized to provide reception to places outside its primary station's predicted 1 mV/m contour if such places would be within the predicted 1 mV/m contour of an FM station where 50 percent or more of the service area of the latter is within the predicted 1 mV/m contours of three or more FM stations. We think that the rule proposed by CIC would be unnecessarily complex and, in the end, would prove unworkable. It promises to impose an unreasonable burden on FM translator applicants, particularly on those who are not licensees of FM stations, and on the Commission's staff and would very likely provide fertile ground for litigation.

3. The situation which has given rise to the need to amend the rules evolved, we believe, from a basic difference between television translators and FM translators, a difference which we did not perceive at the time we promulgated the FM translator rules. The economics of broadcasting have generally confined construction and operation of television stations (except "satellite" stations) to major centers of population. FM stations, however, will be found in many small communities which could never hope to support a television station. In such communities, the economic status of FM stations is often marginal, at best. Consequently, FM translators in such communities pose a threat to the viability of the local FM stations which is not usually experienced with respect to television stations. It is neither our purpose nor function to protect a broadcaster against competition, for Congress intended that there be competition in the business of broadcasting ("Tele-Visual Corporation W70BC"), 34 FCC 2d 640, 24 RR 2d 145, and cases there cited; "Roger D. Olsen," FCC 73-905, 28 RR 2d 493, released September 14, 1973), but we are concerned about the viability of small community FM stations where the limited audience may be fragmented by translators carrying distant FM stations.

4. On September 23, 1970, the Commission adopted its "Report and Order" in Docket No. 17159 (FCC 70-1042, 20 RR 2d 1538, released September 29, 1970), amending Part 74 of the rules to add a new Subpart L, authorizing FM translator stations and FM booster stations.[2] These rules were based on the television translator rules with the modifications necessary to accommodate them to FM operation and to eliminate various ambiguities which appeared in the television translator rules. The new FM translator rules were fashioned largely on the basis of our experience over the years with television translators. Activity in the FM translator service was delayed for many months because of lack of application forms, lack of type-accepted equipment, and lack of awareness on the part of the public of the availability of the new service. Once these obstacles were overcome, however, application activity increased sharply.[3] A pattern began to emerge and it quickly became apparent that the FM translator service had not evolved along the same lines as the television translator service and, as a result, some of our assumptions proved to be erroneous. We believe that some modifications of the FM translator rules have now become necessary in order to rectify developing situations which we believe may not be in the public interest and do not reflect our intentions or expectations.

5. In paragraph 6 of the "Report and Order," supra, we said:

> Because we recognize that community-sponsored FM translators will be requested only where there is a real public demand, we will impose no restriction on the location of the areas they will serve.

Later, in that same paragraph, referring to restrictions which we were imposing on commercial translators, we said that we would not impose similar restrictions on the location of FM translators rebroadcasting the programs of noncommercial educational FM stations. It now appears that our assumption that community-type FM translators would be requested only where there was a real public demand was in error. It has become abundantly clear to us that FM translators are not being sought and used solely or primarily as "fill-in" devices nor as a means to provide service to unserved or underserved areas; instead, they are being sought in many cases to expand FM broadcast service far beyond the FM stations' predicted service contours and into major communities where there is already existing FM broadcast service. We are concerned about the disruptive effects of this practice as well

[1] The parties filing comments in connection with the petition are listed in Appendix I hereto.

[2] Since FM booster stations will not be authorized to anyone other than the licensee of the primary station and the area to be served is limited to that within the primary station's predicted 1 mV/m contour, FM boosters are not involved in this proceeding.

[3] As of July 1, 1971, three applications for new FM translator stations had been filed; as of July 1, 1972, 33 more had been filed; and as of July 1, 1973, an additional 82 applications for new FM translators or major changes in existing FM translators had been filed.

as possible elements of unfair competition. We do not see a problem where an FM translator is sought by a non-licensee to provide reception to places within the primary station's predicted 1 mV/m contour, for clearly there is a legitimate interest in providing service to such areas. Where, however, the community or area to be served by the translator is beyond any area of legitimate interest of the primary station and that community or area is one which is served by more than one FM station, a serious question arises as to whether authorization of translators in such communities or areas serves or disserves the public interest.

6. Communications Investment Corporation has pointed out that, if we were to restrict all FM translators to their primary stations' predicted 1 mV/m contours except in cases where the communities to be served by the translators are not within the predicted 1 mV/m contour of any other FM stations assigned to different communities, we may be encouraging, if not promoting, monopolies in broadcasting which would be inimical to the public interest. For example, let us assume that a non-licensee seeks an FM translator to serve an area beyond primary station's predicted 1 mV/m contour and within the predicted 1 mV/m contour of an FM station which is the only radio station assigned to a community. CIC points out, correctly, we think, that the effect of such a rule would be to preserve to the lone FM station an inviolate sanctuary within which there could be no competition except from another FM station operating in that community. The rule which we would promulgate must, we think, allow the public a choice of radio signals, but should contain restrictions on translator service to areas where a choice of FM service already exits. Consequently, we propose to amend the rules to prohibit any FM translator station, whether licensee-owned or not, from serving an area beyond its primary station's predicted 1 mV/m contour where the translator would provide reception to any community or area which is within the predicted 1 mV/m contours of more than one FM broadcast station licensed to a community other than that of the primary station.

7. We have considered the plea of Rocky Mountain Broadcasters Association that the Commission examine, in this proceeding, the impact of FM translators on standard broadcast stations as well as on FM broadcast stations. Our primary concern in this proceeding is with the impact of FM translators on regular FM broadcast stations, but we do not mean to preclude consideration of the impact of FM translators on standard broadcast stations. Therefore, we invite comments with respect to whether the rule which we propose should be confined to FM stations or whether it should include all aural services. We further invite comments directed to the issue of whether the proposed restrictions should be applicable to all FM translators or whether they should be applicable only to commercial FM translators.

8. In proposing to amend these rules, we have also considered the possibility that a change of circumstances in a particular community may create a situation where retroactive application of the rules may become necessary. For example, where an FM translator is authorized to serve a community beyond its primary station's predicted 1 mV/m contour and there is no existing FM station assigned to a different community within whose predicted 1 mV/m contour the community to be served by the translator lies, but subsequently, more than one FM station commences operation in the latter community so that, at that time, the community served by the translator lies within the predicted 1 mV/m contours of the new stations, we think that we should consider whether the rules should provide for termination of operations of the translator. This concept is not novel, but rather, has long been a part of the television rules (§ 74.732(f)). We propose, therefore, to incorporate such a provision into the FM translator rules. Such a rule was not made a part of the FM translator rules originally simply because we did not visualize the need for it, but the need has now become apparent. If we adopt the proposed rule changes, we will "grandfather" those FM translator stations which were authorized prior to the date of release of this notice. Applications for FM translator stations to operate beyond their primary stations' predicted 1 mV/m contours which are pending as of the release date of this notice will be granted subject to the outcome of this proceeding and will not be "grandfathered".

9. Pursuant to this notice and the authority contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended, the Commission proposes the adoption of the rules and revisions set out below hereto.

10. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules, interested parties may file comments on or before February 19, 1974, and reply comments on or before February 28, 1974. All relevant and timely comments will be considered before final action is taken in this proceeding. The Commission, additionally, in reaching a decision in this proceeding, may also take into account other relevant information before it.

11. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all comments, replies, pleadings, briefs, or other documents shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Broadcast and Docket Reference Room at its Headquarters in Washington, D.C.

Adopted: January 3, 1974.

Released: January 10, 1974.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] VINCENT J. MULLINS, *Secretary.*

[1] Statement by Commissioner Robert E. Lee in which Chairman Burch joins filed as part of original document.

The following parties filed comments in this proceeding:

August 24, 1973: National Association of FM broadcasters (NAB)

September 13, 1973: Itasca Broadcasting Company (KOZY and KOZY-FM, Grand Rapids, Minnesota)

September 17, 1973: The Rocky Mountain Broadcasters Association (RMBA)

September 17, 1973: KFXM Broadcasting Company (KFXM, San Bernardino, California, and KDUO(FM), Riverside, California).

September 17, 1973: Communications Investment Corporation (KALL and KALL-FM, Salt Lake City, Utah) (CIC)

Section 74.1232 (d) and (h) are amended to read as follows:

§ 74.1232 Eligibility and licensing requirements.

* * * * *

(d) No FM translator station will be authorized if it would provide reception to any community or area which is beyond its primary station's predicted 1 mV/m contour and within the predicted 1 mV/m contours of more than one commercial FM broadcast station assigned to a community other than that of the primary station.

NOTE 1. The 1 mV/m field strength contour of an FM radio broadcast station, for the purposes of this subpart, shall be the contour as predicted in accordance with § 73.313(a) through (d) of this chapter. See Note, § 74.1231(h).

NOTE 2. The provisions of this paragraph shall not apply to an FM translator station authorized prior to the effective date of this Order.

* * * * *

(h) Any authorization for an FM translator station issued to an applicant described in paragraph (d) of this section will be issued subject to the condition that it may be terminated at any time, upon not less than sixty (60) days written notice, where the circumstances in the community or area served are so altered as to have prohiibted grant of the application had such circumstances existed at the time of its filing.

[FR Doc.74-1074 Filed 1-14-74;8:45 am]

SELECTIVE SERVICE SYSTEM

[32 CFR Part 1660]

ALTERNATE SERVICE

Termination of Proposed Rulemaking

The proposed amendments to §§ 1660.4 and 1660.7 of Selective Service Regulations (32 CFR 1660.4 and 1660.7) published in the FEDERAL REGISTER for November 7, 1973 at page 30749 will not be made effective.

BYRON V. PEPITONE, *Director.*

JANUARY 7, 1974.

[FR Doc.74-1079 Filed 1-14-74;8:45 am]

Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

STUDY GROUP 1 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT)

Notice of Meeting

The Department of State announces a scheduled meeting of the United States Study Group on U.S. Government Regulatory Problems concerned with preparation for meetings of Study Groups of the International Telegraph and Telephone Consultative Committee of the International Telecommunication Union. The meeting will take place on Thursday, January 31, 1974, at 10 a.m. in Room 847 of the Federal Communications Commission, 1919 M Street NW., Washington, D.C.

The agenda of this first preparatory meeting following the meeting of CCITT Study Group III, "General tariff principles; lease of telecommunication circuits", held in Geneva, Switzerland January 7–11, 1974, will include a review of happenings at that meeting and in the light of that experience as well as the views developed in four preparatory meetings held between August and December, 1973 will look to the development of U.S. Contributions on questions assigned for study during the 1973–1976 study period and the development of U.S. positions on questions where it is decided not to submit U.S. Contributions. In particular, attention will be given to preparation of possible U.S. Contributions and of U.S. positions for a meeting of a Working Party of Study Group III to be devoted to possible revision of CCITT Recommendations D.1, D.2 and D.3 scheduled to be held June 10–14, 1974.

Members of the general public who desire to attend the meeting on January 31 will be admitted up to the limit of the capacity of the meeting room.

Dated: January 2, 1974.

RICHARD T. BLACK,
Chairman,
U.S. National Committee.

[FR Doc.74–1033 Filed 1–14–74;8:45 am]

[T. D. 74–22]

DEPARTMENT OF THE TREASURY

Customs Service

FOREIGN CURRENCIES

Certification of Exchange Rates

The appended table shows the rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), which are applicable to the currencies of the countries listed in Part 159, Subpart C, Customs Regulations (19 CFR, Part 159, Subpart C), for December 31, 1973. This table is published for the information and use of Customs officers and others concerned, and denotes those currencies which vary by 5 per centum or more from the quarterly rate published in T.D. 73–294.

[SEAL] R. N. MARRA,
Director, Appraisement and Collections Division.

Country	Currency	December 31
Australia	Dollar	Q
Austria	Schilling	$0.0503
Belgium	Franc	.024205
Canada	Dollar	Q
Ceylon	Rupee	Q
Denmark	Krone	.1589
Finland	Markka	Q
France	Franc	.2128
Germany	Deutsche mark	.3697
India	Rupee	.1225
Ireland	Pound	Q
Italy	Lira	.001644
Japan	Yen	.003568
Malaysia	Dollar	.4075
Mexico	Peso	Q
Netherlands	Guilder	.3538
New Zealand	Dollar	Q
Norway	Krone	Q
Portugal	Escudo	.0388
Republic of South Africa	Rand	Q
Spain	Peseta	Q
Sweden	Krona	.2183
Switzerland	Franc	.3076
United Kingdom	Pound	Q

Q=Use quarterly rate published in T.D. 73–294.

[FR Doc.74–1245 Filed 1–14–74;8:45 am]

Office of the Secretary

HAND-OPERATED, PLASTIC PISTOL-GRIP TYPE LIQUID SPRAYERS, FROM JAPAN

Antidumping; Determination of Sales at Less Than Fair Value

JANUARY 14, 1974.

Information was received on January 23, 1973, that hand-operated plastic pistol-grip type liquid sprayers, from Japan were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act").

A Withholding of Appraisement Notice was published in the FEDERAL REGISTER of October 15, 1973 (38 FR 28576).

I hereby determine that for the reasons stated below, hand-operated, plastic pistol-grip type liquid sprayers, from Japan are being, or are likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

Statement of Reasons on Which This Determination is Based. The information before the U.S. Customs Service reveals that the proper basis for comparison is between purchase price or exporter's sales price, as appropriate, and the adjusted home market price of such or similar merchandise.

Purchase price was calculated on the basis of the f.o.b. Tokyo, Japan, unit price to the United States, with a deduction for foreign freight charges.

Exporter's sales price was calculated on the basis of the resale price to unrelated purchasers in the United States, with deductions for U.S. duties, brokerage fees, cash discount, freight charges, insurance, commissions, and selling expenses, as appropriate.

Home market price was calculated on the basis of a weighted-average delivered price, with deductions for inland freight and credit costs. Adjustments were made for differences in selling expenses, costs of packing, and in the merchandise compared, as appropriate.

Using the above criteria, purchase price and exporter's sales price, as applicable, were found to be lower than the adjusted home market price of such or similar merchandise.

The United States Tariff Commission is being advised of this determination.

This determination is being published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)).

[SEAL] EDWARD L. MORGAN,
Assistant Secretary of the Treasury.

[FR Doc.74–1370 Filed 1–14–74;10:01 am]

DEPARTMENT OF DEFENSE

Department of the Army

U.S. ARMY COMMAND AND GENERAL STAFF COLLEGE ADVISORY COMMITTEE

Cancellation of Meeting

JANUARY 7, 1974.

The annual meeting of the U.S. Army Command and General Staff College Advisory Committee at Fort Leavenworth, Kansas, originally scheduled for 23–25 January 1974, has been postponed until further notice.

IVAN J. BIRRER,
Director, Evaluation and Review.

[FR Doc.74–1251 Filed 1–14–74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA STATE MULTIPLE-USE ADVISORY BOARD

Meeting

Notice is hereby given that the California State Multiple-Use Advisory

Board to the Bureau of Land Management will hold its annual meeting February 5–6, 1974, at the Woodlake Inn, 500 Leisure Lane, Sacramento, California. The agenda for the meeting will include consideration of wild horse and burro management, the geothermal steam program, recreation vehicle management program, King Range National Conservation Area, and progress on other Bureau programs in California.

The meeting will be open to the public Time will be available for a limited number of brief statements by members of the public. Those wishing to make an oral statement should inform the Advisory Board Chairman prior to the meeting of the Board. Any interested person may file a written statement with the Board for its consideration. The Advisory Board Chairman is Dr. G. N. Rostvold, P.O. Box 312, Claremont, CA 91711. Written statements should be submitted to the chairman, State Director (C–912), Bureau of Land Management, 2800 Cottage Way, Sacramento, CA 95825.

Dated: January 8, 1974.

J. R. PENNY,
State Director.

[FR Doc.74–1046 Filed 1–14–74;8:45 am]

Geological Survey

NORTH DAKOTA

Coal Land Classification Order No. 66

Pursuant to authority under the Act of March 3, 1879 (20 Stat. 394; 43 U.S.C. 31), and as delegated to me by Departmental Order 2563, May 2, 1950, under authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), the following described lands, insofar as title thereto remains in the United States, are hereby classified as shown:

FIFTH PRINCIPAL MERIDIAN, NORTH DAKOTA

COAL LANDS

T. 138 N., R. 87 W.,
Secs. 2 to 11, inclusive;
Secs. 14 to 23, inclusive.
T. 139 N., R. 87 W.,
Secs 7 to 11, inclusive;
Secs. 14 to 23, inclusive;
Secs. 26 to 35, inclusive.
T. 138 N., R. 88 W.,
Secs. 1 to 24, inclusive;
Secs. 26 to 35, inclusive.
T. 139 N., R. 88 W.,
Secs. 7 to 36, inclusive.
T. 139 N., R. 89 W.,
Secs. 11 to 14, inclusive;
Secs. 23 to 26, inclusive;
Secs. 35 and 36.

The area described aggregates about 75,272 acres.

Dated: January 7, 1974.

W. A. RADLINSKI,
Acting Director.

[FR Doc.74–1072 Filed 1–14–74;8:45 am]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

1973 CROP WHEAT LOANS

Notice of Accelerated Maturity Date

Pursuant to the provisions of §§ 1421.6 (e) and 1421.488 of 7 CFR, Part 1421, Commodity Credit Corporation hereby gives notice to producers that all 1973-crop wheat farm-stored and warehouse-stored loans outstanding on January 15, 1974, will mature on that date. CCC also gives notice that the final date of availability of 1973-crop wheat loans in all areas will be January 15, 1974, and that § 1421.485 will be amended to so state.

Unless, on or before the maturity date warehouse-stored loans are repaid, title to the unredeemed collateral shall immediately vest in CCC, without a sale thereof, on the date next succeeding the maturity date: *Provided*, That CCC will not acquire title to any commodity for which repayment has been mailed to the county ASCS office by letter postmarked (not patron postage meter date stamp) not later than the maturity date. CCC shall have no obligation to pay for any market value which the unredeemed collateral may have in excess of the loan indebtedness; i.e., the unpaid amount of the note plus interest and charges. Nothing herein shall preclude making payment to a producer of any amount by which the settlement value of the pledged commodity may exceed the principal amount of the loan. The settlement value as used herein is the loan value of the pledged commodity determined on the basis of the weight, grade, and other quality factors shown on the warehouse receipts or accompanying documents in accordance with the applicable loan rate provided in the program regulations.

This action was announced by press release on December 20, 1973. In view of the urgency of informing producers of the earlier final availability date and accelerated maturity date on such loans, compliance with the notice of proposed rulemaking would be impracticable and contrary to the public interest. Therefore, this notice is issued without compliance with such procedure.

Effective date: January 15, 1974.

Signed at Washington, D.C., on January 8, 1974.

GLENN A. WEIR,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.74–1249 Filed 1–14–74;8:45 am]

Office of the Secretary

MERCHANTS EXCHANGE OF ST. LOUIS

Order Vacating Designation as a Contract Market Under the Commodity Exchange Act

Pursuant to section 7 of the Commodity Exchange Act (7 U.S.C. 11), I hereby vacate the designation of the Merchants Exchange of St. Louis, Missouri, as a contract market for millfeeds effective April 1, 1974. The said exchange, which was designated as a contract market for millfeeds on April 13, 1962, has requested that such designation be vacated.

Issued this 10th day of January, 1974.

CLAYTON YEUTTER,
Assistant Secretary for Marketing and Consumer Services.

[FR Doc.74–1250 Filed 1–14–74;8:45 am]

Soil Conservation Service

CANBY CREEK WATERSHED PROJECT, MINN.

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental statement for the Canby Creek Watershed Project, Lincoln, and Yellow Medicine Counties, Minnesota, USDA–SCS–ES–WS–(ADM)–74–5(D).

The environmental statement concerns a plan for watershed protection, flood prevention and recreation. The planned works of improvement include conservation land treatment, one multiple purpose floodwater retarding recreation development, two single purpose floodwater retarding structures and 0.8 mile of stream channel stabilization.

A limited supply is available at the following locations to fill single copy requests:

Soil Conservation Service, USDA, South Agricultural Building, Room 5227, 14th and Independence Avenue SW., Washington, D.C. 20250

Soil Conservation Service, USDA, 200 Federal Building and U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota 55101

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please use name and number of statement above when ordering. The estimated cost is $4.25.

Copies of the draft environmental statement have been sent for comment to various federal, state, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for a additional information should be addressed to Mr. Harry M. Major, State Conservationist, Soil Conservation Service, 200 Federal Building and U.S. Courthouse, 316 North Robert Street, St. Paul, Minnesota 55101.

Comments must be received on or before March 22, 1974, in order to be considered in the preparation of the final environmental statement.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

Dated: January 8, 1974.

EUGENE C. BUIE,
Acting Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.74–1078 Filed 1–14–74;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

OFFICE OF COASTAL ENVIRONMENT/ COASTAL ZONE MANAGEMENT

Notice of Meetings

Notice is hereby given that the Office of Coastal Environment, National Oce-

anic and Atmospheric Administration (NOAA), U.S. Department of Commerce, wishes to amend two locations published in the FEDERAL REGISTER on December 12, 1973, for a series of meetings for the purpose of hearing public comments on the criteria to be used by the Secretary of Commerce in approving State coastal zone management programs as specified in the Coastal Zone Management Act of 1972, P.L. 92-583. The amendments follow; there are no other changes.

Date, location and time

January 15, 1974, Conference Room, The Conrad Hilton, 720 South Michigan Avenue, Chicago, Illinois, 9 a.m. to 5 p.m.
January 24, 1974, Court of Appeals Building, Room 105, 600 Camp Street, New Orleans, Louisiana, 9 a.m. to 5 p.m.

T. P. GLEITER,
Assistant Administrator for Administration.

JANUARY 9, 1974.

[FR Doc.74-1076 Filed 1-14-74;8:45 am]

Office of the Secretary

ECONOMIC ADVISORY BOARD

Notice of Meeting

A meeting of the Department of Commerce Economic Advisory Board will be held on Thursday, January 24, 1974, from 10 a.m. to 3 p.m. in room 4832, Commerce Building, 14th Street and Constitution Avenue NW., Washington, D.C.

The purpose of the Board is to advise the Secretary of Commerce on economic policy matters. The intended agenda for this meeting is as follows:

Outlook for output and employment
1. Effects of shortages in key areas
2. Financial markets
3. Housing
4. Retail sales

A limited number of seats will be available to the public and the press. Public participation will be limited to requests for clarification of items under discussion; additional statements or inquiries may be submitted to the chairman before or after the meeting. Persons desiring to attend the meeting should advise Miss Ruby Gore, telephone 202-967-3727, by January 18, 1974.

For further information, inquiries may be directed to Mr. Basil R. Littin, Special Assistant to the Secretary for Public Affairs, room 5419, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, telephone 202-967-3263.

SIDNEY L. JONES,
Assistant Secretary for Economic Affairs.

JANUARY 8, 1974.

[FR Doc.74-1180 Filed 1-14-74;8:45 am]

[Dept. Organization Order 40-10; revocation]

NATIONAL BUSINESS COUNCIL FOR CONSUMER AFFAIRS STAFF

Notice of Revocation

This order effective December 6, 1973, supersedes the material appearing at 37 FR 3460, February 16, 1972.

Revocation. Department Organization Order 40-10 of December 16, 1971 is hereby revoked.

Explanation. Funding for the National Business Council for Consumer Affairs Staff was not included in the Department's appropriations for 1974.

HENRY B. TURNER,
Assistant Secretary for Administration.

[FR Doc.74-1071 Filed 1-14-74;8:45 am]

[Dept. Organization Order 25-5B, Amdt. 3]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Organization and Functions

This order effective December 5, 1973, amends the material appearing at 38 FR 15980 of May 7, 1973; 38 FR 19267 of June 26, 1973; and 38 FR 26477 of September 21, 1973.

Department Organization Order 25-5B, effective May 7, 1973, is hereby further amended as follows:

Sec. 8. *Assistant Administrator for Administration*, Paragraph .06 is revised as follows:

.06 The Northwest Administrative Service Office shall provide administrative services responsive to the requirements of the National Marine Fisheries Service Northwest, Southwest, and Alaska Regions, the NOS Pacific Marine Center, and such other NOAA organizational units which can be accommodated. These services shall include personnel administration, procurement and contracting, property management, motor vehicle pool operation, and office services.

HENRY B. TURNER,
Assistant Secretary for Administration.

[FR Doc.74-1070 Filed 1-14-74;8:45 am]

[Order No. 40-1]

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

Organization and Functions

This order effective November 12, 1973, supersedes the material appearing at 37 FR 25557 of December 1, 1972; 38 FR 12145 of May 9, 1973; 38 FR 26476 of September 21, 1973; and 38 FR 30015 of October 31, 1973.

SECTION 1. *PURPOSE.* .01 This order prescribes the organization and assignment of functions within the Domestic and International Business Administration (DIBA). Department Organization Order 10-3 prescribes the functions of DIBA and the scope of authority of the Assistant Secretary for Domestic and International Business.

.02 This revision places DIBA policy functions under the Deputy Assistant Secretary for International Economic Policy and Research; changes the name of the Bureau of Competitive Assessment and Business Policy to the Bureau of Domestic Commerce; and effects certain organizational realignments.

SEC. 2. *ORGANIZATION AND STRUCTURE.* The principal organization structure and line of authority of DIBA shall be as depicted in the attached organization chart (Exhibit 1). A copy of the organization chart is attached to the original of this document on file in the Office or the Federal Register.

SEC. 3. *OFFICE OF THE ASSISTANT SECRETARY FOR DOMESTIC AND INTERNATIONAL BUSINESS.* .01 The Assistant Secretary for Domestic and International Business determines policy, directs the programs and is responsible for all activities of DIBA.

0.2 The Deputy Assistant Secretary for Domestic and International Business shall perform such duties as the Assistant Secretary shall assign; shall carry out the Assistant Secretary's responsibilities in connection with the Defense Production Act of 1950 as amended and extended; and shall assume the duties of the Assistant Secretary during the latter's absence.

SEC. 4. *STAFF OFFICES.* .01 The Office of Field Operations shall serve as the Department's principal medium of contact with the business community at local levels for the functions listed below, most of which will be performed through Regional Offices and subordinate District Offices located throughout the country (Exhibit 2). A copy of this Exhibit 2 is attached to the original of this document on file in the Office of the Federal Register.

a. Ascertaining the needs and desires for information and assistance relevant to the private economy that fall within the scope of Commerce's responsibilities, arranging or participating in the effective delivery of Commerce's business-related information products, and assisting in the planning and design of additional business information;

b. Providing local assistance and service to business communities in utilizing information and related business aids of Commerce and of other agencies, and performing the field work and services involved in the programs of DIBA, and for other organizations of Commerce as may be arranged from time to time;

c. Promoting participation of the general business community in the resolution of economic and business problems of the Nation;

d. Publishing the "Commerce Business Daily";

e. Through the Regional or District Offices located in the ten Uniform Federal Regional Council Cities, serving as the Department's principal coordinator at the regional level for Federal Preparedness Planning, Crisis Management and Emergency Operations. Accordingly, the Office Directors in the ten cities (i.e., Boston, New York, Philadelphia, Atlanta, Chicago, Dallas, Kansas City, Denver, San Francisco and Seattle), having been designated Regional Emergency Coordinators, acting in accordance with instructions and guidance issued by the Director, Departmental Office of Emergency Readiness through the Office of Field Operations, shall represent the Secretary and shall be the principal advisory and contact point for the Department for emergency readiness matters in their respective areas; and

f. The DIBA field structure shall be as depicted in Exhibit 3 to this order. A copy of Exhibit 3 is attached to the original of this document on file in the Office of the Federal Register.

.02 The Office of Public Affairs shall advise DIBA officials and organizational elements on all public affairs and information service matters; provide centralized information services for DIBA; conduct and be responsible for all DIBA publications programs, consonant with the provisions of Departmental Organization Order 20–9, "Office of Publications"; provide speech writing and scheduling services for DIBA; and maintain liaison for DIBA with the Departmental Office of Publications, the Departmental Office of Communications, and the news and trade media consonant with the provisions of Department Organization Order 15–3, "Office of Communications."

Sec. 5. DEPUTY ASSISTANT SECRETARY FOR INTERNATIONAL ECONOMIC POLICY AND RESEARCH. The Deputy Assistant Secretary for International Economic Policy and Research who shall head the International Economic Policy and Research staff shall assist and advise the Assistant Secretary in the research, analysis and formulation of international economic and commercial programs and policies relating to trade, finance and investment, and competitive assessment; shall initiate and review research studies on developments affecting U.S. trade and commercial interests abroad and provide statistical information and analysis on the foreign trade of the U.S. and of foreign countries; shall be responsible for development and coordination of policy formulation within DIBA; represent the Department in international trade and other negotiations; and supervise the Department's interagency policy role in such organizations as the National Security Council, the Council on International Economic Policy, the Office of the Special Trade Representative, and the National Advisory Council on International Monetary and Financial Policies. The Deputy Assistant Secretary shall be assisted by a Deputy Staff Director who shall perform the functions of the Deputy Assistant Secretary in the latter's absence. The Deputy Assistant Secretary shall direct the activities of the following organizational units:

.01 The Office of International Trade Policy shall be responsible for the development and implementation of the Department's positions on all aspects of U.S. international trade policy, including trade legislation and Tariff Commission findings, trade negotiations, consultations with industry, and trade and commercial policy relations with individual countries, regional economic groupings, and international organizations. For all such trade policy matters the Office shall represent the Department on interagency committees and in international meetings on trade policy matters; analyze and comment on relevant legislative proposals; prepare the Department's positions on Tariff Commission findings, bilateral trade policy issues and bilateral trade negotiations; manage the consultations with U.S. industry in support of multilateral trade negotiations; analyze and act on international transportation and insurance problems affecting U.S. business; maintain relationships and representation with business and trade groups; and through appropriate channels make representations to foreign governments on behalf of U.S. business on the maintenance of their full rights under the terms of treaties and international agreements of the United States. In carrying out these responsibilities, the Office shall coordinate international trade policy issues among the DIBA components.

.02 The Office of International Finance and Investment shall be responsible for the development and implementation of the Department's policies (other than those assigned to the Office of Foreign Direct Investments) relating to international investment, finance, monetary affairs, U.S. and foreign taxation, standards, patent and copyright protection, and related matters arising from the international commercial and investment operations of U.S. firms.

.03 The Office of Competitive Assessment shall assess the competitiveness of American industry in domestic and international markets. This shall include studies of specific industries, sectors, and functions of the American economy and major foreign economies for the purpose of anticipating shifts in competitive conditions, and analyses of key competitive factors withn and across industries in the U.S. and abroad.

.04 The Office of Economic Research shall conduct research studies on developments affecting U.S. trade and commercial interests abroad; shall be responsible for the development and coordination of econometric models concerned with longer-term U.S. trade and investment projections; and shall serve as liaison with U.S. Government research and intelligence agencies as well as with private research groups.

SEC. 6. *Directorate of Administrative Management.* The Deputy Assistant Secretary for Administrative Management, DIBA, shall be the principal assistant and advisor to the head of DIBA on administrative management matters and shall direct the activities of the Directorate of Administrative Management—a mainline component of DIBA—which shall provide administrative management services for all DIBA organizational components. The Deputy Assistant Secretary shall be assisted by a Deputy Director who shall perform the functions of the Deputy Assistant Secretary in the latter's absence. The functions of the Directorate shall be carried out through the principal organizational elements as prescribed below:

.01 The Office of Personnel shall develop and administer personnel management programs including recruitment, placement, employee development, classification, labor-management relations, equal employment opportunity, and employee relations and provide liaison with the Departmental Office of Personnel.

.02 The Office of Management and Systems shall provide management, organization and systems analysis, including management studies and surveys and organizational planning studies; conduct a position management program; coordinate ADP systems development and the DIBA program management information system: perform the committee management, directives management, records disposition management, forms management, files management, and reports management functions for DIBA; coordinate GAO and Departmental audits within DIBA; and provide liaison with the Departmental Office of Organization and Management Systems.

.03 The Office of Administrative Services shall provide administrative and support services including personnel, physical, and document security; safety; correspondence control; parking and space management; shall provide procurement liaison and shall coordinate and process communications between the Department of Commerce and posts abroad, consistent with any administrative agreements between the Assistant Secretary for Domestic and International Business and the Assistant Secretary for Administration.

.04 The Office of Budget shall develop the DIBA program structure and program memorandum; assess program effectiveness; formulate, present, and execute the budget for DIBA; effect financial and budgetary controls; prepare budget reports; and provide liaison with the Departmental Office of Budget and Program Analysis.

SEC. 7. *BUREAU OF INTERNATIONAL COMMERCE (BIC).* The Deputy Assistant Secretary for International Commerce shall assist and advise the Assistant Secretary on export expansion, and shall serve as National Export Expansion Coordinator. Within the framework of overall DIBA goals, the Deputy Assistant Secretary shall determine the objectives of the Bureau—a mainline component of DIBA—formulate policies and programs for achieving those objectives, and direct the execution of Bureau programs. The Deputy Assistant Secretary shall be responsible for representing the interests of the Department to other agencies with regard to the official representation of U.S. commercial interests abroad. The Deputy Assistant Secretary shall be assisted by a Deputy Director who shall perform the functions of the Deputy Assistant Secretary in the latter's absence. The functions of the Bureau shall be carried out through its principal organizational elements as prescribed below:

.01 The Office of Export Development shall conduct activities in the United States designed to stimulate export marketing in all segments of the domestic economy which have the capability to export; shall develop promotional activities for increasing national awareness of export potentials and benefits, and for improving Government/business cooperation in export development; shall be the

focal point for the export expansion activities involving the DIBA district offices; shall provide information on commercial participants in world trade and furnish specific trade opportunities to U.S. businessmen; shall assist qualified U.S. firms in achieving maximum participation in major systems and development projects abroad; shall carry out the domestic trade fair and international expositions functions; and shall encourage foreign direct capital investments in the United States and licensing by foreign firms in the United States and shall provide information and other services consistent with U.S. balance of payments policies and objectives, to U.S. firms undertaking investments overseas.

.02 The Office of International Marketing shall provide overseas marketing assistance to U.S. companies through a variety of informational and promotional techniques; shall identify those product categories and industry segments that have the greatest export potential in overseas markets; shall develop and implement marketing strategies for individual countries and products, and maintain appropriate information services for all such activities; shall direct the exhibitions program at commercial trade fairs and U.S. trade centers; and shall be the focal point in DIBA for development and implementation of the country commercial program, designed to establish U.S. commercial objectives and priority programs for each country.

SEC. 8. *Bureau of Resources and Trade Assistance.* The Deputy Assistant Secretary for Resources and Trade Assistance shall determine the objectives of the Bureau—a mainline component of DIBA—formulate the policies and programs for achieving those objectives, and direct execution of the programs. The Deputy Assistant Secretary shall be assisted by a Deputy Director who shall perform the functions of the Deputy Assistant Secretary in the latter's absence. The functions of the Bureau shall be carried out through its principal organizational elements as prescribed below:

.01 The Office of Import Programs shall deal with import problems involving industries experiencing difficulties from import competition and on problems in the field of international trade in primary commodities. For such import-impacted industries, and as otherwise required, it shall maintain interagency relationships and coordinate legislative comment, international negotiations, and representation with business and trade groups. It shall process applications for duty free importation of educational, scientific and cultural materials; process applications to import foreign excess property into the United States; perform staff work pertaining to the allocation of watches and watch movements among producers in the Virgin Islands, Guam, and American Samoa; provide executive secretariat services and administrative support to the Foreign-Trade Zones Board; analyze information pertaining to international trade in selected industrial products and analyze developments affecting U.S. imports of or international trade in primary commodities; and represent the Department in U.S. Government participation in international agreements and arrangements on commodities and industrial products.

.02 The Office of Textiles shall conduct studies and analyses of the fiber, textile and apparel sector of the industrial economy; provide interpretive data on trends affecting the sector's economic stability, and recommend appropriate Government action to improve the economic position of the sector; participate in administration and negotiation of international and bilateral textile agreements; and coordinate interagency relations, legislative comment, and liaison with relevant industry and trade groups.

.03 The Office of Trade Adjustment Assistance shall recommend policies and procedures concerned with trade adjustment assistance matters and implementation of applicable provisions of the Trade Expansion Act of 1962; recommend policies and procedures of adjustment assistance to minimize the adverse effects of import competition on industry; and administer the Trade Adjustment Assistance program.

.04 The Office of Energy Programs shall be responsible for the Department's energy programs including energy policy development, comment on legislative proposals, and coordination of existing and proposed Commerce energy programs; shall be the principal point of contact for development of policy and programs for the stimulation of domestic energy production and the development of new energy resources; and provide staff assistance to the Department's representative on the Oil Import Appeals Board.

SEC. 9. *The Bureau of Domestic Commerce.* The Deputy Assistant Secretary for Domestic Commerce shall determine the objectives of the Bureau—a mainline component of DIBA—formulate policies and programs for achieving those objectives, and direct execution of the Bureau's programs. The Deputy Assistant Secretary shall be assisted by a Deputy Director who shall perform the functions of the Deputy Assistant Secretary in the latter's absence. The functions of the Bureau shall be carried out through its principal organizational elements as prescribed below:

.01 The Office of Industrial Mobilization shall perform national defense and industrial mobilization functions, as follows: assist in achieving, through administration of priorities and allocations and other means, an adequate supply of strategic, critical, and other products and materials for defense and defense-supporting activities and essential civilian needs, including the timely completion of current military, atomic energy, and space programs for production, construction, and research development; and participate in the development of national plans to assure maximum readiness of the industrial resources of the United States, including the means for administering them, to meet any future demands of any national emergency.

.02 The Office of Domestic Business Policy shall provide a working forum of business and the Federal Government on domestic business policy issues, particularly economic and financial issues, consumer protection, labor-management relations, industrial development of marine resources and industrial pollution.

.03 The Office of Business Research and Analysis shall collect, analyze, and maintain factual data on U.S. industries, exclusive of data related to the fiber, textile, and apparel sector of the industrial economy (which is the responsibility of the Bureau of Resources and Trade Assistance). This information will be used in support of policy decisions and program actions by the Bureau of Domestic Commerce as well as other parts of the Department and the Government. The Office shall also certify U.S. firms as "bona fide motor-vehicle manufacturers" qualified to trade under the provisions of the U.S.-Canadian Automotive Agreement; prepare the President's Annual Report to Congress concerning implementation of the Automotive Products Trade Act of 1965; and monitor problem commodities for short-supply export controls.

.04 The Office of the Ombudsman for Business shall be headed by the Ombudsman for Business and shall receive and answer questions on Federal programs of interest to business; assist business by providing a focal point for receiving and handling communications involving information, complaints, criticisms and suggestions about Government activities relating to business; arrange conferences with appropriate officials within the Department and in other agencies, and follow up on referrals to determine whether further assistance is necessary and appropriate; and develop suggested changes to remedy the causes of business complaints about the Federal Government, as appropriate. In carrying out its functions, the Office shall not represent, intervene on behalf of or otherwise seek to assist business and individuals on specific matters, cases, or issues before Federal regulatory agencies or before Federal departments exercising a regulatory function with respect thereto; nor shall it participate in, intervene in regard to, or in any way seek to influence, the negotiation or renegotiation of the terms of contracts between business and the Government.

SEC. *10. THE BUREAU OF EAST-WEST TRADE.* The Deputy Assistant Secretary for East-West Trade, shall determine the objectives of the Bureau—a mainline component of DIBA—formulate policies and programs for achieving those objectives and direct execution of the programs. The Deputy Assistant Secretary shall be assisted by a *Deputy Director* who shall perform the functions of the Deputy Assistant Secretary in the latter's absence. The objectives, policies and programs of the Bureau of East-West Trade shall relate to the U.S.S.R., People's Republic of China, Poland,

Romania, Czechoslovakia, Hungary, Bulgaria, Albania, East Germany, the Soviet zone of Berlin, and certain other areas of the world with similar economic/political structures, and, where necessary for export control purposes, shall relate to other countries. The functions of the Bureau shall be carried out through its principal organizational elements as prescribed below:

.01 The Office of East-West Trade Development shall, with regard to the countries and areas specified, be responsible for the development and implementation of policy and program recommendations with regard to trade and other commercial relations; gathering information bearing on commercial relations and providing advisory services and information for U.S. firms or industrial groups; developing and disseminating studies of market potential for U.S. trade with these countries and areas; developing and executing programs, in cooperation with the Bureau of International Commerce and, as appropriate, other parts of the Department, for U.S. trade promotional events and trade missions to the specified countries and areas; coordinating activities relating to foreign commercial services and commercial representation in these countries; and providing country and area information and advice on trade and relations with such areas for the U.S. co-chairmen of joint trade commissions.

.02 The Office of East-West Trade Analysis shall, with regard to the specified countries and areas, carry out economic analyses of trade and other commercial relationships with such countries; provide analytical support for the development of trade policy and the conduct of trade negotiations; apply operations and systems analysis techniques to the problems faced by the United States in its trade with the specified countries and areas and to the impact of third country economic activities on such trade; provide for the collection, cataloging, and retrieval of relevant East-West trade information; and propose and monitor contracts for studies pertaining to East-West trade.

.03 The Office of the Joint Commission Secretariat shall provide executive secretariat services to U.S. joint commercial commissions with the U.S.S.R., Poland, and as may be established with other countries; maintain broad East-West trade contracts and two-way information flow with U.S. and foreign industry groups, trade associations, universities, and other non-governmental organizations; develop and maintain in accord with applicable department orders, and with the assistance of the Office of East-West Trade Analysis, storage and retrieval systems for information in the Bureau's areas of interest, and propose contracts for such systems; and provide coordination of Bureau-related publications, legislative comment and interagency studies.

.04 The Office of Export Administration shall administer and, in conjunction with the Departmental Office of the General Counsel, enforce the regulations and programs required to carry out Departmental responsibilities under the Export Administration Act of 1969, as amended and extended by the Equal Export Opportunity Act; develop policies and measures for the administration of U.S. exports of commodities and technical data; seek, in collaboration with other Federal agencies, the adoption by foreign countries of such controls over their exports as will assist the policies of the United States with respect to trade between the free world and the specified countries and areas, and with such other areas as national security and foreign policy may require; and provide secretariat and support services to the Advisory Committee on Export Policy and the Export Administration Review Board.

Effective: November 12, 1973.

HENRY B. TURNER,
Assistant Secretary for Administration.

[FR Doc.74-1069 Filed 1-14-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Services Administration

NATIONAL ADVISORY COUNCIL ON HEALTH MANPOWER SHORTAGE AREAS

Notice of Meeting; Correction

In FR Doc. 73-26690 appearing at page 34753 in the issue for Tuesday, December 18, 1973, the meeting dates for the National Advisory Council on Health Manpower Shortage Areas should be changed from "January 18-19" to "February 22."

Dated: January 9, 1974.

ANDREW J. CARDINALI,
Associate Administrator for Management, Health Services Administration.

[FR Doc.74-1073 Filed 1-14-74;8:45 am]

Office of Education

EDUCATION OF THE HANDICAPPED

Closing Dates for Receipt of Applications for Continuation Grants

Previous notification of closing date for receipt of applications (published at 38 FR 32153 on Wednesday, November 21, 1973), contained several errors. The purpose of this announcement is to clarify and expand that announcement pursuant to the authority contained in Part C, Part E, and Part G of the Education of the Handicapped Act (20 U.S.C. 1421-1425, 1441-1444, 1461).

1. No applications for new or continuation grants will be accepted under section 622, Centers and Services for Deaf-Blind Children.

2. Pursuant to the authority contained in Part C, Part E, and Part G of the Education of the Handicapped Act (20 U.S.C. 1423, 1441, 1442, 1461), notice is hereby given that the U.S. Commissioner of Education has established a final closing date for receipt of applications for continuation grants under sections 623, 641, 642, and 661 of the Act (early education for handicapped children; research in education, physical education and recreation for the handicapped; and model centers for children with learning disabilities).

3. Application for continuation grants must be received by the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. 20202 (mailing address: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, SW., Washington, D.C. 20202, Attention: 13.444 or 13.447 or 13.520), on or before February 19, 1974.

4. An application sent by mail will be considered to be received on time by the Application Control Center if:

(a) The application was sent by registered or certified mail not later than the fifth calendar day prior to the closing date (or if such fifth calendar day prior to the closing date (or if such fifth calendar day is a Saturday, Sunday, or Federal holiday, not later than the next following business day), as evidence by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(b) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

5. The regulations which govern assistance under these programs appear in the May 25, 1973 issue of the FEDERAL REGISTER at 38 FR 13739. A notice of proposed rulemaking which would revise these regulations was published in the FEDERAL REGISTER on October 11, 1973 at 38 FR 28230. These programs are also subject to the applicable sections of the Office of Education General Provisions Regulations, published in the FEDERAL REGISTER on November 6, 1973, at 38 FR 30654.

6. Applications may be obtained from the Bureau of Education for the Handicapped, U.S. Office of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202 (20 U.S.C. 1423, 1441, 1442, 1461).

(Catalog of Federal Domestic Assistance Program Nos. 13.443 Handicapped—Research and Demonstration; 13.444 Handicapped Early Education Assistance; 13.447 Handicapped Physical Education and Recreation Research; and 13.520 Special Programs for Children with Learning Disabilities.)

Dated: January 10, 1974.

JOHN OTTINA,
U.S. Commissioner of Education.

[FR Doc.74-1234 Filed 1-14-74;8:45 am]

Office of the Secretary

NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL SUBCOMMITTEE ON EVALUATION

Notice of Meeting

The National Professional Standards Review Council Subcommittee on Evaluation will meet on January 20, 1974. This Subcommittee was formed to review issues of importance in the implementation of Title XI, Part B, Social Security Act with respect to Evaluation. The meeting will be held at the Mayflower Hotel, Washington, D.C., from 8 p.m. to 10 p.m. Professional standards review is the procedure to assure that the services for which payment may be made under the Social Security Act are medically necessary and conform to appropriate professional standards for the provision of quality care. The Subcommittee's agenda will consist of issues related to the evaluation of performance of Professional Sandards Review Organizations. The meeting is open to the public.

Dated: January 4, 1974.

HENRY E. SIMMONS,
Executive Secretary, National Professional Standards Review Council.

[FR Doc.74-1191 Filed 1-14-74;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Interstate Land Sales Registration

[Docket No. N-74-213]

GAC PROPERTIES, INC., ET AL.

Notice of Hearing

In the matter of GAC Properties, Inc., et al. Administrative Division Docket No. 73-120.

Notice is hereby given that:

1. GAC Properties, Inc., GAC Properties, Inc. of Arizona, by S. H. Wills, Chief Executive Officer and Chairman of the Board of those corporations, their other officers and agents, hereinafter referred to as the "respondents," 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 dated December 11, 1973, which was sent to the respondents pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b) (1) informing respondents of information obtained by the Office of Interstate Land Sales Registration showing that a change had occurred which affected material facts in the Statements of Record for developments of GAC Properties, Inc. and GAC Properties, Inc. of Arizona and the failure of the respondents to amend the pertinent sections of the Statements of Record and Property Reports.

2. The respondents filed an answer received December 21, 1973, in answer to the allegations of the notice of proceedings and opportunity for a hearing.

3. In said answer the respondents requested a hearing on the allegations contained in the notice of proceedings and opportunity for a hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(b), *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 Administrative Law Judge Henry A. Milne, in Room 2153, Department of HUD, 451 7th Street SW., Washington, D.C. on January 23, 1974, at 10 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 January 18, 1974.

5. The respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceeding 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.

Dated: January 9, 1974.

GEORGE K. BERNSTEIN,
Interstate Land Sales Administrator.

[FR Doc.74-1060 Filed 1-14-74;8:45 am]

[Docket No. N-74-214]

HILLTOP LAKES RESORT CITY, ET AL.

Notice of Hearing

In the matter of Hilltop Lakes Resort City, et al. Administrative Division Docket ED 73-8.

Notice is hereby given that:

1. Hilltop Lakes Resort City, a subdivision located in Leon County, Texas, and its 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 December 4, 1973, which was sent to the developer pursuant to 15 U.S.C. 1706(b) and 24 CFR 1710.45(a) informing the developer that an amendment to its statement of record submitted November 14, 1973, was not effective pursuant to the Act, and the regulations contained in 24 CFR Part 1710.

2. The respondent filed an answer December 21, 1973, in answer to the allegations of the notice of suspension dated December 4, 1973.

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 J. Robert Brown, Administrative Law Judge, in room 2255, Department of HUD Building, 451 7th Street SW., Washington, D.C. on January 14, 1974, at 10 a.m. or as soon thereafter as the matter may be heard.

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.

By the Secretary.

Dated: January 9, 1974.

GEORGE K. BERNSTEIN,
Interstate Land Sales Administrator.

[FR Doc.74-1061 Filed 1-14-74;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-293]

BOSTON EDISON CO.

Issuance of Facility License Amendment

Notice is hereby given that the U.S. Atomic Energy Commission ("the Commission") has issued Amendment No. 2 to Facility Operating License No. DPR-35 to the Boston Edison Company to delete the unnecessary restrictive clause in section 2.B of the license which specifically itemizes each quantity of special nuclear material that may be used in connection with operation of Pilgrim Nuclear Power Station located in Plymouth County, Massachusetts. The amendment, effective as of its date of issuance, permits an increase (from 0.99 to 13.49 grams) in the amount of U-235 which Boston Edison may receive, possess, and use in the form of sealed sources in connection with operation of the facility, but does not increase the presently authorized possession limit, and is granted in accordance with Boston's application dated December 14, 1973.

The Boston Edison Company is the holder of Facility Operating License No. DPR-35 issued by the Commission for possession, use, and operation of the Pilgrim Nuclear Power Station (a boiling water type nuclear power reactor facility) at power levels up to 1998 MWt.

The Commission's Regulatory staff has found that the application complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations published in 10 CFR Chapter I, and that the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public. The staff also has concluded that this action does not involve a significant hazards consideration since the deletion of the restrictive wording of section 2.B only permits a slightly greater amount of the U-235 to be in the form of sealed sources and does not alter the previously

approved uses and overall quantity of special nuclear material or previously approved facility operations and procedures. Consequently, public notice of proposed issuance of the amendment is not required. The Regulatory staff's evaluation of this action is contained in its Safety Evaluation that was concurrently issued with the amendment.

Copies of the application dated December 14, 1973, Amendment No. 2 to License No. DPR–35, and the Safety Evaluation are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and at the Plymouth Public Library on North Street in Plymouth, Massachusetts 02360. Single copies of the license amendment and Safety Evaluation may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Maryland, this 7th day of January 1974.

For the Atomic Energy Commission.

DENNIS L. ZIEMANN,
Chief, Operating Reactors Branch No. 2, Directorate of Licensing.

[FR Doc.74–1183 Filed 1–14–74;8:45 am]

[Docket Nos. 50–413; 50–414]

DUKE POWER CO.

Notice of Evidentiary Hearing

On December 1, 1972, a "notice of hearing on application for construction permits" in the above-entitled matter was published in the FEDERAL REGISTER (37 FR 25560). The notice advised that a hearing would be held upon the issues designated therein, at a time and place to be set by the Atomic Safety and Licensing Board, to consider the application filed by the Duke Power Company for construction permits for two pressurized water nuclear reactors, designated as the Catawba Nuclear Station, Units 1 and 2, which were proposed to be located on the shore of Lake Wylie in York County, South Carolina.

The matter having come before this Atomic Safety and Licensing Board at prehearing conferences heretofore held and in telephone conferences with the parties, it was agreed that the Evidentiary Hearing in this proceeding would commence in Rock Hill, South Carolina, on January 23, 1974.

Wherefore, *it is ordered*, In accordance with the Atomic Energy Act, as amended, and the rules of practice of the Commission, that evidentiary hearings in this proceeding shall convene at 10 a.m. local time, on Wednesday, January 23, 1974, at the Holiday Inn, Highway No. 21, Anderson Road in Rock Hill, South Carolina.

The public is invited to attend the hearing. The following persons and organizations, having been permitted by the Board's Order of September 6, 1973, to make limited appearances at the hearing in accordance with the provisions of § 2.715(a) of the Commission's rules (10 CFR 2.715(a)), will be afforded an opportunity to state their views or to file a written statement on the first day of the hearings, or at such other times as the Licensing Board may for good cause designate: The Greater Rock Hill Chamber of Commerce, Metrolina Environmental Concern Association, Mrs. Sandra Reed, the Supervisor of York County, S. M. Mendenhall, Mr. John A. Freeman, Mr. Benton Hamrick, and Mr. Melvin Burris.

In addition, the State of South Carolina will be permitted to participate in the proceeding in accordance with the provisions of § 2.715(c) of the rules (10 CFR 2.715(c)).

It is so ordered.

Issued at Washington, D.C., this 10th day of January, 1974.

ATOMIC SAFETY AND LICENSING BOARD,
MAX D. PAGLIN,
Chairman.

[FR Doc.74–1182 Filed 1–14–74;8:45 am]

PHILADELPHIA ELECTRIC CO. ET AL.

Peach Bottom Atomic Power Station; Order Extending Construction Completion Date

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company are the holders of Provisional Construction Permit No. CPPR–38 issued by the Commission on January 31, 1968, for construction of Unit 3 of the Peach Bottom Atomic Power Station presently under construction at the Companies' site in Peach Bottom, York County, Pennsylvania.

On October 23, 1973, the Philadelphia Electric Company filed a request for an extension of the completion date because construction has been delayed due to (1) increased project scope, and (2) extension of schedule for the Unit 2 construction and start-up activities. On November 20, 1973, and December 19, 1973, the Philadelphia Electric Company provided a more detailed breakdown of the factors which caused construction delays on Unit 3.

This action involves no significant hazards considerations; good cause has been shown for the delay; and the requested extension is for a reasonable period, the bases for which are set forth in a staff's evaluation, dated January 4, 1974.

It is hereby ordered, That the latest completion date for CPPR–38 be extended from November 30, 1973, to May 31, 1974.

Date of Issuance: January 9, 1974.

FOR THE ATOMIC ENERGY COMMISSION.

RICHARD C. DEYOUNG,
Assistant Director for Light Water Reactors Projects Group 1, Directorate of Licensing.

[FR Doc.74–1184 Filed 1–14–74;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 25761]

HAWAIIAN AIRLINES, INC., AND ALOHA AIRLINES, INC.

Notice of Reassignment of Hearing

The hearing in this proceeding, heretofore assigned to be held before Administrative Law Judge Harry H. Schneider on January 29, 1974, at 10:00 a.m. (local time) in Federal Building Courtroom 329, at 335 Merchant Street, Honolulu, Hawaii (38 FR 32600, November 27, 1973), is hereby reassigned to be held before Administrative Law Judge Greer M. Murphy at the same time and place. Future communications concerning the proceeding should be addressed to Judge Murphy.

Dated at Washington, D.C., January 9, 1974.

[SEAL] RALPH L. WISER,
Chief Administrative Law Judge.

[FR Doc.74–1282 Filed 1–14–74;8:45 am]

COST OF LIVING COUNCIL

FOOD INDUSTRY WAGE AND SALARY COMMITTEE

Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given that the Food Industry Wage and Salary Committee, established under the authority of section 212(f) of the Economic Stabilization Act, as amended, section 4(a)(iv) of Executive Order 11695, and Cost of Living Council Order No. 14, will meet on January 17, 1974.

The agenda will be divided into two subjects. The first segment, consisting of discussions of food industry wage cases, will be open to the public on a first-come, first-served basis, at 10 a.m., in Conference Room 8202, 2025 M Street, NW., Washington, D.C. The second part of the agenda, beginning at approximately 3:30 p.m., will consist exclusively of discussions of a specific document which I have determined falls within exemption (5) of 5 U.S.C. 552(b). The document is a Cost of Living Council staff paper containing opinions and recommendations with respect to future decontrol of the food industry.

Since the second part of this meeting will consist of discussions of a document which falls within exemption (5) of 5 U.S.C. 552(b), pursuant to authority granted me by Cost of Living Council Order 25, I have determined that this portion of the meeting, beginning at approximately 3:30 p.m., itself falls within exemption (5) of 5 U.S.C. 552(b) and it is essential to close this part of the meeting to protect the free exchange of internal views and to avoid interference with the operation of the Committee.

Issued in Washington, D.C., on January 11, 1974.

HENRY H. PERRITT, Jr.,
Executive Secretary, Cost of Living Council.

[FR Doc.74–1339 Filed 1–11–74;4:45 pm]

DELAWARE RIVER BASIN COMMISSION

LIMERICK GENERATING STATION

Notice of Public Hearing [1]

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, January 23, 1974, in the grand ballroom of the Sheraton Valley Forge Hotel at the intersection of Route 363 and First Avenue, King of Prussia, Pa. (exit 24 from Pennsylvania Turnpike) beginning at 1:30 p.m. The subject of the hearing will be a proposal to amend the Commission's Comprehensive Plan so as to include the Limerick project. The focus of the Commission's interest will be on the water resources aspects as summarized below.

Limerick Generating Station: A nuclear-fueled electric generating station proposed by the Philadelphia Electric Company. Two generating units, with an electrical capacity of 1,100,000 kilowatts each, are scheduled for construction on the east bank of the Schuylkill River about two miles southwest of Pottstown in Limerick Township, Montgomery County, Pennsylvania. Each nuclear system includes a single cycle, forced circulation boiling water reactor, producing steam for direct use in the steam turbine. Two hyperbolic, natural draft cooling towers, each approximately 500 feet high, will provide the necessary cooling. Two water intake structures are proposed, one on the Perkiomen Creek and one on the Schuylkill River. Maximum water requirements are estimated at 55 million gallons per day, of which 42 million gallons per day will be evaporated to the atmosphere.

Documents relating to the Limerick Generating Station project may be examined at the Commission's offices. All persons wishing to testify are requested to notify the Secretary to the Commission prior to 5 p.m. on January 22. Written statements will be accepted into the record if submitted no later than February 13, 1974.

DAWES THOMPSON,
Acting Secretary.

JANUARY 4, 1974.

[FR Doc.74-1023 Filed 1-14-74;8:45 am]

FEDERAL MARITIME COMMISSION

IBERIAN/U.S. NORTH ATLANTIC WESTBOUND FREIGHT CONFERENCE

Notice of Petition

Notice is hereby given that the following petition has been filed with the Commission for approval pursuant to section 14b of the Shipping Act, 1916, as amended (75 Stat. 762, 46 U.S.C. 814).

Interested parties may inspect a copy of the current contract form and of the petition, reflecting the changes proposed to be made in the language of said contract, at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015 or at the Field Offices located at New York, N.Y., New Orleans, Louisiana and San Francisco, California. Comments with reference to the proposed changes and the petition, including a request for hearing, if desired, may be submitted to the Secretary, Federal Maritime Commission, 1405 I Street N.W., Washington, D.C. 20573, on or before Monday, February 4, 1974. Any person desiring a hearing on the proposed modification of the contract form and/or the approved contract system shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the petition, (as indicated hereinafter), and the statement should indicate that this has been done.

IBERIAN/U.S. NORTH ATLANTIC WESTBOUND FREIGHT CONFERENCE

Notice of Agreement Filed by:

Stanley O. Sher, Esq.
Billing, Sher & Jones, P. C.
Suite 300
1126 Sixteenth Street, NW.
Washington, D.C. 20036

Agreement No. 9615 D.R.-3 modifies the Conference's Merchant's Freight Contract to include cargo moving from points in Continental Europe.

By Order of the Federal Maritime Commission.

Dated: January 9, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-1188 Filed 1-14-74;8:45 am]

JUMPE FORWARDERS CORP. ET AL.

Applications for License

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Jumpe Forwarders Corp.
1225 S.W. 90th Avenue
Miami, Florida 33144

OFFICERS

Gerarde Martinez, President
Julie O. Martinez, Vice President/Treasurer
Julie Cesar Martinez, Secretary

Guy R. Porcella d/b/a
Porcella International
4471 N.W. 36th Street
Miami Springs, Florida 33166

International Freight Services, Inc.
6519 Eastland Road
Brook Park, Ohio 44142

OFFICER

Rafael Swift, President

Gerald Lewis Gumbert d/b/a
G. L. Gumbert Company
2360 Dayton Street
Aurora, Colorado 80010

La Borincana Travel Agency, Inc.
403 Massachusetts Avenue
Cambridge, Massachusetts 02139

OFFICERS AND DIRECTORS

Rafael Benzan, President
Altagracia Benzan, Clerk & Director
Maria Benzan, Director

Ralph Maldonado d/b/a
Glory International
259 Dover Green
Staten Island, New York 10312

By the Federal Maritime Commission.

Dated: January 7, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-1187 Filed 1-14-74;8:45 am]

[License No. 991]

J. P. HARLE FORWARDING CO.

Order of Revocation

On December 7, 1973, the Federal Maritime Commission received notification that J. P. Harle Forwarding Company Of La., Inc., 420 Richards Building, New Orleans, Louisiana 70112 wishes to voluntarily surrender its Independent Ocean Freight Forwarder License No. 991 for revocation, effective January 1, 1974.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) Section 7.04(f) (dated 9/15/73);

It is ordered, That Independent Ocean Freight Forwarder License No. 991 be returned to the Commission for cancellation.

It is further ordered, That the Independent Ocean Freight Forwarder License of J. P. Harle Forwarding Company Of La., Inc. be and is hereby revoked effective January 1, 1974, without prejudice to reapply for a license at a later date.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon J. P. Harle Forwarding Company Of La., Inc.

AARON W. REESE,
Managing Director.

[FR Doc.74-1190 Filed 1-14-74;8:45 am]

[1] This supersedes the previous notice of December 27, 1973, which contained numerical errors in the description of the station and in volumes of water to be used.

[License No. 1389]

TIMOTHY F. KANE

Order of Revocation

By letter of December 18, 1973, the Federal Maritime Commission received notification that Timothy F. Kane, 25 SE Second Avenue, Miami, Florida 33131 wishes to voluntarily surrender its Independent Ocean Freight Forwarder License No. 1389 for revocation, effective January 23, 1974.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) section 7.04(f) (dated 9/15/73);

It is ordered, That Independent Ocean Freight Forwarder License No. 1389 be returned to the Commission for cancellation.

It is further ordered, That the Independent Ocean Freight Forwarder License of Timothy F. Kane be and is hereby revoked effective January 23, 1974, without prejudice to reapply for a license at a later date.

It is further ordered, That a copy of this Order be published in the FEDERAL REGISTER and served upon Timothy F. Kane.

AARON W. REESE,
Managing Director.

[FR Doc.74-1189 Filed 1-14-74;8:45 am]

TRANSCONEX INTERNATIONAL INC. ET AL.

Notice of Agreements Filed

Notice is hereby given that the following agreements have 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 agreements at the Washington office of the Federal Maritime Commission, 1405 I Street, NW., Room 1015; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before February 4, 1974. Any person desiring a hearing on the proposed agreements 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 agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreements filed by:

Dean R. Putnam, President, International Tariff Services, Inc., 815 15th Street NW., Washington, D.C. 20005.

Transconex International, Inc. and Econocaribe Consolidators, Inc. describe themselves as a non-vessel operating common carriers by water, have filed the following agreements:

(1) Agreement No. 10101 will permit either to "accept and receipt shipments in the name of and on behalf of" the other, and to consolidate and forward such shipments with those of the receiving carrier in the trade from ports in the United States to ports in the Caribbean and Central America pursuant to the terms of the agreement; and

(2) Agreement No. 10104 will permit them to confer, discuss and agree upon "rates, charges, classifications, practices and related tariff provisions" with respect to their shipments moving between United States ports and Central America, the Dominican Republic, the Netherlands Antilles, Haiti and Jamaica. Each party retains the right to act independently of the other upon forty-eight hours' notice to the other.

Notice of agreements filed by:

J. D. Straton, Manager, Rates & Conferences, Moore-McCormack Lines, Incorporated, 2 Broadway, New York, New York 10004.

Agreement No. 10028-1, among Moore-McCormack Lines, Incorporated, Companhia de Navegacao Lloyd Brasileiro and Companhia de Navegacao Maritima Netumar S/A, modifies the approved basic agreement (a supplementary arrangement entered into pursuant to Agreement No. 10027, a pooling and sailing agreement) covering cargo moving in the northbound trade from Brazilian ports within the Porto Alegre/Recife range, both inclusive, to ports on the Atlantic Coast of the United States, by amending (1) the first paragraph thereof to provide that Companhia de Navegacao Lloyd Brasileiro and Companhia de Navegacao Maritima Netumar S/A will participate and operate as separate parties thereunder, rather than as one party as at present; (2) Article 1 to decrease and/or increase the number of minimum calls to be made by the parties at specified Brazilian ports, and to change the pool computation period from two to four months; (3) Article 3 to establish a separate accounting and scope for containerized cargoes; and (4) Article 4 to set the "carrying rate" at 50 percent for containerized cargo, and to change the formula for the settlement of revenues derived from the carriage of pooled general cargo and pooled containerized cargo.

Notice of agreement filed by:

Stanley O. Sher, Esq., Billig, Sher & Jones, P. C., Suite 300, 1126 Sixteenth Street, N.W., Washington, D.C. 20036.

Agreement No. 9615-9, Iberian U.S. North Atlantic Westbound Freight Conference, expands the geographic scope of the basic agreement of the above-named Conference to cover transportation from points in Continental Europe.

Notice of agreement filed by:

James P. Horn, President, American Export Lines, Inc., 17 Battery Place, New York, New York 10004.

Agreement No. 10106, American Export Lines, Inc., and Italian Lines, provides for the parties to discuss possible future cooperation with respect to the operation of their respective services in the U.S. Atlantic Mediterranean trade for the purpose of achieving maximum utilization of their container vessels, maximum rationalization of their respective services, and maximum efficiency in their use of fuel oil. It also provides for American Export Lines to assist Italian Lines in the establishment of its container service in this trade.

Notice of agreement filed by:

Charles F. Warren, Esq., 1100 Connecticut Avenue, NW., Washington, D.C. 20036.

Agreement No. 14-38, entered into by the member lines of the Trans Pacific Freight Conference (Hong Kong), amends (1) Article 7 of the approved conference agreement to eliminate the reference to cargo originating from China; and (2) Article 12(1) thereof entitled "Admission to Membership", to clarify the understanding of the member lines that (a) the term "common carrier by water", as used in that provision refers to "a vessel operating common carrier by water", and (b) the term "regularly operating in the trade" means "the operation of vessels by the common carrier applicant across the Pacific Ocean."

Notice of agreement filed by:

Charles F. Warren, Esq., 1100 Connecticut Avenue, NW., Washington, D.C. 20036.

Agreement No. 5700-18, entered into by the member lines of the New York Freight Bureau (Hong Kong) amends Paragraph 1 of Article 12(a) of the approved conference agreement entitled "Admission to Membership", to clarify the understanding of the member lines that (1) the term "common carrier by water", as used in that provision refers to "a vessel operating common carrier by water", and (2) that the term "regularly operating in the trade" means "the operation of vessels by the common carrier applicant across the Pacific Ocean."

By order of the Federal Maritime Commission.

Dated: January 10, 1974.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-1235 Filed 1-14-74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. E-8550]

APPALACHIAN POWER CO., ET AL.

Notice of Changes in Rates and Charges

JANUARY 4, 1974.

American Electric Power Service Corporation (AEP) on December 12, 1973,

tendered for filing on behalf of its affiliates, Appalachian Power Company (Appalachian), Ohio Power Company (Ohio) and Wheeling Electric Company (Wheeling) an agreement among the three AEP affiliates and Monongahela Power Company (Monongahela) and West Penn Power Company (West Penn) dated December 1, 1973. The agreement is entitled Modification No. 1 to Operating Agreement dated June 1, 1971. The Operating Agreement has been designated as Appalachian Rate Schedule FPC No. 55, Ohio Rate Schedule FPC No. 73, and Wheeling Rate Schedule FPC No. 5.

Modification No. 1, essentially, does two things. It increases demand charges for both Short Term Power under Schedule C and for Limited Term Power and Energy under Schedule D to the Operating Agreement, proposed to become effective January 1, 1974. It also adds a new Schedule F—Fuel Conservation Power and Energy, proposed to become effective as of December 15, 1973.

The demand charge for Short Term Power would be increased from $0.40 to $0.45 per kilowatt per week, and the demand charge for Limited Term Power would be increased from $2.15 to $2.50 per kilowatt per month. Applicants state that no comparison of transactions and revenues in the past twelve months is possible since there were no Short Term or Limited Term transactions between the parties that would be affected by the proposed rates.

In support of the new Schedule F, Applicants state that the 1971 Operating Agreement does not permit the degree of flexibility as to the transfer of power and energy for purposes of conserving fossil fuel which is now in short supply, particularly petroleum. The new schedule is designed to permit either of the parties that may be in a favorable position with respect to certain fuels at a given time, or from time to time, to transfer fuel "by wire" to the other and to interconnected third parties. The schedule which resulted from discussions and negotiations between the parties, provides a capacity charge of 20 cents per kilowatt-week for 72 hours of weekly service. Applicants state that the parties recognize that the service is (1) reciprocal and must result in the realization of mutual benefits, (2) subject to changing conditions and (3) to be provided only if the party requested to supply such service can provide it without an economic burden. Waiver is requested of any requirements not already complied with under § 35.13 of the Commission's regulations under the Federal Power Act.

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 January 10, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-1206 Filed 1-14-74;8:45 am]

[Docket No. CP74-170]

CASCADE NATURAL GAS CORP.

Notice of Application for Declaration of Exemption

JANUARY 4, 1974.

Take notice that on December 13, 1973, Cascade Natural Gas Corporation (Applicant), 222 Fairview Avenue North, Seattle, Washington 98109, filed in Docket No. CP74-170 an application pursuant to section 1(c) of the Natural Gas Act for an exemption from the provisions of the Natural Gas Act and the regulations of the Commission thereunder, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application states that Applicant is a corporation organized and existing under the laws of the State of Washington and is duly authorized to do business in the States of Washington, Oregon, Utah, and Colorado. In addition to its intrastate operations Applicant was authorized by Commission order issued October 21, 1965, in Docket No. CP64-220 (34 FPC 1181) to construct and operate an interstate pipeline system in the States of Colorado and Utah.

Applicant requests an exemption from Commission regulation as to its distribution operations in the States of Washington and Oregon. Applicant states the jurisdictional status of its intrastate pipeline system and operations will not by affected by the exemption sought herein.

The application states that Applicant is a public utility engaged in the operation of distribution systems which distribute and sell natural gas to ultimate consumers in 75 communities in Washington and Oregon. Applicant states it purchases its entire gas supply for its distribution operations from the Northwest Division System of El Paso Natural Gas Company, which gas is received by Applicant within the boundary of the States of Washington and Oregon, and consumed within the state where it is so received. Applicant states further that its public utility operations in the States of Washington and Oregon are subject to the jurisdiction of the Washington Utilities and Transportation Commission and the Oregon Public Utility Commissioner, respectively, which jurisdiction and regulation covers Applicant's rates, service, and facilities. Applicant states that such jurisdiction is being exercised and therefore requests the Commission to exempt Applicant's distribution operations in Washington and Oregon from the provisions of the Natural Gas Act and the rules and regulations thereunder.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 29, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-1211 Filed 1-14-74;8:45 am]

[Project No. 201]

CITY OF PETERSBURG, ALASKA

Order Granting Extension of Time To File Application for License

JANUARY 2, 1974.

The City of Petersburg, Alaska, Licensee for its constructed Crystal Lake Project No. 201, filed with the Commission on October 25, 1973, a request to extend, for 3 years, until November 12, 1976, the deadline for submitting its application for relicensing, originally due November 12, 1973. The fifty year license for Project No. 201 expires November 12, 1974.

The Petersburg Electric Utility Board has initiated studies of the feasibility of further development of the hydroelectric potential of subject project. Consulting engineers have been authorized to undertake these studies.

Since Project No. 201 is constructed and studies have already begun, a two year extension should prove adequate for licensee to complete its survey and submit findings and its application for relicensing to the Commission.

If at the end of the time extension granted, circumstances and reasonable grounds exist for further extension, the Commission will consider an appropriate motion timely filed under § 1.13(d) of the Commission's rules of practice and procedure.

The Commission finds:

It is in the public interest to grant the City of Petersburg an extension of time, expiring on November 12, 1975, in which to file its application for relicensing of constructed Project No. 201.

The Commission orders:

The City of Petersburg, Alaska, is granted an extension of time, expiring on November 12, 1975, in which to file its

application for relicensing of constructed Project No. 201.

By the Commission.

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

[FR Doc.74-1213 Filed 1-14-74;8:45 am]

[Docket Nos. CP73-223, CP73-342, CP74-4 and CP74-100]

COLUMBIA GAS TRANSMISSION CORP.

Order Granting Withdrawals, Granting Conditional Authorizations, Denying in Part Motion To Expedite Scheduling Formal Hearing, and Establishing Procedures

JANUARY 7, 1974.

On February 20, 1973, Columbia Gas Transmission Corporation (Columbia Gas) filed in Docket No. CP73-223 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and delivery of synthetic gas as mixed with natural gas. Columbia Gas' application reflects a restructuring of a proposal by Columbia LNG Corporation (Columbia LNG), a subsidiary of Columbia Gas, in Docket No. CP72-8 to sell and deliver synthetic gas to Columbia Gas. The gas therein was to be manufactured from liquid hydrocarbons at Columbia LNG's Green Springs, Ohio, reforming plant. On December 14, 1972, Columbia LNG, relying upon Commission Opinion No. 637,[1] which held that synthetic gas is not "natural gas" within the meaning of the Natural Gas Act, filed a notice of withdrawal of its application in Docket No. CP72-8. On July 20, 1973, the Presiding Administrative Law Judge, to whom the matter was referred by the Commission, issued an Initial Decision holding that the proposal in that docket was not subject to the Commission's jurisdiction. On October 26, 1973, the Commission issued Opinion No. 669, wherein it affirmed the Presiding Judge's Initial Decision.

In its application in Docket No. CP73-223, Columbia Gas proposes to accept for the account of its customers their respective shares of synthetic gas to be purchased by such customers from Columbia LNG at Green Springs, and to deliver equivalent volumes of a synthetic gas-natural gas mixture to the customers. The estimated annual deliveries by Columbia LNG are 75,600,000 Mcf at an average daily rate of 216,000 to commence January 1, 1974.

Columbia Gas proposes to charge a one-part rate, based on its average system-wide transmission and storage costs as reflected in its currently-effective rate, for the delivery of the mixed gas, and states that the applicant will be under no obligation to deliver gas to customers who are receiving their Total Daily Entitlement under the rate schedules contained in applicant's FPC Gas Tariff.

Interventions were granted in Docket No. CP73-223 to all those who petitioned to intervene, by order issued August 3, 1973, which order also denied Columbia Gas' "Motion for Conference to Expedite Certification Without a Hearing," filed May 31, 1973.

Columbia Gas also filed in Docket Nos. CP73-342 and CP74-100 on June 27, 1973, and October 25, 1973, respectively, applications pursuant to section 7(c) of the Natural Gas Act for certificates authorizing the exchange and transportation of synthetic gas as mixed with natural gas, and construction of appurtenant facilities. These proposals, similar in nature to Columbia Gas' above-described proposal in Docket No. CP73-223, would have involved synthetic gas to be produced by reforming plants to be constructed and operated by subsidiaries of Apco Oil Corporation, and Crown Central Petroleum Corporation, respectively. On November 19, 1973, Columbia Gas filed a Notice of Withdrawal of Application, pursuant to § 1.11(d) of the Commission's rules of practice and procedure (Rules), in each of these two proceedings. Columbia Gas' notices of withdrawal request a Commission order permitting such withdrawals. Under § 1.11(d) of the rules, such a notice effects withdrawal within 30 days in a proceeding wherein no hearing has yet been convened, without the necessity of a Commission order. Although no hearing has been convened in Docket Nos. CP73-342 and CP74-100, we shall herein order that such withdrawal be effected so as to expedite the withdrawal of Columbia Gas' applications.

On November 21, 1973, Columbia Gas filed a Motion for Expedited Procedure in Docket Nos. CP73-223 and CP74-4.[2] In its motion, Columbia Gas requests the Commission to issue an order directing a prehearing conference to be convened on or before December 3, 1973, authorizing the Presiding Administrative Law Judge to incorporate the record of CP72-8 in the proceedings to the extent it is applicable, and directing the Presiding Administrative Law Judge to proceed in accordance with the shortened procedure provided for in Section 1.32 of the Rules. Columbia Gas' motion cites the current energy crisis as the primary reason for the need for expedition. In addition, the motion notes that Columbia LNG will incur take-or-pay obligations commencing January 1, 1974.

The Commission believes that the rate issue raised by the application in Docket No. CP73-223 requires that a hearing be convened in the above-entitled proceeding, and that Columbia Gas' request for shortened procedure with respect to this docket is inappropriate. We shall, however, grant authorization allowing Columbia Gas to commence the operation proposed in Docket No. CP73-223, conditional upon (1) Columbia Gas' transportation of mixed natural and artificial gas shall not impair Columbia Gas' present service to present customers and (2) the rate to be charged for such service shall be determined at the hearing hereinafter provided for.

The Commission finds:

(1) Good cause exists for ordering the withdrawal of Columbia Gas' applications in Docket Nos. CP73-342 and CP74-100.

(2) Columbia Gas' Motion for Expedited Procedure, filed November 21, 1973, in Docket Nos. CP73-223 and CP74-4, should be denied insofar as it requests expedition with respect to Docket No. CP73-223.

(3) It is necessary in the public interest that the consolidated proceeding involving rate issues involved in the application in Docket No. CP73-223 be set for hearing.

(4) Columbia Gas is a "natural gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission.

(5) The transportation of natural gas hereinbefore described, as more fully described in the applications in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commission; and such transportation by applicant, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(6) Applicant is able and willing properly to do the acts and to perform the services proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission thereunder.

(7) The construction and operation of facilities by Columbia Gas and the transportation of natural gas by applicant is required by the public convenience and necessity and certificates therefor should be issued as hereinafter ordered and conditioned.

The Commission orders:

(A) Certificates of public convenience and necessity are issued authorizing Columbia Gas in Docket No. CP73-223 to transport natural gas in interstate commerce, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, upon the terms and conditions of this order and specifically limited to such transportation and facilities.

(B) The rates demanded, charged and received by Columbia Gas for the rendition of service authorized in paragraph (A) above shall be determined at a public hearing.

(C) The certificates granted by paragraph (A) above are conditioned upon applicant's compliance with all applicable Commission Regulations under the Natural Gas Act, and upon applicant's

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[1] Issued December 7, 1972, in *Algonquin SNG, Incorporated, et al.*, Docket Nos. CP72-35, *et al.*

[2] Insofar as the motion addressed matters involved in Docket No. CP74-4, authorization was granted by order issued November 30, 1973, in that docket.

rendition of the transportation service herein authorized without impairment of applicant's pre-existing service and sales.

(D) Permission is hereby granted for the withdrawal of the applications filed by Columbia Gas in Docket No. CP73–342 on June 27, 1973 and in Docket No. CP74–100 on October 25, 1973.

(E) Columbia Gas is hereby authorized to commence the operation proposed in Docket No. CP73–223, subject to its establishing at formal hearing scheduled herein that the rate to be charged therefor is just and reasonable and otherwise conforms to the requirements of Sections 4 and 5 of the Natural Gas Act.

(F) Columbia Gas' Motion for Expedited Procedure, filed in Docket Nos. CP73–223 and CP74–4 on November 21, 1973, is denied with respect to Docket No. CP73–223.

(G) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR I), a public hearing on the rate issues presented by the applications filed in CP73–223 will be held in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C., commencing at 10:00 a.m. on April 15, 1974.

(H) Applicant and any interveners will file and serve on all other parties, the Commission Staff, and the Presiding Administrative Law Judge their direct evidence and testimony on or before March 15, 1974.

(I) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose [See Delegation of Authority, 18 CFR 3.59(d)], shall preside at the hearing in this consolidated proceeding, and prescribe relevant procedural matters not herein provided.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74–1214 Filed 1–14–74;8:45 am]

[Docket No. CI74–102]

EXXON CORP.

Notice of Extension of Time and Postponement of Hearing

JANUARY 4, 1974.

On December 11, 1973, an order was issued fixing a hearing in the above-designated matter. On December 21, 1973, Exxon requested a postponement of the procedural dates. The request states that all parties including staff counsel concur in the motion.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of testimony and exhibits by applicant and supporting parties, January 28, 1974.
Hearing, February 13, 1974 (10 a.m., e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–1228 Filed 1–14–74;8:45 am]

[Docket No. E–8121]

GULF STATES UTILITIES CO.

Notice of Further Extension of Time and Postponement of Hearing

JANUARY 4, 1974.

On December 20, 1973, Gulf States Utilities Company filed a motion to reschedule the service and hearing dates fixed by notice issued November 16, 1973, in the above-designated matter. At the prehearing conference held on December 13, 1973, the parties and Presiding Administrative Law Judge agreed upon a new schedule of dates.

Upon consideration, notice is hereby given that the procedural dates in the above matter are further modified as follows:

Company's Service Date re: Fixed Contract Rates Subject to § 206 Investigation, February 15, 1974.
Intervenors' Service Date, April 15, 1974.
Company Rebuttal Date, May 15, 1974.
Hearing, June 10, 1974 (10 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–1212 Filed 1–14–74;8:45 am]

[Docket No. CI73–575]

HIGH CREST OILS, INC.

Notice of Petition To Amend

JANUARY 8, 1974.

Take notice that on December 6, 1973, High Crest Oils, Inc. (Petitioner), 2640 One Calgary Place, 330 5th Avenue, S.W., Calgary, Alberta T2p OL4 Canada, filed in Docket No. CI73–575 a petition to amend the Commission's order issuing a certificate of public convenience and necessity in said docket pursuant to section 7(c) of the Natural Gas Act by authorizing the sale of gas from the Shepard Area of Blaine and Chouteau Counties, Montana, to Northern Natural Gas Company (Northern) at a higher price than originally certificated, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner was issued a certificate of public convenience and necessity in the subject docket authorizing the sale of gas to Northern from the subject acreage at an initial rate of 23.5 cents per Mcf. Petitioner states that it has not started initial deliveries of gas from the Shepard Area but anticipates that they will commence in January 1974. Inasmuch as deliveries have not commenced Petitioner requests that it be permitted to collect an initial rate of 40.0 cents per Mcf at 15.025 psia, subject to upward and downward Btu adjustment, plus tax reimbursement pursuant to an amendment dated October 1, 1973, with Northern. The total rate with tax reimbursement and Btu adjustment is estimated at 42.083 cents per Mcf. Monthly deliveries of gas are estimated at 90,000 Mcf.

Petitioner states that as part of the consideration for entering into this amendment for a higher price with Northern, it and other producers in the same area have agreed to: (1) drill 30 wells during the 1973–74 period in the Shepard Area, (2) drill 75 wells in the Tiger Ridge Bullhook Area during the period 1973–75, and (3) commit all newly discovered reserves found in the subject areas to Northern through December 31, 1976. Petitioner states that its agreement to undertake this drilling program is specifically conditioned upon the Commission's permitting the price increase to be collected without refund, and Petitioner has been given the option to terminate the drilling program if the Commission does not allow the increase to be collected without refund obligations. Petitioner additionally states that the subject price is significantly below those being offered by other pipelines in Montana and elsewhere and far below those apparently deemed acceptable by the Commission in recent cases.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 29, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–1221 Filed 1–14–74;8:45 am]

[Docket No. CP74–169]

KANSAS-NEBRASKA NATURAL GAS COMPANY, INC.

Notice of Application

JANUARY 4, 1974.

Take notice that on December 12, 1973, Kansas-Nebraska Natural Gas Company, Inc. (Applicant), Hastings, Nebraska 68901, filed in Docket No. CP74–169 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas with Natural Gas Pipeline Company of America (Natural) and the construction and operation of facilities for use in the exchange with and purchase of natural gas from Natural, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to gas exchange and purchase agreements with Natural, both dated July 9, 1973, Natural will deliver to Applicant up to 25,000 Mcf of gas per day in Roger Mills County, Oklahoma, and Applicant will redeliver equivalent volumes of gas to Natural in Hemphill County, Texas. The application states that under the terms of said agreements during the first year of the gas exchange agreement 25 per cent of the volumes delivered by Natural will be

purchased by Applicant and the remaining 75 per cent of said volumes will be retained by Applicant for Natural's account.

Applicant states said purchase agreement provides for a price of 50.0 cents per Mcf, subject to upward and downward Btu adjustment from 1,000 Btu per cubic foot, to be charged for the subject 25 per cent gas volume. The remaining 75 per cent will be redelivered to Natural by Applicant in the second year of the exchange agreement, in addition to the exchange volumes delivered to Applicant in such second year. Applicant states that thereafter equal volumes of gas will be exchanged each year.

In order to implement this exchange arrangement Applicant proposes to construct and operate a measuring and regulating station located at the delivery point in Hemphill County, Texas, and an 8-inch tap on its 20-inch Buffalo Wallow pipeline located at the delivery point located in Roger Mills County, Oklahoma. Applicant proposes to deliver Natural's exchange gas by use of Applicant's Buffalo Wallow system. This is said to have the effect of reducing the haul for each company on the volumes being exchanged.

Applicant estimates the total cost of the proposed facilities is $20,100, which cost will be met out of current working capital.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 29, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (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.74-1225 Filed 1-14-74;8:45 am]

[Docket Nos. CP74-23, CP70-258]

KANSAS-NEBRASKA NATURAL GAS CO., INC. AND CITIES SERVICE GAS CO.

Findings and Order Setting Date for Formal Hearing, Consolidating Proceedings, Prescribing Procedures, and Granting Petitions To Intervene

JANUARY 7, 1974.

On July 31, 1973, Kansas-Nebraska Natural Gas Company, Inc. (Kansas-Nebraska) filed in Docket No. CP74-23 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing continued operation of existing intrastate pipeline, compressor and storage facilities in central Kansas, construction and operation of additional pipeline and compression facilities, establishment of a new redelivery point for the exchange of natural gas with Cities Service Gas Company (Cities Service) and continuation of service to certain customers for resale in interstate commerce; and on August 30, 1973, Cities Service filed in Docket No. CP70-258, a petition to amend Commission order issued July 22, 1973, in said docket (44 FPC 149), as amended (47 FPC 1747), pursuant to section 7(c) of the Natural Gas Act by authorizing Cities Service to construct and operate an additional point of delivery between Cities Service and Kansas-Nebraska, all as more fully set forth in the aforementioned application and petition to amend.

Kansas-Nebraska proposes to operate in interstate commerce the Adolph Storage facilities near Pawnee Rock, Kansas, including its 1,000 horsepower injection-withdrawal compressor, the Pawnee Rock Compressor Station with 1,275 compression horsepower and gas sweetening and dehydration facilities, the Otis Station with 960 horsepower of compression, approximately 105 miles of 2-inch to 12-inch pipeline, two town border stations and metering and appurtenant facilities by which Kansas-Nebraska makes both direct sales and sales for resale to its customers. These facilities are presently used only in intrastate commerce. Kansas-Nebraska further proposes to sell in interstate commerce for resale and to deliver natural gas, heretofore sold and delivered in intrastate commerce, to Central Kansas Power Company, Inc., at Toulon, Kansas, to Producers Gas Equities, Inc., at points in Ellis, Ness, and Rush Counties, Kansas, to Greeley Gas Company at Alexander, Bazine, McCraken and Ness City, Kansas, and to the city of Albert, Kansas. Nebraska proposes to make such sales according to its FPC Gas Tariff, Second Revised Volume No. 1 for Zone 1 customers. Direct sales by Kansas-Nebraska to the towns of Ruch Center and Munjor, Kansas, and to Protein Producers, Inc., Dundee, Kansas, and to Kansas Refined Helium Company near Otis, Kansas, will continue to be made pursuant to rate schedules on file with the State Corporation Commission of Kansas.[1] Cities Service proposes no change in presently effective rates or rate schedules as a result of the proposals herein and, upon receipt of the requested authorization, it will file the amendment of June 26, 1973, to the exchange agreement in order to add the proposed new delivery point.

Kansas-Nebraska also proposes to construct and operate approximately 600 feet of 6-inch interconnecting pipeline in Edwards County, Kansas, to facilitate the proposed new redelivery point and a 500 horsepower compressor station to be located in Rock County, Kansas. Kansas-Nebraska was authorized by order of July 22, 1970, as amended in Docket No. CP70-239 (44 FPC 149), among other things, to exchange gas with Cities Service. Kansas-Nebraska now proposes to establish a new redelivery point for said exchange in the vicinity of its gathering system and the pipeline of Cities Service in Edwards County, Kansas.

Cities Service proposes to construct and operate an additional measuring and regulating station in Edwards County, Kansas, for delivery of exchange gas to Kansas-Nebraska. This station will be designated Unruh Exchange Point.

Kansas-Nebraska estimates the total cost of the proposed new facilities to be $180,000, which will be financed from working capital and interim bank loans. Cities Service estimates the total cost of the proposed facilities to be $9,800, which will be financed from cash on hand.

The purpose of the proposals herein is to conserve gas reserves in central Kansas by making quantities available to Kansas-Nebraska's interstate system at times when the deliverable capacity of the area producing fields exceeds the area needs and, at the same time, assuring future reliable service to customers in central Kansas by the addition of an interconnecting point south of the area between Kansas-Nebraska's Pawnee Rock Unruh gathering system, and Cities Service's transmission line. The proposed Unruh Exchange Point will be utilized by Cities Service to deliver an average of 3,000 Mcf per day to Kansas-Nebraska in the Pawnee Rock-Unruh Area. Cities Service will receive equivalent volumes at the existing Haven Exchange Point in Reno County, Kansas.

After due notice by publication in the

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[1] Total actual peak day and annual sales for the market area were 27,942 Mcf and 7,838, 115 Mcf, respectively, for 1972. The annual sales volume for 1972 includes the sale of 653,006 Mcf to Natural Gas Pipeline Company of America pursuant to a limited term contract which expires September 24, 1973. Projected sales for the year of 1976 are estimated to be 28,000 Mcf peak day and 7,611,000 Mcf annually.

FEDERAL REGISTER on August 7, 1973, in Docket No. CP74–23 (38 FR 21312) and on September 19, 1973, in Docket No. CP70–258 (38 FR 26234), the State Corporation Commission of the State of Kansas filed on August 15, 1973, in Docket No. CP74–23, a notice of intervention, as amended November 18, 1973, requesting a hearing; and petitions to intervene also requesting a hearing were filed in Docket No. CP74–23 by Central Kansas Power Company (CKP) on August 22, 1973, as supplemented August 30, 1973, and by Producers Gas Equities Inc. (Producers) on August 22, 1973. Greeley Gas Company (Greeley) filed in Docket No. CP74–23 on August 23, 1973, a petition to intervene in the event of a formal hearing. No petition to intervene, notice of intervention, or protest to the granting of the petition to amend were filed in Docket No. CP70–258.

The Kansas Commission requests a hearing in order that it may properly discharge the duties imposed upon it by state law with respect to production, conservation, transportation and use of natural gas, so that the best interests of the people of the State of Kansas may be adequately protected.

The principle thrust of CKP's adverse intervention in this proceeding is directed toward the initial rate for jurisdictional service proposed by Kansas-Nebraska's application. CKP states that these proposed rates would require it to pay substantially more for the gas it presently purchases at Toulon than it pays under the intrastate schedule for such sales recently approved by the Kansas Commission. In addition to this rate issue, which also appears to be the basis for the request of Producers for a hearing, CKP points out that issuance of the requested certificate could affect its right to receive contract volumes in future gas purchases at Toulon, since that would then be subject to such curtailment or allocation restrictions which the Commission might impose pursuant to its current policies concerning such matters. Finally, CKP believes that, based upon the application filed by Kansas-Nebraska in this proceeding, it cannot be determined absent a hearing whether the basic proposal to integrate Kansas-Nebraska's intrastate system in Kansas into its interstate system is in the public interest.

In its answer to CKP's petition to intervene and request for hearing, Kansas-Nebraska rejects CKP's argument that a hearing is necessary in this proceeding. With respect to the proposed integration of its system, Kansas-Nebraska states that its Kansas intrastate system is already physically connected to its existing interstate system in Kansas. It states that when there are periods from time to time of excess gas deliverability from the Central Kansas producing area, gas from this area will flow northward into the interstate system. This flow of gas will be improved by installation of the new 500 horsepower compressor station in the vicinity of Stockton, Kansas, but the physical integration of the two systems already exists. As to CKP's contention that recognition of FPC jurisdiction by the grant of a certificate under Section 7 of the Natural Gas Act may result in the curtailment or allocation of the gas purchased from Kansas-Nebraska by CKP at Toulon, Kansas-Nebraska concedes that this is true; however, it contends that this constitutes an important reason why recognition of Commission jurisdiction over such sales will clearly be in the public interest, and that CKP should not be immunized against curtailment or other restrictions which may be applied to other customers of Kansas-Nebraska.

Kansas-Nebraska suggests that the proper proceeding in which to consider the rate issue raised by CKP is in Docket No. RP74–11, wherein Kansas-Nebraska filed on August 31, 1973, a general rate increase. In a subsequent reply to Kansas Nebraska's answer to CKP's intervention petition, the latter suggested a resolution to the rate issue. Such resolution would be for Kansas-Nebraska to amend its application or to agree to a Commission condition in the requested certificate which would specify that the rates to wholesale customers on the existing Kansas-Nebraska interstate system would continue to be the rates currently in effect pursuant to order of the Kansas State Commission, until such time as the rates proposed by Kansas-Nebraska in its filing in Docket No. RP74–11 become effective, subject to whatever refund obligation may be imposed by Commission order in said docket. By letter of November 1, 1973, filed in subject docket, Kansas-Nebraska's response to this proposal of CKP appears to be adequate and would apparently eliminate the rate issue in this proceeding insofar as Kansas-Nebraska and CKP are concerned. However, we regard this proposed resolution as being of dubious legality in view of our duty to make an independent determination of rates under sections 4 and 7 of the Natural Gas Act. In view of this, and the other issues presented in this proceeding, an evidentiary hearing directed to their resolution should be held.

The Commission finds:

(1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that a public hearing be held on the issues presented in this proceeding.

(2) Good cause exists to consolidate proceedings pending in Docket Nos. CP74–23 and CP70–258.

(3) Participation by the above-named petitioners to intervene in this proceeding may be in the public interest.

The Commission orders:

(A) Consolidation of the proceedings pending in Docket Nos. CP74–23, and CP70–258 is granted.

(B) The hereinabove named petitioners to intervene are permitted to intervene in this proceeding subject to the rules and regulation of the Commission; *Provided, however,* That participation of such interveners shall be limited to matters affecting asserted rights and interests as 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, because of any order of the Commission entered in this proceeding.

(C) Pursuant to the authority of the Natural Gas Act, particularly section 7 and 15 thereof, the Commission's rules of practice and procedure, and the Regulations under the Natural Gas Act [18 CFR I], a public hearing on the issues presented by the applications filed in the proceedings consolidated by ordering paragraph (A) will be held in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. commencing at 10:00 a.m. on February 13, 1974.

(D) All applicants and any interveners will file and serve on all other parties, the Commission Staff, and the Presiding Examiner their direct evidence and testimony on or before January 22, 1974.

(E) A Presiding Examiner to be designated by the Chief Examiner for that purpose [See Delegation of Authority, 18 CFR 3.59(d)], shall preside at the hearing in this consolidated proceeding, and prescribe relevant procedural matters not herein provided.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74–1216 Filed 1–14–74;8:45 am]

[Docket No. RP73–43]

MID LOUISIANA GAS CO.

Notice of Proposed Change in Rates

JANUARY 4, 1974.

Take notice that Mid Louisiana Gas Company (Mid Louisiana), on December 13, 1973, tendered for filing as a part of First Revised Volume No. 1 of its FPC Gas Tariff, Sixth Revised Sheet No. 3a.

Mid Louisiana states that the purpose of the filing is to reflect a Purchased Gas Cost Current Adjustment to Mid Louisiana's Rate Schedules G–1, SG–1, I–1 and E–1; that the revised tariff sheet and supporting information are being filed forty-five (45) days prior to the effective date of February 1, 1974, in accordance with Section 19 of Mid Louisiana's FPC Gas Tariff and in compliance with Commission Order Nos. 452 and 452–A; and that copies of the filing were served on interested customers and state commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before January 17, 1974. Protests will be considered by the Commission in determining the appropriate action to be

taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-1207 Filed 1-14-74;8:45 am]

NATIONAL POWER SURVEY COORDINATING COMMITTEE

Meeting

Agenda for a meeting of the coordinating committee to be held at the Federal Power Commission Offices, 825 North Capital Street, NE., Washington, D.C., January 15, 1974, 1:30 p.m., room 5200.

1. Call to order by FPC Coordinating Representative.
2. Objectives and purposes of meeting.
A. Comments by Coordinating Committee Chairman Shearon Harris.
B. Review of status of TAC and Task Force reports.
C. Review of plans for EAC meeting to be held the following day.
D. Other Business.
3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-1204 Filed 1-14-74;8:45 am]

[Docket Nos. CP74-165 and CP74-166]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

JANUARY 4, 1974.

Take notice that on December 4, 1973, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket Nos. CP74-166 and CP74-165 applications pursuant to section 7(c) of the Natural Gas Act for certificates of public convenience and necessity authorizing the exchange of natural gas with and sale of gas to Kansas-Nebraska Natural Gas Company, Inc. (Kansas-Nebraska), and the construction and operation of certain facilities for said exchange and for the sale of gas to Kansas-Nebraska, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Applicant states in Docket No. CP74-166 that pursuant to a Gas Exchange Agreement with Kansas-Nebraska dated July 9, 1973, Applicant will deliver to Kansas-Nebraska up to 25,000 Mcf of gas per day in Roger Mills County, Oklahoma, and Kansas-Nebraska will redeliver equivalent volumes of gas to Applicant in Hemphill County, Texas. The application states that under the terms of said agreement during the first year of the gas exchange 25 percent of the volumes delivered by Applicant will be purchased by Kansas-Nebraska and the remaining 75 percent of said volumes will be retained by Kansas-Nebraska for Applicant's account.

In Docket No. CP74-165 Applicant requests authorization for the sale of 25 percent of the subject exchange volume pursuant to a Gas Purchase Agreement with Kansas-Nebraska, dated July 9, 1973, in which Applicant has agreed to sell said gas to Kansas-Nebraska for a period of one year at a price of 50 cents per Mcf, which price is the same price paid by Applicant for the subject gas and subject to the same upward and downward Btu adjustment from 1,000 Btu per cubic foot. Applicant requests pregranted abandonment authorization for the subject sale.

Applicant states in Docket No. CP74-166 that the remaining 75 percent of gas will be redelivered to it by Kansas-Nebraska in the second year of the Exchange Agreement, in addition to the exchange volumes delivered to Kansas-Nebraska in such second year. Applicant states further that thereafter equal volumes of gas will be exchanged each year.

The application in Docket No. CP74-166 states that the subject exchange is a straight gas-for-gas exchange transaction and as such no monetary compensation is provided for in the exchange agreement. All volumes of gas delivered under said agreement will be adjusted for Btu content and all gas balances will be on a volume weighted average Btu basis. The term of the exchange agreement is stated as a period of one year from the date of first delivery and will continue thereafter until cancelled by either party on twelve months notice.

Applicant states that the gas to be delivered to Kansas-Nebraska will be purchased by Applicant from Inexco Oil Company (Inexco) under a Gas Purchase Contract dated April 1, 1973, for which sale Inexco is seeking authorization in Docket No. CI73-747. The application in Docket No. CP74-166 states that the subject exchange is beneficial to Applicant by providing it with a more economical means of receiving said gas from Inexco. Applicant states that such exchange will obviate the necessity of installing approximately 20 miles of pipeline needed to connect Inexco's wells to Applicant's existing pipeline. In its stead Applicant proposes to construct approximately 7 miles of 4- and 8-inch pipeline, measuring facilities and other appurtenant facilities to effectuate deliveries of gas to Kansas-Nebraska at the Roger Mills County location and one mile of 6-inch pipeline at the point of redelivery of Applicant by Kansas-Nebraska in Hemphill County.

The application states that the estimated cost of the proposed facilities is $337,000, which cost will be met from funds on hand.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 29, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests 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, hearings will be held without further notice before the Commission on these applications if no petitions to intervene are filed within the time required herein, if the Commission on its own review of the matters finds that grants of the certificates are required by the public convenience and necessity. If petitions for leave to intervene are timely filed, or if the Commission on its own motion believes that formal hearings are required, further notice of such hearings will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearings.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-1226 Filed 1-14-74;8:45 am]

[Docket Nos. RP71-107 (Phase II), and RP72-127]

NORTHERN NATURAL GAS CO.

Order Approving Rate Settlement With Conditions and Setting Procedural Dates for Reserved Issues

JANUARY 4, 1974.

On January 18, 1973, as amended on May 9, 1973, Northern Natural Gas Company (Northern) filed a proposed Stipulation and Agreement (Agreement) which would resolve most of the issues in the above-referenced proceedings, with certain issues to be reserved for decision by the Administrative Law Judge. The Agreement provides, inter alia, for a reduction of the annual revenues from jurisdictional sales and service collected by Northern, subject to refund, from $22,758,944 to $10,834,161 in Docket No. RP71-107 (Phase II) based upon the test year ended February 29, 1972, as adjusted. Northern's original proposal to establish uniform rates for jurisdictional field sales located within three operational areas south of its established rate zones, which entails an increase of

$292,738 over contract rates previously in effect, is unchanged by the Agreement.[1]

BACKGROUND

Docket No. RP71–107 (Phase II). The proceeding in Docket No. RP71–107 (Phase II) involves a general rate increase application filed by Northern on April 26, 1971, which was suspended by our order issued May 26, 1971, and became effective, subject to refund, on November 14, 1971.[2] The proceedings were phased such that all curtailment issues were included in Phase I and all rate matters in Phase II.[3]

On August 11, 1972, the Commission issued an order approving a PGA clause and that issue was removed from the proceedings in Docket No. RP71–107 (Phase II). The PGA clause was made effective as of November 14, 1971.

The hearing in Phase II of the proceedings commenced on November 30, 1971, and ended on February 24, 1972. Initial and Reply Briefs were filed with the Presiding Administrative Law Judge and the Phase II proceeding issues are now pending before the Presiding Administrative Law Judge.

On December 7, 1972, Northern tendered for filing First Revised Sheet No. 6a which proposed to combine the presently effective operational areas E and F into one new operational area designated E–F with a proposed effective date of January 5, 1973. By order issued January 5, 1973, the Commission accepted First Revised Sheet No. 6a for filing, suspended it for one day and deferred the use thereof until January 6, 1973, and also ordered that the issues raised by the filing be consolidated for hearing and decision with Docket No. RP72–127.

Docket No. RP72–127. On May 19, 1972, Northern filed revised tariff sheets to its FPC Gas Tariff which proposed a general increase in its annual jurisdictional revenues of $36,003,942 over the RP71–107 levels in effect subject to refund and an increase of $292,738 for the jurisdictional field sales revenues over then effective contract levels located within three operational areas south of the established rate zones. On June 30, 1972, the Commission issued an order, 47 FPC 1750, which accepted the revised sheets for filing and suspended the effective date thereof until December 3, 1972, and established service and hearing dates. On January 18, 1973, as amended on May 9, 1973, the instant settlement agreement was filed.

SUMMARY OF PROVISIONS

The settlement agreement is summarized as follows:

(1) Refunds in both dockets will be made entirely on the demand component of Northern's rates and such refunds will include 7 percent simple interest. The agreement states that as nearly as possible the unmodified Seaboard formula was used.

(2) Northern is permitted to include in its rate base $86,621,861 advance payments, take or pay deficiency payments, and capitalized carrying costs attributable to the Canadian Project involving projects in Montana and Alberta, Canada.

(3) Northern shall be permitted to include in rate base $5,875,712 of advances made pursuant to agreements with Scurry-Rainbow Oil, Ltd., BP Alaska, Inc. and Panarctic (Frontier Advance) for exploration, lease acquisition, development and production in Alaska and Canada. Northern is also permitted to include in rate base any additional amounts advanced pursuant to these agreements without further Commission review thereof.

(4) Northern is permitted to track advance payments and R&D expenditures by provisions which operate in a manner similar to Northern's PGA clause. The R&D tracking provision provides, inter alia, that a project must involve expenditures of at least $1 million in order to be tracked under the provision.

(5) Northern shall increase its depreciation rates as of January 1, 1972, such that all property previously depreciated at 3.5 percent shall be depreciated at 3.68 percent, *provided, however,* That all additions as replacements made on or after January 1, 1972, to the "3.5 percent" property shall be depreciated at a rate of 4 percent. The 4 percent and 4.5 percent rates used for the remainder of Northern's jurisdictional property are not changed by the Agreement. Northern shall not put into effect higher depreciation rates, subject to refund or otherwise, before December 27, 1974.

(6) Northern shall receive cost-of-service treatment for preliminary lease expenditures applicable to gas produced from leases in the Hugoton-Anadarko Area on all projects commenced or contracts made before December 31, 1974.[4]

(7) Northern shall be permitted to conditionally adopt liberalized depreciation with normalization on its pre-1970 property and post-1969 non-expansion property.

(8) Northern shall allocate costs relating to the Bushton extractions plant using the "modified BTU Method", and shall provide a cost allowance for storing and marketing liquids extracted at the Bushton plant.

(9) The "interest capitalized" issues and the "apportionment of increases in contract demand" issue are reserved for determination by the Presiding Administrative Law Judge.

(10) The group (conjunctive) billing, demand charge adjustment and overrun penalty increase issues will be deferred.

(11) Northern shall withdraw Section 9.1 of First Revised Sheet No. 59 which proposed an amendment to Northern's curtailment plan approved in Docket No. RP71–107 (Phase IO without prejudice to the refiling of the proposal in a future proceeding.

DISCUSSION

The Commission Staff and eleven parties filed comments upon the Agreement, as amended. The Northern Distributor Group; (NDG),[5] Minnesota Natural Gas Company (Minnesota Natural) and the Manilla Municipal Gas Department of Manilla, Iowa (Manilla)[6] supported the Agreement without reservation. The remaining parties filed comments which expressed reservations and objections to certain parts of the Agreement, but which did not express, in any instance, objection to the Agreement as a whole. Northern filed responses to each of the objections.

The Northern Municipal Defense Group (MDG) objects to the inclusion of amounts related to the Alberta, Canada portion of the "Canadian Project" since the proven reserves of gas discovered as a result of that project will be sold to Canadian consumers and thus will not be available for use by Northern's U.S. consumers. MDG alleges that this is contrary to the Commission's policy in Order No. 465 of not charging a pipeline's customers for advance payments which result in gas reserves which do not accrue to the benefit of the advancing pipeline's customers. MDG further notes that after eight or nine years, Northern will begin to make a profit on the project.

MDG's arguments are not persuasive. Although the gas from the project will, in all probability, never flow to the United States, the profits which Northern realizes from the project (less $25,000 per year net of taxes which goes to Northern's Canadian subsidiary) will be credited to Northern's cost-of-service as a benefit to its United States cutomers over the 23 year period of the contract covering the sale of the gas to TransCanada. Over the life of the project, Northern's customers will be made more than whole on the return and taxes paid on the Alberta advances. Thus, this project is distinguishable from Texas Eastern's project near Sable Island off the eastern shore of Canada where this Commission rejected rate base treatment for an advance payment since, inter alia, that advance payment agreement guaranteed neither gas nor other economic consideration to the ratepayers of Texas Eastern.[7] Moreover, as noted by Northern, Staff, and the NDG, the Alberta and

[1] See Appendices A, B, and C, filed as part of the original document, for cost of service and rate of return data.

[2] Because of the intervening Presidential Price Freeze, promulgated in Executive Order No. 11615, the rates did not become effective at the end of the 5 month suspension period.

[3] Phase I was resolved by an order issued October 2, 1972, 48 FPC 669, which approved a settlement agreement.

[4] Northern agrees to follow the principle of Full Cost Accounting on these projects as promulgated by Orders Nos. 440, 46 FPC 1148 (1971) and 440–A, 47 FPC 39 (1972).

[5] See Appendix D.

[6] Manilla, although a member of the Northern Municipal Defense Group, (MDG), dissented to the NDG's objections to the Agreement.

[7] *Texas Eastern Transmission Corporation,* Opinion No. 672, issued November 1, 1973.

Montana projects received prior Commission approval as to reasonableness and prudency[8] and had it not been for adverse N.E.B. action, the gas from Alberta would be flowing to Northern's customers today. For these reasons, we find it reasonable and appropriate to include the Alberta advances and associated charges in Northern's rate base as proposed in the Agreement.

MDG objects to the Scurry Rainbow, Panarctic, and BP Alaska advances on the grounds that the gas from these projects may never flow to the lower 48 states for use by Northern's customers because of possible adverse N.E.B. action and/or transportation of gas problems. Moreover MDG is joined by Michigan Power in objecting to the fact that the Agreement provides that the accounting and rate treatment of any present or future amounts proposed to be included in Northern's rate base pursuant to any of the three advance payment agreements, shall not be challenged in any future proceeding before the Commission involving Northern.

Staff analyzed the three advances from the perspective of the orders issued in Docket Nos. R–380 and R–411 which covered advances within the lower 48 states and found that the Scurry-Rainbow advance was generally consistent with Orders Nos. 410 and 410–A. However, Staff noted that the Panarctic advance was inconsistent with Orders Nos. 410 and 410–A because the advance payment agreement provides for the acquisition of a working interest by Northern as a result of the advance and does not provide for a five year repayment period. But, Staff notes that the customers receive a credit to cost-of-service of all revenues resulting from the working interest and staff recommends a condition to rate base treatment as a solution to the 5 year repayment problem. Staff notes further that under the criteria of Order No. 441, large amounts of the BP Alaska, Inc. advance would be excluded since such amounts are advances for exploration and lease acquisition, which are not includible in rate base under that order.

Our review of the three advances indicates that, in general, they involve prudent expenditures which will, in all probability, result in proven reserves of gas flowing from the projects to the lower 48 states. Moreover, we note that all cost benefits derived these projects shall be credited to Northern's cost-of-service. Nevertheless, in order to protect Northern's customers within the lower 48 states from undue risk, we find it appropriate to attach certain conditions to rate base treatment of these three advances. These conditions, which were set forth in Order No. 465 issued December 29, 1972, in Docket No. R–411, were adopted in *El Paso Natural Gas Company*, Opinion No. 673, issued November 6, 1973, in Docket No. RP72–116 and *Columbia Gas Transmission Corporation*, Opinion No. 674, issued November 6, 1973, in Docket No. RP72–36 which dealt with Alaskan advances and we find that they are appropriate for Northern's three advances outside the lower 48 states.

In order to prevent undue "lag time" prior to the commencement of recoupment of the advance, we shall provide that if any of the aforementioned advances has been included in Account 166 for five years and during such time no gas deliveries have commenced or no determination has been made that the recovery will be in economic consideration other than gas, the pipeline shall at the end of the 5 year period remove the advance from Account 166, cease rate base treatment thereof, and Northern's rates shall be adjusted to reflect such exclusion, unless otherwise directed by the Commission. We find that this condition is appropriate for the Scurry-Rainbow, BP Alaska and Panarctic advances because it will require Northern, should it desire continued rate base treatment of an advance under these circumstances, to present the Commission with evidence at the end of the 5 year period to show: (1) why recoupment of the advance has not commenced and (2) whether the project warrants continued rate base treatment for the advance with the attendant costs to Northern's customers within the lower 48 states.

In order to ensure that Northern's ratepayers within the lower 48 states are not required to absorb the principal of any nonrecovered amounts related to the three advances, we shall provide that any amounts of an advance not fully recovered from the producers within 5 years after deliveries have commenced or it has been determined that the recovery will be in economic consideration other than gas, shall be removed from Account 166 and Northern's rate base, and Northern's rates shall be adjusted to reflect such exclusion, unless otherwise directed by the Commission.

Moreover, we believe that it is necessary and appropriate to further condition rate base treatment of the three advances to prevent Northern's rate payers from paying return and taxes on an advance which results in the finding of proven reserves, but with the gas therefrom flowing to a party other than the advancing pipeline. Therefore, we shall further condition the three advances to provide that in the event proven reserves of gas are found and deliveries thereof commence, but no gas flows to Northern for use by its customers within the lower 48 states, the advance shall be removed from rate base and Account 166 immediately, if not already removed, and any revenues collected as a result of the advance being included in rate base shall be refunded by Northern to its jurisdictional customers, unless otherwise directed by the Commission. Moreover, in the event that enough gas flows to Northern's customers within the lower 48 states to recoup the advance, but some of the gas found as a result of the advance is diverted to other parties, we reserve the right in future rate cases involving Northern to determine whether the gas diverted is of sufficient quantity to require a partial refund of revenues paid by Northern's lower 48 states' customers as a result of the advance being included in Northern's rate base.[9]

We also note that Order No. 465 re-allowed advances for exploration. We believe that it is appropriate to permit Northern to include amounts advanced to BP Alaska, Inc. for exploration, but to exclude amounts related to lease acquisition (see Order No. 465, mimeo p. 9). As to the working interest acquired by Northern as a result of the Panarctic advance, we note that we permitted El Paso Natural Gas Company[10] to acquire a working interest as a result of an advance payment in Alaska based upon our finding that this was consistent with our policy of "encouraging intensified exploration by the pipeline producers" set forth in Opinion No. 568, 42 FPC 743 at 752. We find that permitting Northern to acquire a working interest as a result of the Panarctic advance and to permit the inclusion of that advance in Northern's rate base is consistent with that policy.

MDG and Michigan Power object to the "permanent" inclusion in rate base of the Scurry Rainbow, Panarctic and BP Alaska advances as well as the amounts associated with the Alberta, Canada portion of Northern's Canadian Project. By providing for further review of the three non-Alberta advances, as described above, we have, in effect, eliminated that provision of the Agreement which provides for "permanent" inclusion of such amounts in Northern's rate base. As to the permanency of the inclusion of the Alberta, Canada advances, we reject that provision insofar as it precludes any further review thereof by this Commission in light of changed circumstances.

Inter-City Gas, Ltd. (Inter-City) protests the inclusion of the Canadian advances in rate base because, it is alleged, there is no guarantee that the gas resulting from the Canadian advances will be distributed according to the costs borne by the present customers. Inter-City also expresses concern that the distribution of Canadian gas supplies will be on the basis of load factor or end-use considerations rather than in proportion to the costs that have been assessed. Inter-City's arguments are not persuasive. The arguments put forth by Inter-City could be used to challenge the inclusion of any advance payment in a pipeline's rate base. Implicit in our approval of rate base treatment for advances within the lower 48 states was our finding that it is reasonable and appropriate for present customers to pay return and taxes on advances for gas in the future.

Our review of the advance payment agreements covering advances within the

[8] *Northern Natural Gas Company*, Opinion No. 618, 47 FPC 1202; Northern Natural Gas Company 46 FPC 285 (1971) in Docket No. RP73–40.

[9] See: Order No. 465 (mimeo, p. 8); Opinion No. 673 (mimeo, pp. 6–7).

[10] Opinion No. 673 (mimeo, p. 4).

lower 48 states which are on file with the Commission pursuant to the Commission's orders in Docket Nos. R–380 and R–411 indicates that there are several advance payment agreements covering advances made within the lower 48 states which were executed prior to the issuance of Orders Nos. 410 and 410–A including the Montana project advances mentioned previously, which contain no repayment provisions. We find that it is not in the public interest for amounts advanced pursuant to these "pre-Order 410" advance payment contracts to remain in rate base indefinitely. Accordingly, we shall make such advances subject to the ratemaking and accounting recoupment, as well as other, provisions set forth in Order Nos. 410 and 410–A in Docket No. R–380.

MDG objects to the "permanent" tracking provisions for advance payments and for R&D expenditures set forth in Sections V and VI, respectively, of the Agreement which can be terminated only by further order of the Commission. MDG objects to the tracking provisions because, it is alleged, they are poor ratemaking devices which don't allow for unknowns and variables in costs, and they in this instance, require a party to come forth within 60 days of a filing to track an item of cost and challenge such item by requesting a one day suspension and a hearing on the item, which, it is claimed, shifts the burden of proof from Northern to the challenging party. These arguments are not persuasive. The Agreement provision for a 60 day notice period provides ample time for parties to protest a tracking and the provision for a one day suspension and a hearing adequately protests Northern's ratepayers against excessive charges. Moreover, the Agreement provides for a coordination of the tracking filings made for purchased gas, R&D expenditures and advance payments to allow for offsets of varying upward and downward rate adjustments.

We note that since the filing of Northern's proposed Agreement, the Commission issued Order 483 ____ FPC ____, on April 30, 1973, in Docket No. R–462, rehearing denied ____ FPC ____, issued June 28, 1973. We find that the R&D tracking provision in the Agreement is in substantial compliance with Order No. 483 with the exception that Northern classifies "the preliminary cost of locating new Storage Fields" as R&D expenditures. Amounts for storage field development are, in general, not the types of innovative and novel projects contemplated by the Commission's definition of R&D expenditures promulgated in Order No. 483. Accordingly, we shall provide that Northern's R&D tracking provision in section VI of the Agreement to be approved subject to the removal of subsection (c) of paragraph 11 which includes the preliminary costs of locating new storage fields in the definition of R&D expenditures which may be tracked by the R&D tracking provision in the Agreement.

MDG also objects to the fact that the R&D and advance payments tracking provisions do not expire when the Agreement does, but continue in force until terminated by further order of the Commission. This objection has been mooted as to the R&D tracking provision by the issuance of Order No. 483 which permits the inclusion of such provisions in a pipeline's tariff. However, we agree that the advance payment tracking provision should terminate when the Agreement itself terminates at the time Northern's next Section 4(e) rate increase takes effect, subject to refund. However, this is without prejudice to Northern's right to request continuation of the advance payment tracking provision in its next Section 4(e) rate increase filing.

MDG and Michigan Power protest the provision in sections V and VI of the Agreement requiring Northern to obtain the prior approval of customers representing at least 75 percent of Northern's contract demand obligations before requesting rate base treatment for any new "frontier area" advance payment project or new R&D project. Michigan Power objects to the provision on the grounds that it may deprive Michigan Power of the right to object to the inclusion in rate base of a particular project, while MDG objects on the basis that this provision implies a higher degree of legality than would be the case if such 75 percent approval were not obtained. Our review of this provision indicates that it is merely a means by which Northern is seeking to work with its customers in obtaining their consent for rate treatment for a particular project and it in no way implies a higher legality or deprives any party of any rights to object to any project under sections V and VI of the Agreement.

Michigan Power and MDG object to the provision in section VIII of the Agreement for cost-of-service treatment for preliminary lease expenditures by Northern applicable to gas produced from leases in the Hugoton-Anadarko area. MDG objects to the fact that the projects covered by the Agreement "shall always receive cost-of-service" treatment, while Michigan Power states that cost-of-service treatment is not proper for post-October 7, 1969, leases under Opinion No. 568 and states its fears that Northern may spin off the reserves discovered by the project as it did to Mobil in 1964. Staff does not object to nor support the provision but merely points out that in order to receive cost-of-service treatment on its post-October 7, 1969, leases, a pipeline must show "special circumstances". Northern claims that it has shown such "special circumstances" by indicating (1) that the Hugoton-Anadarko area rate is too low to encourage intensified exploration by producers alone and (2) that it is advantageous for Northern to acquire gas in this area since it is close to Northern's existing pipeline system. Our review of this provision indicates that there is insufficient record support upon which to determine whether or not Northern has shown the requisite "special circumstances" under Opinion No. 568 in order to receive cost-of-service treatment for expenditures relating to post-October 7, 1969, leases. Accordingly, we shall set this issue for hearing.

Michigan Power and Terra Chemicals object to the resolution of the demand charge adjustment which provides that no adjustment in demand charge shall be made by Northern during periods of curtailment. Michigan Power opposes the resolution since it is not based upon an evidentiary proceeding while Terra Chemicals suggests that the issue be deferred until it is determined by this Commission what modifications will have to be made in Northern's curtailment plan approved in Phase I of Docket No. RP71–107 to conform it to Order Nos. 467 and 467–A issued in Docket No. R–469. The arguments of Michigan Power and Terra Chemicals are not persuasive. Our review of the resolution of the demand charge adjustment provision indicates that it is reasonable and appropriate because it provides for no demand charge billing reductions in periods of curtailment. If such adjustments were permitted, Northern might not recover all of its fixed costs.[1]

The City of Coon Rapids, Minnesota (Coon Rapids) objects to the Agreement because it ignores Coon Rapids' request to revise the boundary established between Rate Zone B and Rate Zone 3 so as to move Coon Rapids from the former to the latter, which has a lower rate. Northern replies that this matter was considered in the Commission in Opinion No. 324, 22 FPC 164, 178 (1959) which established the boundary line between the two zones. We agree with Northern that present circumstances indicate that Coon Rapids is not part of the integrated distribution system of Zone 3 and thus no change in the boundary between the two zones is warranted.

High Plains Natural Gas Company (High Plains) alleges that the rate increase which it has been assessed is higher percentage-wise than the allocated system-wide cost increase. High Plains is one of eight customers purchasing under special contracts for jurisdictional filed sales in three operational areas south of the established rate zones. Northern has established uniform rates for each of the three operational areas, in lieu of the present individual contract rates, which accounts for the varying percentages of rate increase. Moreover, our review of Northern's cost-of-service (Appendix H, page 3 to the Agreement) indicates that the field sales customers in general, as well as High Plains in particular, are not being charged excessive rates. Accordingly, High Plains' protest is denied.

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[1] See: *Texas Eastern Transmission Corporation, et al.*, ____ FPC ____, issued December 1, 1972, in Docket No. RP71–130, *et al*, rehearing denied, ____ FPC ____, issued January 24, 1973.

MDG objects to the characterization of (but not the level of) the Agreement depreciation rates set forth in section VII as being "proper" and "adequate" while the Agreement makes no such finding as to other cost-of-service items. Northern responds that it is only conforming the Agreement to section 9 of the Natural Gas Act which requires a natural gas company to conform its depreciation accounts to the depreciation rates found to be "proper" and "adequate" for such company. Northern states that the use of the terms "proper" and "adequate" is to make the Agreement depreciation rates the legal rates under section 9 of the Natural Gas Act. Our review of the Agreement depreciation rates indicates that they are "proper" and "adequate" within the meaning of section 9 of the Natural Gas Act.

Michigan Power reserves the right to challenge section X of the Agreement in a future proceeding. That section provides for the use by Northern of the "modified BTU" allocation for allocation of costs to the gas sold to the Bushton extraction plant and for the cost allowance for the storing and marketing of extracted liquids. Since section X, read in conjunction with section XVII of the Agreement, indicates that no customer or Staff is prohibited from challenging the section X formula in a future proceeding, no further comment upon Michigan Power's statement is necessary.

We note that the issue of group (conjunctive) billing, which was supposed to have been tried in Docket No. RP72-127 [12] has been permitted to continue via an indefinite deferral of a trial of the issue, without prejudice to any party's right to raise the issue in a subsequent proceeding. We note that we have required that this issue be raised in several proceedings.[13] Accordingly, we shall initiate a proceeding under sections 4, 5 and 7 of the Natural Gas Act to try the issue of group (conjunctive) billing as it relates to Northern's system and set service and hearing dates accordingly.

As noted previously, Northern's Agreement rates reflect an unmodified Seaboard cost classification, cost allocation and rate design for the period commencber 14, 1971, and December 3, 1972 127). For the period between November 14, 1971, and December 3, 1972, (Docket No. RP71-107), Northern's rates reflect the closest that Northern could get to the unmodified Seaboard formula via refunds on the demand component only without suffering undercollections. Minnesota Natural, Staff and MDG strongly support, and Terra Chemicals has no objection to, the Agreement treatment of cost classification, cost allocation and rate design in conformity with the Commission's stated policy in *Michigan-Wisconsin Pipeline Company*, issued April 10, 1973, in Docket No. RP72-118 which set the Seaboard formula as the minimum standard for pipeline rate settlement agreements and noted that, after a hearing, the Commission may set rates with commodity rate levels and more in line with the price of competitive fuels. In *Natural Gas Pipeline Company*, issued July 18, 1973, in Docket No. RP72-132, the Commission clarified this statement to set the Seaboard formula as the minimum standard for all pipeline rate cases. On October 31, 1973, the Commission issued *United Gas Pipeline Company*, Opinion No. 671, in Docket No. RP72-75 which strongly endorsed the volumetric cost allocation formula and uniform one-part rate design while adopting, as an interim measure, two-part rates based upon the classification of 75% of fixed costs to commodity and 25% of fixed costs to demand.

Northern Illinois Gas Company (NI-Gas) strongly objects to the use of the unmodified Seaboard formula for Northern's system and requests a hearing to determine the proper cost classification, cost allocation, and rate design for use thereon. Michigan Power and United States Steel Corporation (U.S. Steel) object to rate design as a means of achieving end-use objectives.

As noted above, the Commission has already determined on a policy basis that rates reflecting commodity rate levels lower than Seaboard levels are unacceptable to this Commission. Therefore, a hearing on the issue is unnecessary. Moreover, in light of our policy of considering competitive fuel levels in setting commodity rate levels, the burden shall be upon Northern in its next Section 4(e) rate increase filing to justify any commodity rate levels reflecting inclusion of less than 75 percent of Seaboard fixed costs therein as prescribed in the United cost formula (United formula). We find that this approach is reasonable in light of our finding in United, supra, that in times of a natural gas shortage, "rate structures which yield different average prices are per se discriminatory". (mimeo, p. 9)

Based upon our review of the terms and provisions of the Agreement, the objections and responses thereto, and the record in these proceedings, we conclude that the proposed settlement, as hereinafter conditioned, provides a reasonable and appropriate resolution of the issues herein and that the public interest would be served by our approval of the settlement, as conditioned below.

The Commission finds:

(1) The settlement of these proceedings on the basis of the Agreement filed January 18, 1973, as amended on May 9, 1973, and subject to the terms and conditions of this order is reasonable and appropriate in the public interest.

(2) It is necessary and appropriate in the public interest and to aid in the enforcement of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the provision permitting group (conjunctive) billing as set forth in Paragraph 6.2 of Rate Schedule CD-1 in Northern's FPC Gas Tariff, Original Volume No. 1 and upon the issue of whether or not Northern has shown "special circumstances" to receive cost-of-service treatment on post-October 7, 1969, leases in the Hugoton-Anadarko area.

(3) Good cause has been shown to reserve for determination by the Administrative Law Judge the issues of the proper accounting treatment of the "Interest Capitalized" issues set forth in Section XI of the Agreement as well as the "apportionment of increases in contract demand" issue set forth in Section XII of the Agreement based upon the record and briefs in Docket No. RP71-107 (Phase I).

The Commission orders:

(A) The Agreement filed by Northern on January 18, 1973, as amended on May 9, 1973, is incorporated herein by reference and is approved and made effective subject to the conditions set forth below.

(B) Northern shall fully comply with each of the provisions of the Agreement, as conditioned, and with the terms of this order.

(C) This order is without prejudice to any findings or orders which have been made or will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff, Northern, or any party or person affected by this order, in any proceeding now pending or hereinafter instituted by or against Northern or any other person or party.

(D) Northern's advances to Scurry-Rainbow, BP Alaska, Inc. and Panarctic (Frontier Advances) may be included in Northern's rate base, subject to further review by the Commission, and subject to the conditions set forth in ordering paragraphs (E), (F) and (G) below.

(E) If 5 years elapse from the time any of Northern's Frontier Advances has been included in Account 166 and during such time no gas deliveries have commenced or no determination has been made that the recovery will be in economic consideration other than gas, Northern shall at the end of the 5-year period, transfer the advance from Account 166 to Account 167, cease rate base treatment thereof and reduce its jurisdictional rates to reflect such exclusion, unless otherwise directed by the Commission.

(F) If any of Northern's Frontier Advances results in the commencement of gas deliveries, but no gas flows to Northern for use by its jurisdictional customers within the lower 48 states, the amount of the advance shall be removed from Account 166 and from Northern's

[12] *Northern Natural Gas Company*, Docket No. RP71-107 (Phase I) issued October 2, 1972.

[13] *El Paso Natural Gas Company*, Docket Nos. RP71-137 and RP72-151, issued November 7, 1972; *Texas Eastern Transmission Company*, Docket No. RP72-98, issued June 28, 1973; *Columbia Gas Transmission Corporation, et al.*, Docket No. RP73-86, *et al.*, issued November 23, 1973.

rate base, a jurisdictional rate adjustment reflecting such exclusion shall be made, and any and all revenues collected by Northern as a result of the advance being included in its rate base shall be refunded to its jurisdictional customers within the lower 48 states within 12 months, unless otherwise directed by the Commission.

(G) Any amounts of any of the three Frontier Advances not fully recovered within 5 years of the date that gas deliveries commence or the date it is determined that recovery will be in economic consideration other than gas, whichever occurs earlier, shall be removed from Account 166 and Northern's rate base, absorbed by Northern's shareholders, and Northern's jurisdictional rates shall be adjusted to reflect such exclusion, unless otherwise directed by the Commission.

(H) The amounts in Northern's rate base relating to the Montana portion of the Canadian Project as well as amounts in Northern's rate base relating to advances made pursuant to contracts entered into before the issuance of Order No. 410 are hereby made subject to the accounting and ratemaking provision of Orders Nos. 410 and 410–A.

(I) Northern's advance payment tracking provision set forth in Section V of the Agreement shall terminate at the time Northern's next section 4(e) rate increase takes effect, subject to refund. This is without prejudice to Northern's right to request an extension of the tracking provision in the Section 4(e) rate increase filing.

(J) The "interest capitalized" issues set forth in Section XI of the Agreement and the "apportionment of increases in contract demand" issue in Part 4 of section XII of the Agreement shall be reserved for determination by the Presiding Administrative Law Judge, as provided in the Agreement.

(K) No provision in the Agreement relating to "permanent" resolution of any issue discussed therein shall limit this Commission's authority under the Natural Gas Act and its regulations thereunder, to review such issues in a future proceeding involving Northern.

(L) The R&D tracking Provision set forth in section VI of the Agreement is approved subject to the elimination of subsection (c) of paragraph 11 of that section which includes the preliminary cost of locating new storage fields within the definition of R&D expenditures.

(M) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5 and 7 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held concerning group billing and cost-of-service treatment for post-October 7, 1969, leases in the Hugoton-Anadarko area (reserved issues) on April 29, 1974, at 10:00 A.M., e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE, Washington, D.C. 20426.

(N) On or before February 4, 1974, Northern shall serve its evidence on the reserved issues. On or before March 4, 1974, the Commission Staff shall serve its prepared testimony and exhibits on the reserved issues. Any intervenor evidence on the reserved issues shall be served on or before March 25, 1974. Any rebuttal evidence by Northern on the reserved issues shall be served on or before April 15, 1974.

(O) 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 Section 2.59 of the Commission's Rules of Practice and Procedure.

(P) Within 30 days of the issuance of this order, Northern shall file tariff sheets in compliance with the terms and conditions of this order.

By the Commission.[14]

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74–1230 Filed 1–14–74;8:45 am]

[Docket No. E–8540]

OHIO POWER CO.

Notice of Application

JANUARY 4, 1974.

Take notice that on December 6, 1973, Ohio Power Company (Applicant) tendered for filing pursuant to section 205 of the Federal Power Act and Part 35 of the regulations issued thereunder, a supplemental Modification No. 4, dated November 1, 1973, to the Interconnection Agreement with Columbus & Southern Ohio Electric Company, dated December 1, 1963 and designated Ohio Power Rate Schedule FPC No. 32.

Section 1 of Modification No. 4 provides for an increase in the Demand Charge for Short-Term Power from $0.40 to $0.45 per kilowatt per week, while Section 2 thereof increases the Demand Charge for Limited-Term Power from $2.15 to $2.50 per kilowatt per month. Modification No. 4 is to take effect January 1, 1974.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 23, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–1227 Filed 1–14–74;8:45 am]

[Project No. 2687]

PACIFIC GAS AND ELECTRIC CO.

Notice of Application for Approval of Revised Exhibits R and S

JANUARY 7, 1974.

Public notice is hereby given that application was filed May 8, 1972, under the Federal Power Act (16 U.S.C. 791a–825r) by Pacific Gas and Electric Company (Licensee) (Correspondence to: Mr. J. F. Roberts, Jr., Vice President, Pacific Gas and Electric Company, 245 Market Street, San Francisco, California 94106) for Amendment of License for its constructed Projects No. 2687, known as the Pit 1 Project, located on the Tule, Little Tule, Fall, and Pit Rivers in Shasta County, California. The project affects interstate commerce.

Major license for Project No. 2687 was issued November 6, 1970, (44 F.P.C. 1365). Under license Articles 28 and 29 thereof, licensee has filed supplements to Exhibits R and S for Commission approval.

The Exhibit R supplement includes a schedule of development of recreation facilities. According to the application, a five unit campground with a portable water system and sanitary facilities is scheduled for initial construction. The existing unimproved boat launch would be graded and compacted when the campground is constructed; development of a more extensive boat launch facility is presently under study. Additional recreation facilities and improvements would include an enlarged parking area and a viewing platform to be constructed after the successful initiation of the Big Lake Wildlife Habitat Improvement Plan, which is a part of this filing.

The Exhibit S supplement includes a Wildlife Habitat Improvement Plan, a schedule of water releases, and a lease with the California Department of Fish and Game for an experimental hatchery.

Any person desiring to be heard or to make protest with reference to said application should on or before March 7, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become

[14] Commissioner Brooke concurs for the purpose of accepting settlement. His concurrence does not extend to the unmodified Seaboard policy recitation nor to the directive that Northern's commodity rate "floor" in its next 4(e) rate filing reflect United's 75 percent prescription.

parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-1217 Filed 1-14-74;8:45 am]

[Project No. 2105]

PACIFIC GAS AND ELECTRIC CO.

Notice of Application for Change in Land Rights

JANUARY 8, 1974.

Public notice is hereby given that application was filed October 3, 1973, under the Federal Power Act (16 U.S.C. 791a-825r) by the Pacific Gas and Electric Company (Correspondence to: Mr. J. F. Roberts, Jr., Vice President—Rates and Valuation, Pacific Gas and Electric Company, 77 Beale Street, San Francisco, California 94106) for change in land rights for Project No. 2105, located on the North Fork Feather River, near the town of Almanor County, California, affecting lands of the United States in Plumas and Lassen National Forests.

Applicant proposes to grant an easement over project lands at Lake Almanor to the U.S. Forest Service for construction operation and maintenance of a boat launching ramp and appurtenant recreation facilities. The easement involves approximately 13 acres of land located in sections 2 and 3 in T. 27 N., R. 7 E., in the Lassen National Forest. The Forest Service proposes to construct (1) a 2-lane concrete boat launching ramp, (2) a boarding dock, (3) a parking lot for cars and boat trailers, (4) comfort stations, (5) landscaping, and (6) area lighting.

Any person desiring to be heard or to make protest with reference to said application should on or before February 20, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-1223 Filed 1-14-74;8:45 am]

[Docket Nos. RP74-31-15, RP74-31-16, RP74-31-17]

PANHANDLE EASTERN PIPE LINE CO., ET AL.

Notice of Petitions for Extraordinary Relief

JANUARY 4, 1974.

In the matter of Panhandle Eastern Pipe Line Company (Anderson Clayton & Company), Panhandle Eastern Pipe Line Company (City of Monroe City, Missouri), and Panhandle Eastern Pipe Line Company (Hayes-Albion Corporation).

The Commission in its order issued on November 6, 1973, in the proceeding relating to a permanent plan for Panhandle Eastern Pipe Line Company (Panhandle) in Docket No. RP71-119 (50 FPC ____) accepted and made effective, as of November 1, 1973, revised tariff sheets submitted by Panhandle on October 1, 1973, proposing a curtailment plan for that pipeline which conformed to the curtailment procedures contained in the Commission's Statement of Policy issued in Docket No. R-469, Order No. 467-B.

On December 13, 1973, the Commission issued an order in which it noted that numerous petitions for extraordinary relief had been filed by Panhandle's customers.[1] In the aforementioned order it granted temporary extraordinary relief to certain petitioners and set all of petitions docketed in the caption of that order for formal hearing. The Commission in that order further noted its desire to institute one forum in which to determine the propriety of these requests for relief from curtailment on the Panhandle system. Additional requests for extraordinary relief have been filed subsequent to those petitions set forth in the aforementioned order.

Take notice that on November 29, 1973, that Anderson Clayton and Company (ACCO) and the City of Monroe City, Missouri (Monroe City) filed respectively in Docket Nos. RP74-31-15 and RP74-31-16 and on December 13, 1973, Hayes-Albion Corporation (Albion) filed in Docket No. RP74-31-17 petitions pursuant to § 1.7 of the Commission's rules of practice and procedure (18 CFR 1.7) for extraordinary relief from the above-described new curtailment plan made effective as of November 1, 1973, all as more fully described in the petitions which are on file with the Commission and open to public inspection.

In its petition for extraordinary relief ACCO requests that Panhandle be required to deliver to its Jacksonville plant a minimum of 12,000 Mcf per month. In its petition ACCO contends that it is engaged in the business of processing industrial and consumers foods and that it normally purchases natural gas directly from Panhandle at a rate of approximately 840,000 Mcf per year. ACCO asserts that its Jacksonville, Illinois, food processing plant utilizes the aforementioned gas purchased from Panhandle as boiler fuel, for process purposes, and as feed stock. It notes that during the course of the year 1972 through 1973 it purchased approximately 75,000 Mcf per month from Panhandle of which only 11,000 to 12,000 Mcf per month was used to meet its feed stock and process needs. Under Panhandle's presently effective curtailment plan ACCO anticipates that more than 50 percent of the feed stock and process gas utilized at the Jacksonville facility will be curtailed in January and February of 1974. It stresses that the Jacksonville Plant may have to shutdown entirely without the 12,000 Mcf of natural gas needed to meet its feed stock and process requirements. It contends that the economic impact upon the local community would be disastrous.

On November 29, 1973, Monroe City filed a petition for extraordinary relief requesting (1) the restoration of the 600 Mcf standby emergency allocation of gas over its contract demand authorized by the Commission for a 60-day period in its order of February 9, 1973, to meet the needs of the City's power plant, and (2) a request for emergency relief to permit the City to take up to 400 Mcf per day over its curtailed allotment on a standby basis to serve certain schools and other essential requirements within a community. Monroe City contends that without the emergency relief requested vital municipal services and certain local industries may be forced to shut down.

On December 13, 1973, Albion filed its petition for extraordinary relief from the anticipated curtailment to be imposed on Panhandle's system. In its petition Albion notes that under Panhandle's currently effective curtailment plan, its Albion, Michigan plant will receive 232,755 Mcf during the period January 1974 through April 1974 on the basis of the anticipated curtailment levels, distributed by Panhandle to its customers on November 21, 1973. It notes in its petition that it is one of three principal independent producers of malleable iron in the United States and that its production represents approximately 13.5 percent of the total "for sale" shipments of the United States malleable castings industry. It notes that the automobile industry utilizes its products and that in the case of American Motors, each failure of its Albion plant to deliver a differential carrier could mean one less car or truck manufactured by that company. It also points out that Panhandle's failure to deliver certain minimum volumes will not only injure the plant's production but will also force unemployment and cause economic hardship to the local community. It, therefore, requests that the Commission direct Panhandle to deliver a total of 298,400 Mcf to the Albion plant during the period January 1974 through April 1974 and a daily volume of 3800 Mcf.

It appears reasonable and consistent with the public interest in this proceeding to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said petitions should on or before January 14, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any

[1] The order is entitled *Panhandle Eastern Pipe Line Company, et al.*, in docket No. RP 71-119, *et al.* The specific proceedings were captioned by a series of docket numbers commencing with RP74-31-1.

person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-1208 Filed 1-14-74;8:45 am]

[Project No. 405]

PHILADELPHIA ELECTRIC POWER CO. AND SUSQUEHANNA POWER CO.

Notice of Application for Change in Land Rights

JANUARY 8, 1974.

Public notice is hereby given that application was filed September 10, 1973, under the Federal Power Act (16 U.S.C. 791a–825r) by the Philadelphia Electric Power Company (Pepco) (Correspondence to: Mr. Edward G. Bauer, Jr., Vice President and General Counsel, Philadelphia Electric Power Company, 2301 Market Street, Philadelphia, Pennsylvania 19101) and The Susquehanna Power Company, (Susquehanna) for change in land rights for constructed Project No. 405, known as the Conowingo Project, located on the Susquehanna River, in Harford and Cecil Counties, Maryland and York and Lancaster Counties, Pennsylvania. The project affects navigable waters of the United States.

Pepco and Susquehanna are joint licensees for Project No. 405; according to the application, Pepco owns the particular project property involved. Pepco executed a lease dated August 22, 1973, with the Pennsylvania Fish Commission (Lessee) term extending twenty-five (25) years or to the year in which Pepco ceases to be a joint licensee for Project No. 405. The lease provides that it shall be effective ten days after notice of approval by the Federal Power Commission.

Philadelphia Electric Power Company proposes to lease to Lessee 9.4 acres of project land in the vicinity of Muddy Creek on the westerly side of the Susquehanna River in Lower Chanceford Township, York County, Pennsylvania. Lessee would utilize the subject land for a public boat launching facility. Proposed development includes: (1) a paved parking area, (2) a boat ramp, (3) an access road, and (4) comfort stations. Lessee agrees to use the area for recreation purposes only.

Any person desiring to be heard or to make protest with reference to said application should on or before March 15, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR–1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-1224 Filed 1-14-74;8:45 am]

[Project Nos. 2225 and 2526]

PUBLIC UTILITY DISTRICT NO. 1 OF PEND OREILLE COUNTY, WASHINGTON

Notice of Extension of Time

JANUARY 7, 1974.

On December 20, 1973, Public Utility District No. 1 of Pend Oreille County, Washington, requested an extension of time to answer the motion to dismiss filed by the staff.

Upon consideration, notice is hereby given that the time is extended to January 20, 1974, within which answers may be filed to the above motion.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-1220 Filed 1-14-74;8:45 am]

[Docket No. E–8542]

SOUTHERN INDIANA GAS AND ELECTRIC CO.

Notice of Application

JANUARY 4, 1974.

Take notice that on December 7, 1973, Southern Indiana Gas and Electric Company (Applicant) tendered for filing pursuant to section 205 of the Federal Power Act and Part 35 of the regulations issued thereunder, an Interconnection Agreement dated July 5, 1973 with Big Rivers Rural Electric Cooperative Corporation, establishing a single point of interconnection therewith at the Henderson, Kentucky 161–138 kv Substation.

Services to be rendered pursuant to the Interconnection Agreement include (1) provision of mutual energy and standby assistance, (2) transfer of electric energy through the transmission system of one party for the other's benefit, (3) interchange, sale and purchase of energy to effect operating economies, (4) sale and purchase of available short-term electric power to fulfill the needs of one party, and (5) coordination and definition of maintenance schedules for generation and transmission facilities. The Agreement is to take effect upon the date of Commission acceptance thereof.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 25, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-1205 Filed 1-14-74;8:45 am]

[Docket No. CP70–7 (Phase II)]

SOUTHERN NATURAL GAS CO.

Notice of Petition To Amend

JANUARY 8, 1974.

Take notice that on December 7, 1973, Southern Natural Gas Company (Petitioner), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP70–7 (Phase II) a petition pursuant to section 7(c) of the Natural Gas Act to amend the Commission's order issued October 29, 1969, in said docket (42 FPC 944) so as to authorize Petitioner to increase the aggregate of Alabama Gas Corporation's (Alagasco) Contract Demands with Petitioner by 6,490 Mcf of gas per day and allow Petitioner to deliver gas to Alagasco at additional delivery points while eliminating Petitioner's authorization to sell gas to the Town of Brent (Brent), City of Greensboro (Greensboro), City of Marion (Marion) and Town of Uniontown (Uniontown), all located in the State of Alabama, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the order issued October 29, 1969, in Phase II of this docket the Commission, among other things, authorized Petitioner to sell and deliver to Alagasco daily Contract Demand aggregating 408,725 Mcf of gas, which authorization was amended by order issued October 20, 1971 (46 FPC 861) reducing this Contract Demand authorization to 408,475 Mcf per day. In the October 29, 1969, order Petitioner was also authorized to sell and deliver daily Contract Demands, or Maximum Delivery Obligations, of 1,560 Mcf of gas to Brent, 1,580 Mcf of gas to Greensboro, 2,100 Mcf of gas to Marion, and 1,000 Mcf of gas to Uniontown. The Contract Demand to Brent was subsequently increased to 1,810 Mcf of gas by the order issued October 20, 1971.

The petition to amend states that on November 1, 1973, Alagasco received approval from the Alabama Public Service Commission (APSC) of its purchase of Greensboro and Uniontown's gas transmission facilities and the assignment by Petitioner to Alagasco of Petitioner's service agreements with said communities, as well as, ASPC's approval of certain hauling agreements between Alagasco and the communities of Brent and Marion and the assignment of their respective service agreements with Petitioner to Alagasco.

Petitioner states that Alagasco has requested that the increase of 6,490 Mcf per day of Contract Demand be included in its aggregate Contract Demand with Petitioner to reflect Alagasco's assumption of said service agreements. Petitioner

states that this increase in Alagasco's aggregate Contract Demand will be offset by the elimination of Petitioner's authorization to sell gas to the four communities. Petitioner therefore, requests the Commission to amend its certificate authorization in the instant docket so as to increase the aggregate of Alagasco's Contract Demand from 408,475 Mcf to 414,964 Mcf, as well as authorize delivery of gas to Alagasco at Petitioner's delivery points of Brent, Greensboro, Marion, and Uniontown, and eliminate Petitioner's authorization to sell gas to these four communities.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before January 29, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (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 persons wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-1210 Filed 1-14-74;8:45 am]

[Docket No. RP74-55]

SOUTHERN NATURAL GAS CO.

Order Instituting Hearing

JANUARY 7, 1974.

By letter dated December 1, 1972, Southern Natural Gas Company (Southern) applied to this Commission for authorization to include transportation charges as a part of the capitalized cost of cushion gas used in Southern's Muldon Field Storage Project located in Monroe County, Mississippi. On May 25, 1973, the Commission by letter order denied Southern's request and directed Southern to reduce the cost of Muldon Field cushion gas by the amount of claimed transportation charges in excess of the incremental cost of compression incurred by Southern in moving the cushion gas from the source of supply to the storage project. The incremental compression cost amounts to .3665 cents per Mcf.

On June 22, 1973, Southern filed with the Commission a response in opposition to the proposed disposition and requested that the Commission reconsider its position according to the procedures set forth in section 158 of the regulations. In its pleading Southern states that the Commission has apparently considered this matter without a full understanding of the facts. Southern also states that if it were required to price its cushion gas on the basis of the Commission's May 25, 1973, letter order, the result would not be consistent with accepted accounting procedures and would have a substantial adverse impact on Southern's reported net income.

Based on our review of the record in this matter, including Southern's response of June 22, 1973, we find that a hearing should be held for purposes of determining the proper transportation charges to be included in the cost of the cushion gas in the Muldon storage project.

The Commission finds:

It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing for purposes of determining the proper cost accounting procedures for cushion gas in the Muldon storage project.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 8 and 15 thereof and §§ 1.20 and 158.7 of the Commission's rules and regulations, a public hearing shall be held on February 26, 1974, at 10:00 A.M., e.d.t. in a hearing room of the Federal Power Commission, Washington, D.C. 20426, for purposes of determining the proper transportation charges to be included in the cost of the cushion gas in the Muldon storage project.

(B) Southern shall serve its prepared testimony and exhibits on all parties on or before January 18, 1974. The Commission Staff shall serve its prepared testimony and exhibits on or before February 1, 1974. Southern shall serve its rebuttal testimony and exhibits on all parties on or before February 15, 1974.

(C) 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 initiated by this order, and shall conduct such hearing in accordance with the Natural Gas Act, the Commission's rules and regulations, and the terms of this order.

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

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.74-1219 Filed 1-14-74;8:45 am]

[Docket No. RP74-5]

TEXAS EASTERN TRANSMISSION CORP.

Notice Deferring Procedural Dates

JANUARY 7, 1974.

On September 13, 1973, an order was issued accepting for filing and suspending proposed rates, permitting intervention and establishing hearing procedures in the above matter. On November 30, 1973, Texas Eastern Transmission Corporation filed a notice of withdrawal of the filing in the above docket. On December 21, 1973, Staff Counsel filed a motion to extend the dates indefinitely.

Upon consideration, notice is hereby given that the procedural dates in the above matter are deferred until the notice of withdrawal by Texas Eastern becomes effective.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-1222 Filed 1-14-74;8:45 am]

[Docket No. RP72-98]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Proposed Changes in FPC Gas Tariff

JANUARY 7, 1974.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on December 17, 1973, tendered for filing proposed changes in its FPC Gas Tariff, Third Revised Volume No. 1, the following sheets:

Fifth Revised Sheet No. 13
Fifth Revised Sheet No. 13A
Fifth Revised Sheet No. 13B
Fifth Revised Sheet No. 13C
Fifth Revised Sheet No. 13D

Texas Eastern states that these sheets are issued pursuant to the purchased gas cost adjustment provision contained in section 23 of the General Terms and Conditions of Texas Eastern's FPC Gas Tariff, Third Revised Volume No. 1. This provision was made effective by Federal Power Commission order dated November 26, 1973 approving Texas Eastern's Stipulation and Agreement dated July 25, 1973 in Docket No. RP72-98. The change in Texas Eastern's rates proposed by this filing, according to the company, reflects a cost of gas adjustment to track rate increases of Texas Eastern's pipeline suppliers, Texas Gas Transmission Corporation, Southern Natural Gas Company and United Gas Pipe Line Company. The proposed effective date of the above tariff sheets is February 1, 1974.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, 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 January 11, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-1215 Filed 1-14-74;8:45 am]

[Docket No. RP72-99]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Filing of Proposed Substitute Tariff Sheet

JANUARY 7, 1974.

Take notice that on December 18, 1973, Transcontinental Gas Pipe Line

Corporation filed in Docket No. RP72-99 second substitute fifth revised sheet No. 5 to its FPC gas tariff, first revised volume No. 1, in substitution for the tariff sheet designated as third substitute fifth revised sheet No. 5 and previously filed in this docket on November 26, 1973.

Transco states the purpose of this substitute sheet is to eliminate from the GSS rates the effect of the proposed tracking, effective December 1, 1973, of increased costs from Consolidated Gas Supply Corporation. By letter order dated November 23, 1973, in Docket No. RP74-30, the Commission rejected that proposed tracking increase.

Any person desiring to be heard or to protest Transco's filing herein 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 January 21, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene, provided, however, that parties who have previously intervened in Docket No. RP72-99 need not file additional petitions to intervene. Copies of Transco's filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-1209 Filed 1-14-74;8:45 am]

UNION ELECTRIC CO.

[Docket No. E-7698]

Notice of Application

JANUARY 8, 1974.

The FPC issues notice of the filing of a supplemental application by Union Electric Company (Applicant) in Docket No. E-7698 seeking authority pursuant to Section 204 of the Federal Power Act to increase from $150,000,000 to $200,000,000 the amount of short-term promissory notes it may issue, of which aggregate amount a maximum of $100,000,000 could be in the form of commercial paper, and to extend from December 31, 1974 to December 31, 1976 the final maturity date of said notes, with no notes to be issued after March 31, 1976.

The interest rate applicable to the promissory notes will be, in the case of demand notes issued to commercial banks, the prime rate in effect during the period they are: in the case of notes issued to commercial paper dealers, the market rate (or discount rate) at the date of issuance for commercial paper of comparable quality and of the particular maturity sold to commercial paper dealers; and in the case of commercial paper placed directly with purchasers of such commercial paper for their own accounts, the market rate (or discount rate) at the date of issuance for commercial paper of comparable quality and of the particular maturity placed directly by the issuer thereof. The Applicant contemplates the issuance of promissory notes, including the "rollover" of commercial paper promissory notes, without further application to this Commission, at any time and from time to time, each of such notes to have a maturity date of not later than December 31, 1976.

The proceeds will be used to finance in part Applicant's construction program to December 31, 1976. The construction program of Applicant, as now scheduled, calls for plant expenditures of approximately $341,633,000 in 1975 and 1976.

Any person desiring to be heard or to make any protest with reference to the application should on or before January 25, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-1218 Filed 1-14-74;8:45 am]

[Docket No. RP74-32]

CONSOLIDATED GAS SUPPLY CORP.

Order Establishing Hearing

ISSUED JANUARY 7, 1974.

On November 5, 1973, as corrected November 9 and 14, 1973, Consolidated Gas Supply Corporation (Consolidated) filed in this docket certain proposed Tariff Sheets (Proposed Sheets)[1] which purportedly are designed to implement the recovery of certain fixed costs which would otherwise be recoverable only through additional rate filings. These Proposed Sheets provide for a Curtailment Increase clause which Consolidated states will not affect its cost of service but will alleviate the problems of failure to recover fixed costs due to shifts in deliveries to various customers classes as a result of curtailments. Consolidated requests a waiver of the proscriptions of § 154.38(d) of the regulations with regard to the filing of rate schedules and proposes that the Proposed Sheets become effective on December 20, 1973.

The filing was noticed on December 26, 1973, with petitions to intervene and comments due on or before January 7, 1974. To this date, no comments or petitions to intervene have been received.

[1] First Revised Sheets Nos. 10, 11, 12, 14, 16, 17, 18, 19, 20, and 21: Second Revised Sheet No. 13.

Consolidated alleges that it would not recover all of its fixed costs in the event of a gas shortage curtailment because a large part of Consolidated's sales are made at commodity-only rates. Furthermore, Consolidated states that to the extent the the volumes of such sales are less because of gas shortage curtailment than the volumes used to allocate costs and design rates in Consolidated's most recent rate filing, the revenues from such recent sales volume will fail to recover all of the fixed costs which are incurred to make such sales. We are not convinced that the format proposed by Consolidated to include a curtailment increase clause in its tariff is appropriate at this time. However, because the proposal appears worthy of further consideration, we shall establish a hearing for that purpose under Section 4 of the Natural Gas Act to determine if Consolidated's Proposed Sheets are in the public interest and if such Proposed Sheets should be given prospective effect. Accordingly, Consolidated's request for an effective date of December 20, 1973, will be denied.

The Commission finds:

Good cause has been shown to establish a hearing regarding the justness and reasonableness of Consolidated Proposed Sheets and to determine if such Proposed Sheets should be accepted by the Commission to be given prospective effect.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly Section 4 and the Commission's Rules and Regulations, a public hearing shall be held on May 27, 1974, at 10:00 A.M., EST, in a hearing room of the Federal Power Commission, Washington, D.C. 20426, concerning the justness and reasonableness of Consolidated's Proposed Sheets.

(B) On or before April 15, 1974, the Commission staff shall serve its prepared testimony and exhibits. Any intervenor testimony and exhibits shall be served on or before April 29, 1974. Any rebuttal evidence by Consolidated shall be served on or before May 13, 1974. Cross-examination of the evidence filed, including the Company's direct case, shall commence at 10:00 A.M., EST, on May 27, 1974, in a hearing room of the Federal Power Commission.

(C) 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 initiated by this order, and shall conduct such hearing in accordance with the Natural Gas Act, the Commission's Rules and Regulations, and the terms of this order.

(D) Consolidated's request for an effective date of December 20, 1973, is hereby denied.

(E) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

[FR Doc.74-1196 Filed 1-14-74;8:45 am]

[Docket No. CP74–125]

KANSAS-NEBRASKA NATURAL GAS COMPANY, INC.

Notice of Application

JANUARY 8, 1974.

Take notice that on November 8, 1973, Kansas-Nebraska Natural Gas Company, Inc. (Applicant), P.O. Box 608, Hastings, Nebraska 68901, filed in Docket No. CP 74–125 an application pursuant to sections 7(b) and (c) of the Natural Gas Act as implemented by sections 157.7(b), (e), and (g) of the Regulations thereunder (18 CFR 157.7(b), (e), and (g)), for a certificate of public convenience and necessity authorizing the construction and for permission and approval of the abandonment, during the calendar year 1974, and operation of natural gas facilities, all as more fully set forth in the application which is on file in this proceeding and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its certificated main pipeline system supplies of natural gas in various producing areas generally coextensive with said system; in abandoning service and removing direct sales measuring, regulating, and related facilities; and in the construction and abandonment of compression facilities which will not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

The total cost of the gas purchase facilities will not exceed $3,800,000, and the cost of any single project will not exceed $950,000. The total cost of the construction and abandonment of the compression facilities will not exceed $2 million, and the cost of any single project will not exceed $500,000. These costs will be financed out of current working capital or will be obtained by interim bank loans which at a later date will be funded by a security issue.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 29, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests 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 and that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–1201 Filed 1–14–74;8:45 am]

[Docket No. RP71–16, et al.]

MIDWESTERN GAS TRANSMISSION CO.

Notice of Proposed PGA Rate Adjustment

JANUARY 8, 1974.

Take notice that on December 14, 1973, Midwestern Gas Transmission Company (Midwestern), tendered for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, First Revised Sheet No. 1 and Second Revised Sheet No. 5, to be effective Febraury 1, 1974.

Midwestern states that the sole purpose of filing Second Revised Sheet No. 5 is to reflect PGA rate adjustments pursuant to the PGA Clauses in Articles XVII and XVIII of the General Terms and Conditions. Midwestern further states that as to the Southern System, the Current Purchased Gas Cost Rate Adjustment Pursuant to Section 2 of Article XVII reflects the rate increases filed by Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), to be effective on January 1, 1974, and that such rates of Tennessee are the revised rates of Tennessee filed on November 30, 1973, in Docket No. RP73–113 which also reflect Tennessee's PGA rate increase filed November 16, 1973, to be effective on January 1, 1974. Midwestern also states that as to the Northern System, the PGA rate adjustment consists of a Surcharge for Amortizing the Unrecovered Purchased Gas Cost Account for the Northern System pursuant to Section 3 of Article XVIII based on the balance in such account as of October 31, 1973.

Midwestern states that First Revised Sheet No. 1 is filed to revise the Table of Contents to eliminate Rate Schedule TWS which was cancelled, effective November 9, 1973, by Midwestern's filing in Docket No. RP74–29.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 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 January 17, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–1200 Filed 1–14–74;8:45 am]

[Project No. 2709]

MONONGAHELA POWER CO. ET AL.

Order Ruling on Staff Motion for Extension of Time

JANUARY 4, 1974.

By motion filed December 21, 1973, Staff has requested an extension of time for the filing of the final environmental impact statement, its direct testimony, Intervenor's direct testimony and all subsequent dates in the hearing schedule for this proceeding.[1]

In its motion Staff points out that the comments received to the draft environmental impact statement necessitated gathering additional information regarding the Davis Project for purposes of both the final environmental impact statement and for formulation of Staff members' positions. This additional information involved areas of wildlife, land use and the placement of Corridor "H" in relation to the project.

After receiving the last comment to the draft on November 8, 1973, Staff requested this information from various governmental agencies and parties to this proceeding. As of the date of the filing of Staff's motion, not all of the requested information had been supplied.

Further, Staff points out that the material which was supplied has required reevaluations of areas previously not subject to comment. The additional time requested, if granted, would change the filing date for the final environmental statement, and all other testimony of Staff and Intervenors from January 8, 1974, to February 14, 1974, and the commencement of the hearing from February 12, 1974, to March 18, 1974.

No answers to Staff's motion have been filed.

We are aware that this request would be the third delay of this proceeding, however we cannot overlook the importance of satifying the National Environmental Policy Act of 1969 and our need

[1] The hearing scheduled was initially set by our Order of March 9, 1973 and has been amended by Orders of June 14, 1973 and October 16, 1973.

for a complete record in this proceeding.

The Commission finds:

For the reasons set forth above, Staff's motion for extension of time should be granted.

The Commission orders:

The dates set forth in ordering paragraph (D) of our Order of March 9, 1973, amended June 14, 1973 and October 16, 1973, are changed insofar as necessary to grant Staff's Motion as follows:

(1) On February 14, 1974, the Commission Staff and Intervenors, respectively, shall file, with the Secretary, an original and 10 copies of all direct testimony and exhibits, including qualifications of witnesses with copies served on all parties.

(2) On February 14, 1974, the Commission Staff shall also file an original and 10 copies of the Commission Staff's final environmental impact statement. Copies of the final environmental impact statement shall be served on all participants.

(3) In order that the parties may have a sufficient period of time in which to prepare cross-examination on the Staff's final environmental impact statement, the hearing in this proceeding shall commence on March 18, 1974, at least 30 days after the Commission Staff files its final environmental impact statement with the Secretary.

By the Commission.

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

[FR Doc.74-1203 Filed 1-14-74;8:45 am]

[Docket Nos. E-8465, E-8389 and E-8482]

NEW YORK STATE ELECTRIC AND GAS CORP.

Order Amending Prior Order

JANUARY 4, 1974.

On November 30, 1973, the Commission issued an Order Accepting for Filing and Suspending Proposed Rate Schedule Change, Consolidating Proceedings, Providing for Hearing and Establishing Procedures in the dockets above. Footnote symbol number 2 should be placed at the end of the last paragraph on page one of the November 30 order. Footnote number 2 should read as follows:

Designated as Supplement 4 to New York State Electric and Gas Corporation Rate Schedule FPC No. 55 cancelling Rate Schedule FPC No. 55 as supplemented.

The Commission finds:

It is reasonable and appropriate in the public interest and to aid in the enforcement of the Federal Power Act that our order issued November 30, 1973, in this proceeding be amended as hereinafter provided.

The Commission orders:

(A) Our order issued November 30, 1973, in this proceeding is hereby amended to include at the end of the last paragraph on page one footnote number 2 which will read as follows:

Designated as Supplement 4 to New York State Electric and Gas Corporation Rate Schedule FPC No. 55 cancelling Rate Schedule FPC No. 55 as supplemented.

(B) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

[SEAL] MARY B. KIDD, *Acting Secretary.*

[FR Doc.74-1195 Filed 1-14-74;8:45 am]

[Docket No. RP74-49]

NORTHWEST PIPELINE CORP.

Notice of Certificate of Adoption and of Proposed Changes in FPC Gas Tariff

JANUARY 4, 1974.

Take notice that Northwest Pipeline Corporation ("Northwest"), on December 19, 1973, tendered for filing with the Federal Power Commisison its Certificate of Adoption of El Paso Natural Gas Company's FPC Gas Tariff, First Revised Volume No. 3 (together with the Service Agreements identified at pages 80-82 of said Volume) and Original Volume No. 4.

Northwest states that by orders issued September 21, 1973, and November 23, 1973, in Northwest Pipeline Corporation, et al., Docket Nos. CP73-331, et al., Northwest was issued the requisite certificate authority to acquire and operate El Paso's Northwest Division System, together with the related import authority and Presidential Permit. It is anticipated that the closing on the transfer of the assets to be divested by El Paso to Northwest will occur on or about January 31, 1974. Northwest requests that the tendered Certificate of Adoption be made effective thirty (30) days after the filing date, or in the alternative, the date of the transfer of the assets, whichever is the later. Northwest states that in accordance with Section 154.65 of the Commission's Regulations, Northwest will file its restated tariff to replace the tariff adopted from El Paso within ninety (90) days of the date of closing on the transfer of assets.

Northwest also filed with the Commission on December 19, 1973, proposed revisions to First Revised Volume No. 3 pursuant to sections 2.70 and 2.78 of the Commisison's Rules of Practice and Procedure and section 154.63 of the Commission's Regulations under the Act. Northwest requests, pursuant to section 154.51 of the Commission's Regulations, waiver of the notice requirements of section 154.22 of said Regulations so that the tariff revisions proposed can be made effective, without suspension, on the date that Northwest commences operations, or thirty (30) days after filing, whichever is the later.

Northwest states that the purpose of the proposed tariff revisions is to provide an interim emergency curtailment plan designed to amend the curtailment procedures now included in First Revised Volume No. 3, so as to continue to assure adequate and reliable service to the firm high priority requirements of its customers. It is stated that such revisions are necessary at this time because Westcoast Transmission Company Limited, the Northwest Division's sole Canadian supplier has commenced curtailing the Northwest Division by approximately 120,000 Mcf per day at the Sumas, Washington import point.

Northwest also proposes to eliminate the demand charge adjustment provided for in Rate Schedules ODL-1 and PL-1 for failure to deliver the contract quantity if the delivery failure is due to a supply deficiency.

Copies of the filing were served upon Northwest's jurisdictional customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 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 January 11, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.74-1202 Filed 1-14-74;8:45 am]

[Docket No. E-7658]

POTOMAC EDISON CO. ET AL.

Order Establishing Hearing Procedures

ISSUED JANUARY 7, 1974.

Potomac Edison Company (Edison), the Potomac Edison Company of Virgina (Virginia), the Potomac Edison Company of West Virginia (West Virginia), and the Potomac Edison Company of Pennsylvania (Pennsylvania), on July 9, 1971, tendered for filing new supplemental rate schedules to change certain provisions of FPC Rate Schedules designated in Appendix A attached hereto. The new supplements change the rate of return used to determine capacity charges from 6 percent to a computed amount of 150 percent of the imbedded cost of debt associated with pool facilities. The above formula results in a current rate of return of 8.67 percent.

By order of August 6, 1971, the Commission suspended the rate schedules for one day, to become effective subject to refund on August 10, 1971. The Commission provided for a hearing into the justness and reasonableness of the proposed rate schedules. To that end, we shall establish dates for the service of testimony and a hearing thereon as provided below.

The Commission finds:

Pursuant to the Commission's order of August 6, 1971, the dates for service of testimony and commencement of hearing into the matters described should be established.

The Commission orders:

(A) The direct testimony and exhibits of Edison, Virginia, West Virginia, and Pennsylvania shall be served, if not previously filed, on or before February 15, 1974. The Commission Staff shall serve its testimony and exhibits, if any, on or before March 5, 1974. The prepared testimony and exhibits of intervenors, if any, shall be served on or before March 20, 1974.

(B) Cross-examination of the evidence shall commence at 10:00 a.m. on April 2, 1974, in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

(C) 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 the proceeding in accordance with the policies expressed in Section 2.59 of the Commission's Rules of Practice and Procedure.

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

By the Commission.

[SEAL] MARY B. KIDD,
Acting Secretary.

APPENDIX A

RATE SCHEDULE DESIGNATIONS

Parties: The Potomac Edison Co.; The Potomac Edison Co. of Pennsylvania, The Potomac Edison Co. of Virginia, and The Potomac Edison Co. of West Virginia.

COMPANY
The Potomac Edison Company
(1) Supplement No. 1 to Rate Schedule FPC No. 18.
The Potomac Edison Company of Virginia
(2) Supplement No. 1 to Rate Schedule FPC No. 10.
The Potomac Edison Company of West Virginia
(3) Supplement No. 1 to Rate Schedule FPC No. 20.
The Potomac Edison Company of Pennsylvania
(4) Supplement No. 1 to Rate Schedule FPC No. 14.

[FR Doc.74-1197 Filed 1-14-74;8:45 am]

[Docket No. CP74-167]

TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO, INC.

Notice of Application

JANUARY 4, 1974.

Take notice that on December 7, 1973, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), filed in Docket No. CP74-167 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to provide natural gas service to Connecticut Natural Gas Corporation (Connecticut Natural) in the New Britain, Connecticut, area under Applicant's CD-6 Rate Schedule in lieu of its G-6 Rate Schedule; authorizing Applicant to combine said service with CD-6 service currently being rendered by Applicant to Connecticut Natural in the Hartford, Connecticut, area under a single gas sales contract; and authorizing the existing New Britain delivery point be used as an additional delivery point for providing natural gas storage service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application states that Connecticut Natural has been planning to connect its Hartford and New Britain distribution systems since its inception, as a result of the merger of the Hartford Gas Company and The New Britain Gas Light Company into a single entity, known as Connecticut National on September 1, 1968. In this regard Applicant states that Connecticut Natural has requested that Applicant provide natural gas service to Connecticut Natural's New Britain Service Area presently provided for in the gas sales contract dated September 1, 1968, under Applicant's CD-6 Rate Schedule in lieu of Applicant's G-6 Rate Schedule. Connecticut Natural has requested Applicant to render such CD-6 service, along with the CD-6 service presently being rendered to Connecticut Natural in the Hartford service area pursuant to the gas sales contract dated November 1, 1968, under a single new Gas sales contract providing for the sale and delivery of a contracted demand of 24,685 Mcf of natural gas per day at 14.73 psia, which would cancel and supersede these presently effective gas sales contracts.

The application states further that Applicant and Connecticut Natural desire to supersede and cancel the gas sales contract dated July 1, 1970, and to enter into the new gas sales contract which will provide additionally for a natural gas storage service to Connecticut Natural with a Daily Storage Quantity of 6,018 Mcf and a Winter Storage Quantity of 541,620 Mcf under the terms and conditions of Applicant's Rate Schedule SS-NE. Applicant states that said new agreement provides for the utilization by Applicant of its existing New Britain point of delivery as an additional point of delivery to Connecticut Natural to effect such gas storage service.

The application states that Connecticut Natural's requests for CD-6 service and consolidation of such CD-6 service along with the CD-6 service for the Hartford area under a single new gas sales contract would permit Connecticut Natural to utilize effectively its takes from Applicant for Connecticut National's LNG operations and overall service in these two areas. Applicant states that Applicant is not obligated to deliver to Connecticut Natural daily volumes in excess of the 30,703 Mcf presently authorized, including a Maximum Daily Quantity of 24,685 Mcf under its CD-6 Schedule and a Daily Storage Quantity of 6,018 Mcf under its SS-NE Rate Schedule.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 29, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (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 protestant parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-1199 Filed 1-14-74;8:45 am]

[Docket No. RP74-39-3]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Extension of Time and Postponement of Hearing

JANUARY 4, 1974.

On January 2, 1974, Carnegie Natural Gas Company filed a motion for a modification of the procedural dates set by the order issued December 28, 1973, in the above-designated matter.

Upon consideration, notice is hereby given that the procedural dates in the above-designated matter are modified as follows:

Service of Testimony and exhibits by petitioner and all parties supporting or opposing petitioner's request, January 15, 1974.
Hearing, January 18, 1974 (10:00 a.m.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-1198 Filed 1-14-74;8:45 am]

FEDERAL RESERVE SYSTEM

ATLANTIC BANCORPORATION

Acquisition of Bank

Atlantic Bancorporation, Jacksonville, Florida, has applied for the Board's approval under Section 3(a)(3) of the

Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire not less than 54 percent and up to 100 percent of the voting shares of Mid-County Commercial Bank, Largo, Florida. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 3, 1974.

Board of Governors of the Federal Reserve System, January 7, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-1036 Filed 1-14-74;8:45 am]

BAYSTATE CORP.

Acquisition of Bank

Baystate Corporation, Boston, Massachusetts, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The First National Bank of Easthampton, Easthampton, Massachusetts. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than February 3, 1974.

Board of Governors of the Federal Reserve System, January 7, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-1038 Filed 1-14-74;8:45 am]

FIRST PENNSYLVANIA CORP.

Proposed Acquisition of Cowart Finance Center, Inc.; Correction

In FR Doc. 73-26142 appearing on page 34027 of the issue for Monday, December 10, 1973 the first sentence should have read:

First Pennsylvania Corporation, Philadelphia, Pennsylvania, has applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission for the purchase of the notes receivable and fixed assets of Cowart Finance Center, Inc., Opelousas, Louisiana, by its wholly-owned subsidiary, Industrial Finance and Thrift Corporation, New Orleans, Louisiana, through its wholly-owned subsidiary, Termplan Caddo, Inc., Shreveport, Louisiana. Notice of the application was published on September 6, 1973, in the Daily News, a newspaper circulated in Opelousas, Louisiana.

The time for comment or request for hearing is extended to January 22, 1974.

Board of Governors of the Federal Reserve System, January 8, 1974.

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

[FR Doc.74-1039 Filed 1-14-74;8:45 am]

THIRD NATIONAL CORP.

Acquisition of Bank

Third National Corporation, Nashville, Tennessee, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 40 per cent or more of the voting shares of The Bank of Sevierville, Sevierville, Tennessee. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than January 31, 1974.

Board of Governors of the Federal Reserve System, January 7, 1974.

[SEAL] THEODORE E. ALLISON,
Assistant Secretary of the Board.

[FR Doc.74-1037 Filed 1-14-74;8:45 am]

RENEGOTIATION BOARD

EXCESSIVE PROFITS AND REFUNDS

Notice of Interest Rate

Notice is hereby given that, pursuant to section 105 (b)(2) of the Renegotiation Act of 1951, as amended, the Secretary of the Treasury has determined that the rate of interest applicable, for the purposes of said section 105 (b)(2) and section 108 of such act, to the period beginning on January 1, 1974, and ending on June 30, 1974, is 7⅞ per centum per annum.

Dated: January 10, 1974.

W. S. WHITEHEAD,
Chairman.

[FR Doc. 74-1186 Filed 1-14-74;8:45 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority 15; Amdt. 1]

ASSISTANT ADMINISTRATOR FOR ADMINISTRATION

Delegation of Administrative and Financial Activities

Delegation of Authority No. 15 (37 FR 20753) is hereby amended to include authority to affix the Seal of the Small Business Administration to the certification of certain documents. Section D is therefore added to read as follows:

* * * * *

D. *Use of Seal of the Small Business Administration.* To certify true copies of any books, records, papers, or other documents on file with the Small Business Administration; to certify extracts from such material; to certify the nonexistence of records on file; and to cause the Seal of the Small Business Administration to be affixed to all such certifications.

* * * * *

Effective date: January 2, 1974.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.74-1016 Filed 1-14-74;8:45 am]

[Application 09/09-5167]

CHINESE INVESTMENT CORPORATION OF CALIFORNIA

Application for a License as a Small Business Investment Company

An application 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 (15 U.S.C. 461 et seq.), has been filed by Chinese Investment Corporation of California (applicant) with the Small Business Administration (SBA) pursuant to § 107.102 (38 F.R. 30838, November 7, 1973).

The officers and director of the applicant are as follows:

Rosa Leong, 308 North Las Palmas Avenue, Los Angeles, California 90004, President, Vice President, Director.

Linda N. Stone, 1549 North Ogden Drive, Hollywood, California 90046, Treasurer, Secretary.

The applicant, a California corporation with its principal place of business located at 1017 Wilshire Boulevard, Los Angeles, California 90017, will begin operations with $300,000 of paid-in capital and paid-in surplus, consisting of 30,000 shares of common stock having all voting rights. The voting common stock will be owned by Mrs. Rosa Leong.

The applicant will not concentrate its investments in any particular industry. As a small business investment company under section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owner and management, and the probability of successful operation of the applicant under their management,

including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Any person may, on or before January 30, 1974, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Los Angeles, California.

Dated: December 20, 1973.

JAMES THOMAS PHELAN,
Deputy Associate Administrator for Investment.

[FR Doc.74-1018 Filed 1-14-74;8:45 am]

[Declaration of Disaster Loan Area 1030]

GEORGIA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of December 1973, because of the effects of a certain disaster, damage resulted to business property located in the State of Georgia;

Whereas, the Small Business Administration has investigated and received reports of other investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended:

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Hall County, Georgia, and adjacent affected areas, suffered damage or destruction resulting from a tornado which struck on December 13, 1973.

Applications will be processed under the provisions of Public Law 93-24.

OFFICE SMALL BUSINESS ADMINISTRATION, REGIONAL OFFICE, 1401 PEACHTREE STREET, NE., ATLANTA, GEORGIA 30309.

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to March 5, 1974.

Dated: January 4, 1974.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.74-1019 Filed 1-14-74;8:45 am]

[Declaration of Disaster Loan Area 1028]

KENTUCKY

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of November 1973, because of the effects of a certain disaster, damage resulted to homes and business property located in the State of Kentucky;

Whereas, the Small Business Administration has investigated and received reports of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Knox and Bell Counties, Kentucky, suffered damage or destruction resulting from floods which occurred November 26, 1973.

Applications will be processed under the provision of Public Law 93-24.

OFFICE SMALL BUSINESS ADMINISTRATION DISTRICT OFFICE, FEDERAL OFFICE BUILDING, ROOM 188, 600 FEDERAL PLACE, LOUISVILLE, KENTUCKY 40202.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to February 27, 1974.

Dated: December 27, 1973.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.74-1020 Filed 1-14-74;8:45 am]

[Declaration of Disaster Loan Area 1027]

MISSISSIPPI

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of November 1973, because of the effects of a certain disaster, damage resulted to business property located in the State of Mississippi;

Whereas, the Small Business Administration has investigated and received reports of other investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitute a catastrophe within the purview of the Small Business Act, as amended:

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in DeSoto County, Mississippi, suffered damage or destruction resulting from a tornado on November 27, 1973.

Applications will be processed under the provisions of Public Law 93-24.

OFFICE

Small Business Administration, District Office, Petroleum Building, 6th Floor, Pascagoula & Amite Streets, Jackson, Mississippi 39205.

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to February 22, 1974.

Dated: December 19, 1973.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.74-1021 Filed 1-14-74;8:45 am]

[Delegation of Authority 30; Revision 14; Amdt. 6]

REGIONAL DIRECTORS

Delegation of Authority

Delegation of Authority No. 30 (Revision 14) (37 FR 12651), as amended (37 FR 14840, 37 FR 19405, 37 FR 21466, 37 FR 23594, and 38 FR 32984), is hereby further amended to include authority to affix the Seal of the Small Business Administration to the certification of certain documents. Part VIII is revised by adding paragraph 5 reading as follows:

* * * * *

5. *Use of Seal of the Small Business Administration.* To certify true copies of any books, records, papers, or other documents on file with the Small Business Administration; to certify extracts from such material; to certify the nonexistence of records on file; and to cause the Seal of the Small Business Administration to be affixed to all such certifications.

* * * * *

Effective Date: January 2, 1974.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.74-1017 Filed 1-14-74;8:45 am]

[Declaration of Disaster Loan Area 1029]

SOUTH CAROLINA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of December 1973, because of the effects of a certain disaster, damage resulted to homes and business property located in the State of South Carolina.

Whereas, the Small Business Administration has investigated and received reports of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Greenwood and Newberry Counties, South Carolina, and adjacent affected areas, suffered damage or destruction resulting from a tornado which occurred December 13, 1973.

Applications will be processed under the provisions of Public Law 93-24.

OFFICE

Small Business Administration District Office, 1801 Assembly Street, Columbia, South Carolina 29201.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to March 5, 1974.

Dated: January 3, 1974.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.74-1022 Filed 1-14-74;8:45 am]

OFFICE OF SPECIAL ADVISOR TO THE ADMINISTRATOR ON ENERGY AND MATERIALS PROGRAMS

Notice of Establishment

Notice is hereby given that pursuant to section 2 of the Small Business Act (72 Stat. 384, as amended), which provides that "the Government should aid, counsel, assist and protect, insofar as is possible, the interests of small business concerns in order to preserve free competitive enterprise . . . and to maintain and strengthen the overall economy of the Nation," the Small Business Administration has established an Office of Energy and Materials Programs.

This Office will operate on a temporary basis for a period of 120 days from the date of this notice. It will reside within the Office of the Administrator, Small Business Administration, and shall, at the end of this 120-day period, report to the Administrator all pertinent details of its operations and activities and make recommendations regarding the long term management response for the Agency.

As presently constituted, the Office shall have three major objectives: First, it shall contact and establish representation, and working relationships with other Federal agencies and other organizations engaged in the development of energy and materials related policies, regulations, legislation or programs, in order to adequately represent the interests of SBA and the small business sector.

Second, it will assist each operating unit of SBA in analyzing energy and materials related problems and in identifying the impact of all regulations and legislation on specific SBA program areas. In conjunction with SBA program offices, it will assist with the development of programs and policies for consideration by the SBA Management Board.

Third, it will collect and analyze incoming data, correspondence, records, etc., in order to assist program offices in the development of appropriate SBA responses.

Stephen Mollett
Acting Director
Office of Energy & Materials Programs
Small Business Administration
Room 1034
1441 L Street, N.W.
Washington, D.C. 20416
(202) 382-8156

Dated: January 11, 1974.

RONALD G. COLEMAN,
Acting Administrator.

[FR Doc.74-1379 Filed 1-14-74;10:19 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 423]

ASSIGNMENT OF HEARINGS

JANUARY 10, 1974.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after January 15, 1974.

MC-114897 Sub 107, Whitfield Tank Lines, Inc., now assigned February 5, 1974, at Santa Fe, N. Mex., is cancelled and reassigned February 5, 1974 (2 days), in the Holiday Inn Airport-Interstate, 6655 Gateway Road, El Paso, Tex.

MC-107012 Sub 187, North American Van Lines, Inc., now being assigned hearing March 4, 1974 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC-105375 Sub 46, Dahlen Transport of Iowa, Inc., now being assigned hearing March 6, 1974 (3 days), at Chicago, Ill., in a hearing room to be later designated.

MC-138813, Daniel K, Fisk, DBA Dan-A-Way Charter Line, now being assigned hearing March 11, 1974 (1 week), at Peoria, Ill., in a hearing room to be later designated.

MC 136183 Sub 2, Joe Costa, DBA Trinidad Freight Service, now being assigned March 25, 1974 (1 week), at Albuquerque, New Mexico, in a hearing room to be later designated.

MC 109397 Sub 286, Tri-State Motor Transit Co., now being assigned April 1, 1974 (1 week), at San Francisco, Calif., in a hearing room to be later designated.

MC 101219 Sub 50, Merit Dress Delivery, Inc., now being assigned hearing March 4, 1974 (1 day), at New York, N.Y., in a hearing room to be later designated.

MC 130103, Musiker Student Tours, Inc., now being assigned hearing March 5, 1974 (1 day), at New York, N.Y., in a hearing room to be later designated.

MC 138948, John L. Cannada, Dba Cannada Bus Service, now being assigned hearing March 6, 1974 (3 days), at Hartford, Conn., in a hearing room to be later designated.

MC-C-8095, Kerek Air Freight Corporation, et al. vs. S. Bertz & Sons, Inc., Et al., MC-F-11936, Pinto Trucking Service, Inc.—Purchase (Portion)—S. S. Bertz & Sons, Inc., and MC-128383 Sub 33, Pinto Trucking Service, Inc., now being assigned hearing March 11, 1974 (1 week), at Philadelphia, Pa., in a hearing room to be later designated.

MCC-8191, Belger Cartage Service, Inc., Investigation of Operations and Revocation of Certificates, now being assigned hearing March 18, 1974 (2 days), at Kansas City, Mo., in a hearing room to be later designated.

MC 133802 Sub 1, Empak Transportation Company, now being assigned hearing March 20, 1974 (3 days), at Kansas City, Mo., in a hearing room to be later designated.

MC-F-11963, Churchill Truck Lines, Inc.—Purchase (Portion)—Stevens Express, Inc., now being assigned hearing March 25, 1974 (1 week), at Kansas City, Mo., in a hearing room to be later designated.

MC-C-8073, Piggy-Back Service Co. and C. L. "Bill" Shupe—Investigation of Operations and Practices, now being assigned March 18, 1974 (1 day), at Denver, Colo., in a hearing room to be later designated.

MC 113651 Sub 158, Indiana Refrigerator Lines, Inc., now being assigned March 19, 1974 (2 days), at Denver, Colo., in a hearing room to be later designated.

MC 113678 Sub 500, Curtis, Inc., now being assigned March 21, 1974 (2 days), at Denver, Colo., in a hearing room to be later designated.

MC 107012 Sub 188, North American Van Lines, Inc., now being assigned hearing March 18, 1974 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 105501 Sub 9, Terminal Warehouse Company, now being assigned hearing March 20, 1974 (3 days), at Chicago, Ill., in a hearing room to be later designated.

MC-F-11887, Hilt Truck Line, Inc.—Purchase—West Suburban Motor, and MC 124211 Sub 227, Hilt Truck Line, Inc., now being assigned hearing March 25, 1974 (1 week), at Chicago, Ill., in a hearing room to be later designated.

MC 79525 Sub 2, The Norris Brothers Company, now being assigned March 18, 1974 (1 week), at Cleveland, Ohio, in a hearing room to be later designated.

MC-113678 Sub 504, Curtis, Inc., now being assigned hearing March 25, 1974 (2 weeks), at Columbus, Ohio, in a hearing room to be later designated.

MC 80430 Sub 126, Gateway Transportation Co., Inc., now being assigned hearing March 18, 1974 (1 week), at Nashville, Tenn., in a hearing room to be later designated.

MC-128677 Sub 2, Portland Express, Inc., now assigned February 11, 1974, will be held in the Sheraton Hotel, 920 Broadway, Nashville, Tenn.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-1239 Filed 1-14-74;8:45 am]

[Amdt. to Special Permission No. 74-1825]

COMMON CARRIERS OF PASSENGERS, EXPRESS AND PROPERTY AND FREIGHT FORWARDERS

Rate Increases Account Increases in Fuel Cost

At a General Session of the INTERSTATE COMMERCE COMMISSION, held at its office in Washington, D.C., on the 10th day of January, 1974.

It appearing, that on December 13, 1973, we entered an order herein (served on the same date) authorizing common carriers and freight forwarders subject to the Interstate Commerce Act to publish schedules of increased rates and

charges, to become effective upon not less than 10 days' notice, to recoup lawful increases in fuel costs, subject to certain procedures therein set forth;

It further appearing, that on December 21, 1973, the nation's railroads and certain motor carrier tariff publishing agencies, on behalf of their members, filed a petition for amendment of the said order in the following respects:

1. Amend ordering paragraph numbered "1"—

(a) To permit increases in rates, fares, and charges, other than accessorial charges, omitting the "linehaul" restriction, so as to include terminal services which consume fuel, and

(b) To change the fuel price criterion to consider increases not taken into account in the last authorized general increase;

2. Amend ordering paragraph numbered "2"—

(a) To recognize that regulations of the Cost of Living Council may not continue to govern fuel prices, and do not now in the case of foreign producers, and

(b) By adding the following sentence to that paragraph (related to a proposed amendment to paragraph numbered "3", below):

The full increase in revenue derived from surcharges published hereunder shall be paid to the person actually responsible, by contract or otherwise, for the payment of fuel charges.

3. Amend ordering paragraph numbered "3"—

(a) To change the certification required thereunder to relieve the responsibility of the tariff agent to certify for each carrier member, and to include passenger revenues also, and

(b) To change the table to reflect the proposed amendments to ordering paragraph numbered "1";

4. Amend ordering paragraph numbered "7"—

(a) To reduce the burden of providing notice by telegraphic summaries to thousands of tariff subscribers;

5. Amend ordering paragraph numbered "8"—

(a) To reflect amendment proposed to paragraph numbered "1"; and

6. Amend ordering paragraph numbered "10"—

(a) To modify all outstanding orders to permit the filing of proposed surcharges hereunder, and specifically the procedures prescribed in Ex Parte No. MC–82, "New Procedures in Motor Carrier Rev. Proc.", 340 I.C.C. 1, to accomplish the purpose of expeditious establishment of increases to offset rapidly-increasing fuel costs;

It further appearing, that by letters dated December 19, 26, and 28, an individual, Mr. Arthur F. Killey, a motor common carrier, Herman Bros., Inc., and the Pacific Northwest Grain and Grain Products Association, addressed themselves to the Commission's order of December 13, 1973, herein, and that such letters have been accepted as requests for consideration herein; that Mr. Killey, in effect, and Herman Bros. suggest the construction of a formula or indices to simplify the determination and application of increases to recoup inflating fuel costs; and that the grain association, fearing an unstable rate structure, urges withholding any further action and requiring carriers to seek additional revenues in the normal manner;

It further appearing, that since sufficient and reliable data are not available to establish indices or a formula to simplify the determination of appropriate increases, and that, considering the extraordinary nature of the fuel price situation, the withholding of action in the meantime would not be justified;

It further appearing, that, on the Commission's own motion, certain other modifications in the procedures are deemed desirable;

And it further appearing, that on January 4, 1974, the National Small Shipments Traffic Conference, the Drug and Toilet Preparation Traffic Conference, and the Eastern Industrial Traffic League filed a joint petition for amendment to differentiate, in the case of motor carriers, between truckload and less-than-truckload shipments in authorizing increases hereunder; therefore,

It is ordered, That the said petitions and the requests, except as herein indicated, be, and they are hereby, denied.

It is further ordered, that the said order entered herein on December 13, 1973, be, and it is hereby, modified to the extent set forth below, with no other changes in that order:

1. Strike ordering paragraph numbered "1" thereof and substitute the following:

Common carriers and freight forwarders subject to the Interstate Commerce Act and their tariff publishing agents are hereby authorized to depart from the terms of the governing tariff circulars to file and post on not less than 10 days' notice increases in rates, fares, and charges for line-haul transportation and charges for other services which consume fuel, such as switching and pickup and delivery, and which must be specified in the tariffs, by means of surcharges stated in percentages to produce additional revenue in an amount not to exceed increases in fuel costs, based on the difference in the price of fuel on May 15, 1973, on the one hand, and the lawful price of fuel on a specified date which is not later than the date of filing of the surcharge hereunder, on the other hand, except that fuel price increases relied upon in support of increases published and filed since May 15, 1973, must be excluded from any increases filed under the authority herein.

The surcharge provisions must include a rule for disposition of fractions of one cent or other stated amounts, or refer to a conversion table of increased rates or fares.

2. Strike paragraph numbered "2" thereof, and substitute the following:

The surcharges may only provide for the recoupment on a dollar-for-dollar pass through basis of increased fuel costs resulting from increases in fuel prices that are not unlawful under the applicable regulations of the Cost of Living Council, and in no event shall the surcharge recover increased fuel costs retroactively. The full increase in revenue derived from surcharges published hereunder shall be paid to the person actually responsible, by contract or otherwise, for the payment of fuel charges.

3. Strike paragraph numbered "3" thereof, including the table, and substitute the following:

The carriers, individually, or by tariff publishing bureaus, as appropriate, shall submit with the schedules of proposed increases, the amount of additional revenues in dollars (stated on a monthly basis and on the currently prevailing level of productivity) to be derived from the proposed increase, and the following data, appropriately explained and supported, as well as execute the following certification (which certification must be published in the tariff):

This is to certify that each carrier party to this tariff has been notified that: Special Permission No. 74–1825 requires that the person actually responsible, by contract or otherwise, for the payment of fuel charges is to receive the full increase in revenue derived from surcharges published thereunder, and that a carrier's participation in a tariff filed thereunder constitutes an undertaking to comply with that requirement.

Line No.	Item [1]	First nine months 1973	October 1973	November 1973 [2]	Present (specify date)
	(1)	(2)	(3)	(4)	

[1] Use appropriate accounts for respective modes and specify account numbers included in the designated item. In the case of carriers using purchased transportation, specify separately the dollar amounts paid for service performed by other than regulated carriers, and the cost per gallon of fuel including taxes and the total dollars of fuel expense paid by the latter. Derivation of purchased transportation expenses must be fully explained and supported.

[2] Results for months subsequent to November should be shown separately, and the month immediately preceding the date of filing should be included.

A. *Specified Traffic or Carrier(s) System-Wide, As Applicable*

1. Fuel Expenses ---------- xxx
2. Fuel Taxes ---------- xxx
3. Total ---------- xxx
4. Gallons Consumed ---------- xxx
5. Expense per gallon (3.4) ---------- xxx
6. Applicable Revenues ---------- xxx
7. Average lawful expense per gallon on May 15, 1973 ------
8. Average lawful expense per gallon on last day of study period relied upon to support last general rate (fare) increase or surcharge subsequent to May 15, 1973 (Specify date ------) ------

B. *Carrier(s) System-Wide*

9. Total operating expenses ---------- xxx
10. Total operating revenues ---------- xxx

x indicates no information required.

4. Strike paragraph numbered "7" thereof, and substitute the following:

A telegraphic summary of the proposal and a copy of the publication issued and filed hereunder shall be transmitted to each tariff subscriber on the same date that the copies for official filing are transmitted to this Commission.

OR

Alternatively, in the case of a motor carrier rate bureau functioning under an agreement approved by this Commission pursuant to Section 5a of the Interstate Commerce Act, notice to the public of proposals to file surcharges hereunder shall be given by causing the disposition advice (required by its procedures) to be transmitted to all subscribers to the affected tariff(s) by first class mail not less than 15 days prior to the effective date of the tariffs, and to include a summary of the proposal and the data specified in Lines 1 through 10 of the Third Ordering Paragraph. In all other cases notice to the public of proposals to file surcharges hereunder shall be given to all subscribers to the affected tariff(s) by first class mail not less than 15 days prior to the effective date of the tariffs, and to include a summary of the proposal and the data specified in Lines 1 through 10 of the Third Ordering Paragraph. As used herein, the term "subscriber" means a party who voluntarily or upon a reasonable request is furnished copies of a particular tariff or tariffs and amendments thereto (including reissues thereof) by the publishing carrier or agent. The term does not, however, pertain to requests for a copy or copies of a tariff without a request for future amendments thereto.

The letter of transmittal accompanying the proposed schedules must contain a certification to the effect that one or the other of the alternative forms of notice has been complied with.

5. Strike paragraph numbered "8" thereof, and substitute the following:

Any surcharge established hereunder may be again increased upon not less than 10 days' notice to produce additional revenue in an amount not to exceed increases in fuel costs resulting from increases in the lawful price of fuel over and above increases reflected in the evidence relied upon in support of the last effective general rate increase or in the surcharge being increased, whichever is later. Any surcharge established hereunder may be reduced or cancelled upon not less than 10 days' notice to the public. Only one surcharge as to a tariff may be in effect at one time. No surcharge may be increased more than once in any calendar month. The provisions of the Third Ordering Paragraph herein must be fully complied with each time a surcharge is proposed to be increased.

6. Strike paragraph numbered "10" thereof, and substitute the following:

All outstanding orders of the Commission are hereby modified to the extent necessary to permit the filing of the tariffs authorized herein. Increases filed hereunder shall not be deemed general increases or general adjustments as defined in §§ 1102.1 and 1104.1(a) of Chapter X of Title 49 of the Code of Federal Regulations.

Notice of these amendments shall be given to the general public by mailing a copy of this order to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy to the Director, Division of the Federal Register, for publication therein.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-1240 Filed 1-14-74;8:45 am]

[Nos. MC-F-11817, MC-105881 (Sub-No. 48)]

MR&R TRUCKING CO. AND PERKINS FREIGHT LINES, INC.

At a Session of the Interstate Commerce Commission, Review Board Number 5, held at its office in Washington, D.C., on the 6th day of December, 1973.

Supplemental Order

Upon consideration of the record in the above-entitled proceedings and of the petition filed September 17, 1973, by applicants for reconsideration and modification of the order of the Commission, Review Board Number 5, decided August 1, 1973; and

It appearing, that in its order of August 1, 1973, the Board authorized, among other things, under section 5 of the Interstate Commerce Act, the acquisition by MR&R Trucking Company (MR&R), of Crestview, Fla., of control of Perkins Freight Lines, Inc. (Perkins), of Atlanta, Ga., through the exchange of 60 shares of MR&R common stock for all the outstanding capital stock of Perkins held by its sole stockholder, A. J. Abernathy, and for the acquisition in turn, by W. Guy McKenzie, Sr., Carl E. Bjorklund, John E. McCaskill, and W. Guy McKenzie, Jr., of control of Perkins through the transaction;

It further appearing, that the evidence now presented discloses that the parties intended to seek Commission approval of the merger of the operating rights and properties of Perkins into MR&R as well as the acquisition by MR&R of all the capital stock of Perkins; that the request to merge the two companies was inadvertently omitted from the application; and that petitioners now request the Commission to modify the order of August 1, 1973, to authorize the merger of the operating rights and properties of Perkins into MR&R;

It further appearing, that the interstate operating rights sought to be merged into MR&R are those described in certificates issued in Nos. MC-66098, MC-66098 (Sub-Nos. 1 and 2), authorizing the transportation of general commodities, with certain exceptions, over regular routes, and specified commodities, over irregular routes, between designated points in Georgia; and

It further appearing, that MR&R is able, financially and otherwise, to consummate the above-described merger and to conduct operations in interstate or foreign commerce under the rights; that the terms and conditions of the transaction as set forth in the application and the agreement of record, as supplemented by the petition, would be just and reasonable; that the fixed charges to be assumed would not be contrary to the public interest and that carrier employees would not be adversely affected; that the transaction is within the scope of section 5(2)(a) of the Act, and will be consistent with the public interest; and that this decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969:

It is ordered, That the petition be, and it is hereby, granted; that the proceeding be, and it is hereby, reopened, and that the order of August 1, 1973, be, and it is hereby, modified to authorize the merger of the operating rights and properties of Perkins Freight Lines, Inc., into MR&R Trucking Company for ownership, management, and operation, and for the acquisition, in turn, by W. Guy McKenzie, Sr., Carl E. Bjorklund, John E. McCaskill, and W. Guy McKenzie, Jr., of control of the operating rights and property through the merger; and that, if the transaction is consummated, MR&R Trucking Company will be entitled to operate under the operating rights granted in Nos. MC-66098, MC-66098 (Sub-Nos. 1 and 2) which rights are herein authorized to be unified with rights otherwise confirmed in it and to be embraced in a certificate to be issued in its name, with duplications eliminated.

It is further ordered, That since the authority granted herein differs from the notice published in the FEDERAL REGISTER, a supplemental notice is required to be published, and the effective date of this order shall be deferred until 35 days after the publication of such notice; that if any persons have an interest in or would be prejudiced by, the merger authorized herein, they may file an original and six copies of a petition or other pleading within 30 days from the date of publication with appropriate service on applicants; and that such petition, if any, should set forth the precise manner in which they have been prejudiced by the grant of authority herein.

It is further ordered, That if the parties to the transaction herein authorized desire to consummate the same, they shall (1) take such steps as will insure compliance with sections 215, 217, and 221(c) of the Act and the rules, regulations, and requirements prescribed thereunder, and (2) confirm in writing, to the Commission, immediately after consummation, the date on which consummation has actually taken place.

It is further ordered, That, if the authority herein granted is exercised, MR&R Trucking Company shall submit for consideration a sworn statement and one copy thereof, herein required within 60 days after consummation of the transaction, showing all expenditures made, by dates, or to be made, in connection with the transaction authorized, including the consideration, legal and other fees, commissions, and any other costs incidental to the transaction, the assets acquired and liabilities assumed, indicating the account number and title to which each item has been, or is to be, debited or credited.

It is further ordered, That the authority granted herein shall not be exercised prior to the effective date, and that this order shall be effective 35 days after notice is published in the FEDERAL REGISTER.

It is further ordered, That unless the authority herein granted is exercised

within 180 days from the effective date hereof, this order shall be of no further force and effect; and

It is further ordered, That the order of August 1, 1973, except as herein modified, shall remain in full force and effect.

By the Commission, Review Board Number 5.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-1238 Filed 1-14-74;8:45 am]

[Ex Parte No. 241; Rule 19, Exemption No. 59]

RAILROADS SERVING CALIFORNIA AND ARIZONA

Exemption Under Mandatory Car Service Rules

It appearing, that there are substantial movements of lumber and other commodities moving in plain, forty-foot, wide-door boxcars or in plain fifty-foot boxcars, originating at points in northern California and southern Oregon; that railroads serving southern California and Arizona frequently develop surpluses of these cars; that loadings in the directions of the car owners are often not available on the lines having such cars available in surplus quantities; that return of these surplus cars to owners results in excessive empty car miles and loss of effective car utilization; that the carriers serving northern California and southern Oregon have regular needs for such cars for eastbound loading; and that such loadings will relocate such cars in areas on or close to car owners' lines with a minimum of empty car mileage, thereby increasing car utilization.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, except as otherwise provided herein, railroads serving the States of California and Arizona may interchange empty plain boxcars described in the Official Railway Equipment Register, I.C.C. R.E.R. No. 389, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation XM, with inside length 44 ft. 6 in. or less and equipped with doors 9 feet or wider, or with inside length in excess of 44 ft. 6 in. regardless of door width without regard to the provisions of Car Service Rule 2(c), 2 (d), or 2(e).

It is further ordered, That the final carrier receiving such cars empty from another carrier in the States of California or Arizona, under authority of this exemption, shall be subject to the requirements of Car Service Rules 1 or 2 in its subsequent movements of such cars.

It is further ordered, That the billing on all such empty cars requiring movement over an intermediate carrier shall clearly show the name of the carrier to which such cars are being sent for loading; and that all waybills authorizing the movements of such empty cars shall carry a reference to this exemption.

Exception. This exemption shall not apply to empty cars subject to Car Service Rule 1; to empty cars subject to an applicable service order of this Commission requiring specific handling of designated cars; to cars subject to car relocation directives issued by the Car Service Division of the Association of American Railroads; nor to cars of Canadian or Mexican ownership.

Effective: January 3, 1974.

Expires: December 31, 1974.

Issued at Washington, D.C., January 31, 1974.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.74-1241 Filed 1-14-74;8:45 am]

CUMULATIVE LIST OF PARTS AFFECTED—JANUARY

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 January.

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