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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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NOTE: There were no items published after October 1, 1972, that are eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

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Title 3—The President

PROCLAMATION 4313

Announcing a Program for the Return of Vietnam Era Draft Evaders and Military Deserters

By the President of the United States of America

A Proclamation

The United States withdrew the last of its forces from the Republic of Vietnam on March 28, 1973.

In the period of its involvement in armed hostilities in Southeast Asia, the United States suffered great losses. Millions served their country, thousands died in combat, thousands more were wounded, others are still listed as missing in action.

Over a year after the last American combatant had left Vietnam, the status of thousands of our countrymen—convicted, charged, investigated or still sought for violations of the Military Selective Service Act or of the Uniform Code of Military Justice—remains unresolved.

In furtherance of our national commitment to justice and mercy these young Americans should have the chance to contribute a share to the rebuilding of peace among ourselves and with all nations. They should be allowed the opportunity to earn return to their country, their communities, and their families, upon their agreement to a period of alternate service in the national interest, together with an acknowledgment of their allegiance to the country and its Constitution.

Desertion in time of war is a major, serious offense; failure to respond to the country's call for duty is also a serious offense. Reconciliation among our people does not require that these acts be condoned. Yet, reconciliation calls for an act of mercy to bind the Nation's wounds and to heal the scars of divisiveness.

NOW, THEREFORE, I, Gerald R. Ford, President of the United States, pursuant to my powers under Article II, Sections 1, 2 and 3 of the Constitution, do hereby proclaim a program to commence immedi-

ately to afford reconciliation to Vietnam era draft evaders and military deserters upon the following terms and conditions:

1. *Draft Evaders*—An individual who allegedly unlawfully failed under the Military Selective Service Act or any rule or regulation promulgated thereunder, to register or register on time, to keep the local board informed of his current address, to report for or submit to preinduction or induction examination, to report for or submit to induction itself, or to report for or submit to, or complete service under section 6(j) of such Act during the period from August 4, 1964 to March 28, 1973, inclusive, and who has not been adjudged guilty in a trial for such offense, will be relieved of prosecution and punishment for such offense if he:

(i) presents himself to a United States Attorney before January 31, 1975,

(ii) executes an agreement acknowledging his allegiance to the United States and pledging to fulfill a period of alternate service under the auspices of the Director of Selective Service, and

(iii) satisfactorily completes such service.

The alternate service shall promote the national health, safety, or interest. No draft evader will be given the privilege of completing a period of alternate service by service in the Armed Forces.

However, this program will not apply to an individual who is precluded from re-entering the United States under 8 U.S.C. 1182(a)(22) or other law. Additionally, if individuals eligible for this program have other criminal charges outstanding, their participation in the program may be conditioned upon, or postponed until after, final disposition of the other charges has been reached in accordance with law.

The period of service shall be twenty-four months, which may be reduced by the Attorney General because of mitigating circumstances.

2. *Military Deserters*—A member of the armed forces who has been administratively classified as a deserter by reason of unauthorized absence and whose absence commenced during the period from August 4, 1964 to March 28, 1973, inclusive, will be relieved of prosecution and punishment under Articles 85, 86 and 87 of the Uniform Code of Military Justice for such absence and for offenses directly related thereto if before January 31, 1975 he takes an oath of allegiance to the United States and executes an agreement with the Secretary of the Military Department from which he absented himself or for members of the Coast Guard, with the Secretary of Transportation, pledging to fulfill a period of alternate service under the auspices of the Director of Selective Service. The alternate service shall promote the national health, safety, or interest.

The period of service shall be twenty-four months, which may be reduced by the Secretary of the appropriate Military Department, or Secretary of Transportation for members of the Coast Guard, because of mitigating circumstances.

However, if a member of the armed forces has additional outstanding charges pending against him under the Uniform Code of Military Jus-

tice, his eligibility to participate in this program may be conditioned upon, or postponed until after, final disposition of the additional charges has been reached in accordance with law.

Each member of the armed forces who elects to seek relief through this program will receive an undesirable discharge. Thereafter, upon satisfactory completion of a period of alternate service prescribed by the Military Department or Department of Transportation, such individual will be entitled to receive, in lieu of his undesirable discharge, a clemency discharge in recognition of his fulfillment of the requirements of the program. Such clemency discharge shall not bestow entitlement to benefits administered by the Veterans Administration.

Procedures of the Military Departments implementing this Proclamation will be in accordance with guidelines established by the Secretary of Defense, present Military Department regulations notwithstanding.

3. *Presidential Clemency Board*—By Executive Order I have this date established a Presidential Clemency Board which will review the records of individuals within the following categories: (i) those who have been convicted of draft evasion offenses as described above, (ii) those who have received a punitive or undesirable discharge from service in the armed forces for having violated Article 85, 86, or 87 of the Uniform Code of Military Justice between August 4, 1964 and March 28, 1973, or are serving sentences of confinement for such violations. Where appropriate, the Board may recommend that clemency be conditioned upon completion of a period of alternate service. However, if any clemency discharge is recommended, such discharge shall not bestow entitlement to benefits administered by the Veterans Administration.

4. *Alternate Service*—In prescribing the length of alternate service in individual cases, the Attorney General, the Secretary of the appropriate Department, or the Clemency Board shall take into account such honorable service as an individual may have rendered prior to his absence, penalties already paid under law, and such other mitigating factors as may be appropriate to seek equity among those who participate in this program.

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

Gerald R. Ford

[FR Doc.74-21742 Filed 9-16-74;12:47 pm]

EXECUTIVE ORDER 11803

Establishing a Clemency Board to Review Certain Convictions of Persons Under Section 12 or 6(j) of the Military Selective Service Act and Certain Discharges Issued Because of, and Certain Convictions for, Violations of Article 85, 86 or 87 of the Uniform Code of Military Justice and to Make Recommendations for Executive Clemency With Respect Thereto

By virtue of the authority vested in me as President of the United States by Section 2 of Article II of the Constitution of the United States, and in the interest of the internal management of the Government, it is ordered as follows:

Section 1. There is hereby established in the Executive Office of the President a board of 9 members, which shall be known as the Presidential Clemency Board. The members of the Board shall be appointed by the President, who shall also designate its Chairman.

Sec. 2. The Board, under such regulations as it may prescribe, shall examine the cases of persons who apply for Executive clemency prior to January 31, 1975, and who (i) have been convicted of violating Section 12 or 6(j) of the Military Selective Service Act (50 App. U.S.C. § 462), or of any rule or regulation promulgated pursuant to that section, for acts committed between August 4, 1964 and March 28, 1973, inclusive, or (ii) have received punitive or undesirable discharges as a consequence of violations of Articles 85, 86 or 87 of the Uniform Code of Military Justice (10 U.S.C. §§ 885, 886, 887) that occurred between August 4, 1964 and March 28, 1973, inclusive, or are serving sentences of confinement for such violations. The Board will only consider the cases of Military Selective Service Act violators who were convicted of unlawfully failing (i) to register or register on time, (ii) to keep the local board informed of their current address, (iii) to report for or submit to preinduction or induction examination, (iv) to report for or submit to induction itself, or (v) to report for or submit to, or complete service under Section 6(j) of such Act. However, the Board will not consider the cases of individuals who are precluded from reentering the United States under 8 U.S.C. 1182(a)(22) or other law.

Sec. 3. The Board shall report to the President its findings and recommendations as to whether Executive clemency should be granted or denied in any case. If clemency is recommended, the Board shall also recommend the form that such clemency should take, including clemency conditioned upon a period of alternate service in the national interest. In the case of an individual discharged from the armed forces with a punitive or undesirable discharge, the Board may recommend to the President that a clemency discharge be substituted for a punitive or undesirable discharge. Determination of any period of alternate service shall be in accord with the Proclamation announcing a program for the return of Vietnam era draft evaders and military deserters.

Sec. 4. The Board shall give priority consideration to those applicants who are presently confined and have been convicted only of an offense

set forth in section 2 of this order, and who have no outstanding criminal charges.

Sec. 5. Each member of the Board, except any member who then receives other compensation from the United States, may receive compensation for each day he or she is engaged upon the work of the Board at not to exceed the daily rate now or hereafter prescribed by law for persons and positions in GS–18, as authorized by law (5 U.S.C. 3109), and may also receive travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the government service employed intermittently.

Sec. 6. Necessary expenses of the Board may be paid from the Unanticipated Personnel Needs Fund of the President or from such other funds as may be available.

Sec. 7. Necessary administrative services and support may be provided the Board by the General Services Administration on a reimbursable basis.

Sec. 8. All departments and agencies in the Executive branch are authorized and directed to cooperate with the Board in its work, and to furnish the Board all appropriate information and assistance, to the extent permitted by law.

Sec. 9. The Board shall submit its final recommendations to the President not later than December 31, 1976, at which time it shall cease to exist.

Gerald R. Ford

THE WHITE HOUSE,
September 16, 1974.

[FR Doc.74–21743 Filed 9–16–74;12:47 pm]

EXECUTIVE ORDER 11804

Delegation of Certain Functions Vested in the President to the Director of Selective Service

By virtue of the authority vested in me as President of the United States, pursuant to my powers under Article II, Sections 1, 2 and 3 of the Constitution, and under Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

Section 1. The Director of Selective Service is designated and empowered, without the approval, ratification or other action of the President, under such regulations as he may prescribe, to establish, implement, and administer the program of alternate service authorized in the Proclamation announcing a program for the return of Vietnam era draft evaders and military deserters.

Sec. 2. Departments and agencies in the Executive branch shall, upon the request of the Director of Selective Service, cooperate and assist in the implementation or administration of the Director's duties under this Order, to the extent permitted by law.

Gerald R. Ford

THE WHITE HOUSE,
September 16, 1974.

[FR Doc.74-21744 Filed 9-16-74;12:48 pm]

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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Title 7—Agriculture

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

PART 26—GRAIN STANDARDS

United States Standards for Oats

Correction

In FR Doc. 74-20546 appearing at page 32126 in the issue for Thursday, September 5, 1974, the following changes should be made:

1. In the second paragraph of § 26.255 (c) the footnote designated (3) should be (2).

2. The table in § 26.256 should read as set forth below:

Grade	Minimum limits		Maximum limits		
	Test weight per bushel	Sound oats	Heat-damaged kernels	Foreign material	Wild oats
	Pounds	*Percent*	*Percent*	*Percent*	*Percent*
U.S. No. 1	36.0	97.0	0.1	2.0	2.0
U.S. No. 2	33.0	94.0	.3	3.0	3.0
U.S. No. 3[1]	30.0	90.0	1.0	4.0	5.0
U.S. No. 4[2]	27.0	80.0	3.0	5.0	10.0

U.S. sample grade ——— U.S. Sample grade shall be oats which—
(a) Do not meet the requirements for the grades U.S. No. 1, 2, 3, or 4,
(b) Contain more than 7 stones which have an aggregate weight in excess of 0.2 percent of the sample weight or more than 2 crotalaria seeds (*Crotalaria* spp.) per 1,000 grams of oats or more than 16 percent of moisture,
(c) Have a musty, sour, or commercially objectionable foreign odor (except smut or garlic odor), or
(d) Are heating or otherwise of distinctly low quality.

[1] Oats that are slightly weathered shall be graded not higher than U.S. No. 3.
[2] Oats that are badly stained or materially weathered shall be graded not higher than U.S. No. 4.

CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTY DESIGNATED FOR BARLEY CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following county is hereby added to the list of counties published February 12, 1974 (39 FR 5303), June 3, 1974 (39 FR 19446), and July 17, 1974 (39 FR 26135), which were designated for barley crop insurance for the 1975 crop year.

CALIFORNIA

Stanislaus

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. MCELWRATH,
Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 74-21490 Filed 9-16-74;8:45 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR WHEAT CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties are hereby added to the list of counties published February 12, 1974 (39 FR 5303), June 3, 1974 (39 FR 19447), and July 17, 1974 (39 FR 26135), which were designated for wheat crop insurance for the 1975 crop year.

CALIFORNIA

Stanislaus

MINNESOTA

Lincoln Pope
Meeker

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. MCELWRATH,
Acting Manager, Federal Crop Insurance Corporation.

[FR Doc.74-21488 Filed 9-16-74;8:45 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR GRAIN SORGHUM CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties are hereby added to the list of counties published June 3, 1974 (39 FR 19447), and July 17, 1974 (39 FR 26135), which were designated for grain sorghum crop insurance for the 1975 crop year.

KANSAS

Sheridan Wallace

MISSOURI

Barton Jasper

TEXAS

Starr

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] D. W. MCELWRATH,
Acting Manager, Federal Crop Insurance Corporation.

[FR Doc.74-21489 Filed 9-16-74;8:45 am]

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

PART 924—HANDLING OF FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREGON

Decision and Referendum Order With Respect to Proposed Amendment of the Marketing Agreement and Order

It is hereby ordered that on and after the date hereinafter specified all handling of fresh prunes grown in designated counties in the State of Washington and in Umatilla County, Oregon, shall be in conformity to, and in compliance with, the terms and conditions of the "Order Amending the Order Regulating the Handling of Fresh Prunes Grown in Designated Counties in the State of Washington and in Umatilla County, Oregon" which was annexed to and made a part of the decision of the Assistant Secretary of Agriculture, issued June 7, 1974 (FR Doc. 74-13083; 39 FR 20210), with respect to proposed amendment of the marketing agreement and order regulating the handling of such prunes. All of the findings, determinations, terms, and conditions of the aforesaid amendatory order shall be, and hereby are, the findings, determinations, terms, and conditions of this order as if set forth in full herein.

The aforesaid findings and determinations are hereby supplemented by additional determinations in § 924.0(b) as hereinafter set forth.

§ 924.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations made in connection with the issuance of the order; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure effective thereunder (7 CFR Part 900), a public hearing was held at Yakima, Washington, on February 28, 1974, upon proposed amendments to the marketing agreement and Order No. 924 (7 CFR Part 924), regulating the handling of fresh prunes grown in designated counties in the State of Washing-

ton and in Umatilla County, Oregon. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

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

(2) The said order, as hereby amended, regulates the handling of prunes grown in the production area in the same manner as, and is applicable only to persons in the respective classes of commercial or industrial activity specified in, a proposed marketing agreement and order upon which a hearing has been held;

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

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

(5) All handling of prunes grown in the production area is in the current of interstate or foreign commerce or directly burdens, obstructs, or effects such commerce.

(b) *Determination.* It is hereby determined that:

(1) The marketing agreement, as hereby amended, regulating the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oregon, upon which the aforesaid public hearing was held, has been signed by handlers (excluding cooperative associations of producers who were not engaged in processing, distributing, or shipping the prunes covered by this order) who, during the determined representative period (April 1, 1973, through March 31, 1974) shipped not less than 50 percent of the prunes covered by said order as hereby amended;

(2) The issuance of this order, amending the aforesaid order, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of its approval and who, during the aforesaid representative period, were engaged, within the production area specified in the order, in the production of fresh prunes for market, such producers having also produced for market at least two-thirds of the volume of fresh prunes represented in such referendum.

It is, therefore, ordered, That, on and after the effective date hereof, all handling of fresh prunes grown in said production area shall be in conformity to, and in compliance with, the terms and conditions of the said order, as hereby amended, as follows:

Section 924.45 is redesignated and revised to read as follows:

§ 924.45 Research and development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of production research, and marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of fresh prunes. The expense of such projects shall be paid from funds collected pursuant to § 924.41.

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

Dated, September 12, 1974, to become effective October 17, 1974.

RICHARD L. FELTNER,
Assistant Secretary for Marketing and Consumer Services.

[FR Doc.74-21491 Filed 9-16-74;8:45 am]

PART 926—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

Expenses, Rate of Assessment, and Carryover of Unexpended Funds

This document authorizes expenses of $139,183 of the Industry Committee, under Marketing Order No. 926, for the 1974–75 season and fixes the rate of assessment at $0.055 per standard package (lug) or equivalent quantity of Tokay grapes, handled during such period, to be paid to the committee by each first handler as his pro rata share of such expenses. It also authorizes the carryover, as a committee reserve, of unexpended assessment income from 1973–74 and prior seasons.

On August 16, 1974, notice of proposed rulemaking was published in the FEDERAL REGISTER (39 FR 29600) regarding proposed expenses and the related rate of assessment for the season of April 1, 1974, through March 31, 1975, and the carryover of unexpended 1973–74 assessment funds, pursuant to the marketing agreement, as amended, and Order No. 926, as amended (7 CFR Part 926), which regulate the handling of Tokay grapes grown in San Joaquin County, California. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The notice invited interested persons to submit written data, views, or arguments on the proposal not later than September 10, 1974. No such material was received.

After consideration of all relevant matter presented, including the proposals set forth in said notice which were submitted by the Industry Committee (established pursuant to said amended marketing agreement and order) it is hereby found and determined that:

§ 926.214 Expenses, rate of assessment, and carryover of unexpended funds.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Industry Committee during the period April 1, 1974, through March 31, 1975, will amount to $139,183.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 926.46, is fixed at five and one-half cents ($0.055) per standard package or equivalent quantity of grapes.

(c) *Reserve.* Unexpended assessment funds in excess of expenses incurred during the season ended March 31, 1974, and prior years shall be carried over as a reserve in accordance with the applicable provisions of § 926.47.

(d) *Terms.* Terms used in the amended marketing agreement and this part shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and this part.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) assessable shipments of the current crop of Tokay grapes are now being made; (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment fixed for a particular season shall be applicable to all assessable Tokay grapes from the beginning of the season; and (3) the season began on April 1, 1974, and the rate of assessment herein fixed will automatically apply to all assessable grapes beginning with such date.

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

Dated: September 12, 1974.

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

[FR Doc.74-21441 Filed 9-16-74;8:45 am]

[Grapefruit Reg. 15; Grapefruit Reg. 14 Terminated]

PART 944—FRUITS; IMPORT REGULATIONS

Minimum Grade and Size Restrictions

This regulation prescribes minimum grade and size restrictions applicable to imported grapefruit as follows: Imported seeded grapefruit—U.S. No. 1 and $3^{12}/_{16}$ inches in diameter; and imported seedless grapefruit—Improved No. 2 and $3^{9}/_{16}$ inches in diameter. These requirements are the same as those applicable to grapefruit produced in Florida and regulated pursuant to Marketing Order No. 905.

This regulation is consistent with section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This section requires that whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable requirements as those in effect for the domestically produced commodity. This regulation establishes the same grade and size requirements on imported seeded and seedless grapefruit as are effective under Marketing Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges,

grapefruit, tangerines and tangelos grown in Florida.

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective time of this regulation beyond that herein specified (5 U.S.C. 553) in that (a) the requirements of this import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), which makes such regulation mandatory; (b) this regulation fixes the same requirements on imports of seeded and seedless grapefruit as are applicable under Grapefruit Regulation 75 (§ 905.556); (c) notice hereof in excess of three days, the minimum that is prescribed by said section 8e, is given with respect to this import regulation; and (d) such notice is hereby determined, under the circumstances, to be reasonable.

§ 944.111 Grapefruit Regulation 15.

(a) During the period September 20, 1974, through October 20, 1974, the importation into the United States of any grapefruit is prohibited unless such grapefruit is inspected and meets the following requirements:

(1) Seeded grapefruit shall grade at least U.S. No. 1 and be of a size not smaller than 3 1/16 inches in diameter, except that a tolerance for seeded grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in § 51.761 of the United States Standards for Florida Grapefruit; and

(2) Seedless grapefruit shall grade at least Improved No. 2 and be of a size not smaller than 3 5/16 inches in diameter, except that a tolerance for seedless grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in § 51.761 of the United States Standards for Florida Grapefruit. ("Improved No. 2" shall mean grapefruit grading at least U.S. No. 2 and also meeting the requirements of the U.S. No. 1 grade as to shape (form) and color.)

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is hereby designated as the governmental inspection service for the purpose of certifying the grade, size, quality, and maturity of grapefruit that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with appropriate evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of grapefruit, is required on all imports of grapefruit. Such inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51) but, since inspectors are not located in the immediate vicinity of some of the small ports of entry, such as those in southern California, importers of grapefruit should make arrangements for inspection, through the applicable one of the following offices, at least the specified number of days prior to the time when the grapefruit will be imported:

Ports	Office	Advance notice
All Texas points.	Leo M. Denbo, 506 South Nebraska St., San Juan, Tex. 78589 (Phone—512-787-1967). or Charles E. Parrigon, 724 East Overland St., El Paso, Tex. 79901 (Phone—915-543-7723).	1 day.
All New York points.	Frank J. McNeal, Room 28A Hunts Point Market, Bronx, N.Y. 10474 (Phone—212-991-7668 and 7669). or Charles D. Renick, 176 Niagara Frontier Food Terminal, Room 8, Buffalo, N.Y. 14206, (Phone—716-824-1585).	Do. Do.
All Arizona points.	B.O. Morgan, 225 Terrace Ave., Nogales, Ariz. 85621. (Phone—602-287-2902).	Do.
All Florida points.	Lloyd W. Boney, 1350 Northwest 12th Ave., Room 538, Miami, Fla. 33136. (Phone—305-324-6116). or Hubert S. Flynt, 775 Warner Lane, Orlando, Fla. 32814. (Phone—305-894-8511). or Johnnie E. Corbitt, Unit 46, 3335 North Edgewood Ave., Jacksonville, Fla. 32205. (Phone—904-354-5983).	Do. Do. Do.
All California points.	Daniel P. Thompson, 784 South Central Ave., 266 Wholesale Terminal Bldg., Los Angeles, Calif. 90021. (Phone—213-622-8756).	3 days.
All Louisiana points.	Pascal J. Lamarca, 5027 Federal Office Bldg., 701 Loyola Ave., New Orleans, La. 70113. (Phone—504-527-6741 and 6742).	1 day.
All other points.	D. S. Matheson, Fruit and Vegetable Division, AMS-U.S. Department of Agriculture, Washington, D.C. 20250. (Phone—202-447-5870).	3 days.

(c) Inspection certificates shall cover only the quantity of grapefruit that is being imported at a particular port of entry by a particular importer.

(d) The inspection performed, and certificates issued, by the Federal or Federal-State Inspection Service shall be in accordance with the rules and regulations of the Department governing the inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51). The cost of any inspection and certification shall be borne by the applicant therefor.

(e) Each inspection certificate issued with respect to any grapefruit to be imported into the United States shall set forth, among other things:

(1) The date and place of inspection;

(2) The name of the shipper, or applicant;

(3) The commodity inspected;

(4) The quantity of the commodity covered by the certificate;

(5) The principal identifying marks on the container;

(6) The railroad car initials and number, the truck and the trailer license number, the name of the vessel, or other identification of the shipment; and

(7) The following statement if the facts warrant: Meets U.S. import requirements under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

(f) Notwithstanding any other provisions of this regulation, any importation of grapefruit which, in the aggregate does not exceed five standard nailed boxes, or equivalent quantity, may be imported without regard to the restrictions specified herein.

(g) It is hereby determined that imports of grapefruit, during the effective time of this regulation, are in most direct competition with grapefruit grown in the State of Florida. The requirements set forth in this section are the same as those being made effective for grapefruit grown in Florida.

(h) No provisions of this section shall supersede the restrictions or prohibitions on grapefruit under the Plant Quarantine Act of 1912.

(i) Nothing contained in this regulation shall be deemed to preclude any importer from reconditioning prior to importation any shipment of grapefruit for the purpose of making it eligible for importation.

(j) The terms used herein relating to grade and diameter shall have the same meaning as when used in the United States Standards for Florida Grapefruit (7 CFR 51.750–51.784). Importation means release from custody of the United States Bureau of Customs.

(k) Grapefruit Regulation 14 (§ 944.110; 38 FR 26108; 28286; 39 FR 7798, 16472, 17970, 22127, 24513) is hereby terminated at the effective time hereof.

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

Dated, September 10, 1974, to become effective September 20, 1974.

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

[FR Doc.74-21349 Filed 9-16-74;8:45 am]

Title 10—Energy

CHAPTER I—ATOMIC ENERGY COMMISSION

PART 51—LICENSING AND REGULATORY POLICY AND PROCEDURES FOR ENVIRONMENTAL PROTECTION

Summary of Environmental Considerations for Uranium Fuel Cycle; Correction

In FR Doc. 74-16341, appearing at page 26279, in the issue for Thursday, July 18, 1974, an incorrect version of Table S-3—Summary of environmental considerations for uranium fuel cycle, appearing on pages 26282–83, was published. Accordingly, Table S-3 is corrected to read as follows:

TABLE S-3.—*Summary of environmental considerations for uranium fuel cycle*

[Normalized to model LWR annual fuel requirement]

Natural resource use	Total	Maximum effect per annual fuel requirement of model 1,000 MWe LWR
Land (acres):		
Temporarily committed	63	
Undisturbed area	45	
Disturbed area	18	Equivalent to 90 MWe coal-fired powerplant.
Permanently committed	4.6	
Overburden moved (millions of MT)	2.7	Equivalent to 90 MWe coal-fired powerplant.
Water (millions of gallons):		
Discharged to air	156	≈2 percent model 1,000 MWe LWR with cooling tower.
Discharged to water bodies	11,040	
Discharged to ground	123	
Total	11,319	<4 percent of model 1,000 MWe LWR with once-through cooling.
Fossil fuel:		
Electrical energy (thousands of MW-hour).	317	<5 percent of model 1,000 MWe LWR output.
Equivalent coal (thousands of MT).	115	Equivalent to the consumption of a 45 MWe coal-fired powerplant.
Natural gas (millions of scf)	92	<0.2 percent of model 1,000 MWe energy output.
Effluents—chemical (MT):		
Gases (including entrainment): [1]		
SO_x	4,400	
NO_x [2]	1,177	Equivalent to emissions from 45 MWe coal-fired plant for a year.
Hydrocarbons	13.5	
CO	28.7	
Particulates	1,156	
Other gases:		
F^-	.72	Principally from UF_6 production enrichment and reprocessing. Concentration within range of state standards—below level that has effects on human health.
Liquids:		
SO_4^-	10.2	From enrichment, fuel fabrication, and reprocessing steps. Components that constitute a potential for adverse environmental effect are present in dilute concentrations and receive additional dilution by receiving bodies of water to levels below permissible standards. The constituents that require dilution and the flow of dilution water are: NH_3—600 cfs NO_3—20 cfs Fluoride—70 cfs
NO_3^-	26.7	
Fluoride	12.9	
Ca^{++}	5.4	
Cl^-	8.6	
Na^+	16.9	
NH_3	11.5	
Fe	.4	
Tailings solutions (thousands of MT).	240	From mills only—no significant effluents to environment.
Solids	91,000	Principally from mills—no significant effluents to environment.
Effluents—Radiological (curies):		
Gases (including entrainment):		
Rn-222	75	Principally from mills—maximum annual dose rate <4 percent of average natural background within 5 mi of mill. Results in 0.06 man-rem per annual fuel requirement.
Ra-226	.02	
Th-230	.02	
Uranium	.032	
Tritium (thousand)	16.7	Principally from fuel reprocessing plants—Whole body dose is 6 man-rem per annual fuel requirements for population within 50 mi radius. This is <0.007 percent of average natural background dose to this population. Release from Federal Waste Repository of 0.005 Ci/yr has been included in fission products and transuranics total.
Kr-85 (thousands)	350	
I-129	.0024	
I-131	.024	
Fission products and transuranics.	1.01	
Liquids:		
Uranium and daughters	2.1	Principally from milling—included in tailings liquor and returned to ground—no effluents; therefore, no effect on environment.
Ra-226	.0034	From UF_6 production-concentration 5 percent of 10 CFR 20 for total processing of 27.5 *b* model LWR annual fuel requirements.
Th-230	.0015	
Th-234	.01	From fuel fabrication plants—concentration 10 percent of 10 CFR 20 for total processing 26 annual fuel requirements for model LWR.
Ru-106 [3]	.15	From reprocessing plants—maximum concentration 4 percent of 10 CFR 20 for total reprocessing of 26 annual fuel requirements for model LWR.
Tritium (thousands)	2.5	
Solids (buried):		
Other than high level	601	All except 1 Ci comes from mills—included in tailings returned to ground—no significant effluent to the environment, 1 Ci from conversion and fuel fabrication is buried.
Thermal (billions)	3,360	<7 percent of model 1,000 MWe LWR.
Transportation (man-rem): Exposure of workers and general public.	.334	

[1] Estimated effluents based upon combustion of equivalent coal for power generation.
[2] 1.2 percent from natural gas use and process.
[3] Cs-137 (0.075 Ci/AFR) and Sr-90 (0.004 Ci/AFR) are also omitted.

Dated at Germantown, Maryland this 9th day of September 1974.

For the Atomic Energy Commission.

GORDON M. GRANT,
Secretary of the Commission.

[FR Doc.74-21308 Filed 9-16-74;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 74-WE-24-AD; Amdt. 39-1962]

PART 39—AIRWORTHINESS DIRECTIVES

AiResearch Model TFE731-2-1C and TFE731-2-2B Engines

Amendment 39-1853, (39 FR 18423), AD74-11-06, requires the modification of the fuel control computer to defeat the automatic latching function of the overspeed fuel shutoff valve and the implementation of operating procedures which activate the engine ignition system during takeoff, landing approach and landing flight operation on aircraft equipped with AiResearch Model TFE731-2-1C and -2-2B engines. After issuing amendment 39-1853, the agency determined that the manufacturer had developed an improved fuel control computer, P/N949572-8, which is equivalent to the modification required by amendment 39-1853. This amendment authorizes the installation of this computer.

Since this amendment provides an alternative means of compliance and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, amendment 39-1853, (39 FR 18423), AD74-11-06, is amended in its entirety to read as follows:

AIRESEARCH MANUFACTURING COMPANY OF ARIZONA. Applies to AiResearch Model TFE731-2-1C and -2-2B engines installed in, but not limited to, AMD-BA Falcon 10 and Lear-Gates Learjet Model 35/36 aircraft, certificated in all categories.

Compliance required after the effective date of this AD, as amended, as indicated, unless previously accomplished.

To prevent improper operation of the engine fuel control computer due to voltage

transients in the electrical system, accomplish the following:

(A) Before further engine operation, modify the fuel control computer, P/N949572-5, in accordance with AiResearch Service Bulletin TFE731-76-3002, dated April 25, 1974, or later FAA-approved revisions; or

(B) Replace the fuel control computer P/N949572-5, with a fuel control computer P/N949572-8.

Note: 1. With regard to the AMD-BA Falcon 10 aircraft, modified per (A) or (B) above, the Secretariat General A L' Aviation Civile (SGAC), in agreement with AiResearch, has advised that no airplane flight manual modification is required. Immediate implementation by operators of the procedures set forth in AiResearch operating information letter, 01731-2, dated April 20, 1974, is urgently recommended by the Federal Aviation Administration.

2. With regard to the Lear-Gates Model 35/36, modified per (A) or (B) above, the FAA-approved AFM provides appropriate operation instructions.

(C) This is interim AD action. Further modifications are under development by the manufacturer.

(D) Aircraft may be flown to a base for performance of maintenance required by this AD per FAR's 21.197 and 21.199.

This amendment becomes effective September 23, 1974.

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

Issued in Los Angeles, California on September 6, 1974.

ROBERT O. BLANCHARD,
Acting Director,
FAA Western Region.

[FR Doc.74-21370 Filed 9-16-74;8:45 am]

[Airspace Docket No. 73-SO-40]

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

Designation of Transition Area; Correction

On August 27, 1974, FR Doc. No. 74-19764 was published in the FEDERAL REGISTER (39 FR 30927), amending Part 71 of the Federal Aviation Regulations by designating the Laurens, S.C., transition area.

In the amendment, an extension was predicated on the 224° bearing from Laurens RBN. Subsequent to publication of the rule, it was determined that this bearing was in error and should have been published as "244°." It is necessary to amend the FR Doc. to reflect this change. Since this amendment is minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, effective immediately, FR Doc. No. 74-19764 is amended as follows:

In line five of the Laurens, S.C., transition area "* * * 224° * * *" is deleted and "* * * 244° * * *" is substituted therefor.

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

Issued in East Point, Ga., on September 6, 1974.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.74-21372 Filed 9-16-74;8:45 am]

[Airspace Docket No. 74-SO-77]

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

Alteration of Control Zone and Transition Area

On August 7, 1974, a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (39 FR 28440) and on August 26, 1974, a Supplemental Notice of Proposed Rule Making was published in the FEDERAL REGISTER (39 FR 30846), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation regulations that would alter the Savannah, Ga., control zone and transition area.

Interested persons were afforded an opportunity to participate in the rule making through the submission of comments. All comments received were favorable except those submitted by Aircraft Owners and Pilots Association (AOPA) and Mr. J. C. Saffold, Flight Service, Inc., Saffold Field, Savannah, Ga. Both objected to Saffold Field being included in the control zone. We do not consider these objections valid from an aeronautical standpoint. Saffold Field lies within an extension of the control zone. This extension is designated to provide controlled airspace protection for IFR aircraft executing VOR Runway 27, NDB Runway 27 and Radar I Standard Instrument Approach Procedures. The exclusion of this airport from the control zone will affect IFR arrivals and departures and derogate safety of flight within the Savannah terminal area.

In consideration of the foregoing, Part 71 of the Federal Aviation regulations is amended, effective 0901 G.m.t., November 7, 1974, as hereinafter set forth.

In § 71.171 (39 FR 354), the Savannah, Ga., control zone is amended to read:

SAVANNAH, GA.

Within a 5-mile radius of Savannah Municipal Airport (Lat. 32°07'35" N., Long. 81°12'05" W.); within a 5-mile radius of Hunter AAF (Lat. 32°01'30" N., Long. 81°-08'30" W.); within 3 miles each side of Hunter VOR 103° radial, extending from the 5-mile radius zone to 8.5 miles east of the VOR.

In § 71.181 (39 FR 440), the Savannah, Ga., transition area is amended as follows:

"* * * Runway 27 threshold * * *" is deleted and "* * * Runway 27 threshold; within an 8.5-mile radius of Hunter AAF (Lat. 32°01'30" N., Long. 81°08'30" W.) * * *" is substituted therefor.

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

Issued in East Point, Ga., on September 5, 1974.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.74-21373 Filed 9-16-74;8:45 am]

[Airspace Docket No. 74-EA-44]

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

Alteration of Transition Area

On page 26754 of the FEDERAL REGISTER for July 23, 1974, the Federal Aviation Administration published a proposed rule which would alter the Emporia, Va., Transition Area (39 FR 487).

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

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t. November 7, 1974.

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

Issued in Jamaica, N.Y., on Augst 30, 1974.

JAMES BISPO,
Deputy Director,
Eastern Region.

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

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center, (36°41'30" N., 77°29'30" W.) of Emporia Municipal Airport, Emporia, Va., extending clockwise from a 057° bearing to a 183° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 183° bearing to a 057° bearing from the airport and within 3 miles each side of a 135° bearing from the Emporia RBN (36°40'58" N., 77°28'57" W.) extending from the RBN to 8.5 miles southeast of the RBN.

[FR Doc.74-21374 Filed 9-16-74;8:45 am]

[Airspace Docket No. 74-EA-20]

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

Alteration of Transition Area

The Federal Aviation Administration published the subject docket as a rule, to become effective on September 12, 1974, (39 FR 26716, 26717), so as to alter the New York, N.Y., Transition Area. The pending rule in the subject docket would decrease the controlled airspace. However, a recent revision to the instrument approach procedure for South Wall Seaplane Base, New York, N.Y., requires a reclamation of a small portion of the proposed reduction.

Since the foregoing does not add to presently controlled airspace, no additional burden is imposed on any person and there is no need for notice and public hearing, and the amendment may be processed to rule in less than 30 days.

In view of the foregoing, Docket No. 74-EA-20 is amended, effective upon publication in the FEDERAL REGISTER, as follows:

In the description of the New York, N.Y. 700-foot floor Transition Area, following the phrase "9 miles northeast of the VOR;" insert the following, "within 4.5 miles northwest and 6.5 miles southeast of a 027° bearing and a 207° bearing from a point 40°36'21" N., 74°04'34" W., extending from 5.5 miles northeast to 11.5 miles southwest of said point;"

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

Issued in Jamaica, N.Y., on September 5, 1974.

ROBERT H. STANTON,
Director, Eastern Region.

[FR Doc.74-21376 Filed 9-16-74;8:45 am]

[Airspace Docket No. 74-EA-41]

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

Alteration of Control Zone and Transition Area and Revocation of Transition Area

On page 24026 of the FEDERAL REGISTER for June 28, 1974, the Federal Aviation Administration published a proposed rule which would alter the N. Philadelphia, Pa., Control Zone (39 FR 412) and Transition Area (39 FR 556); alter the Willow Grove, Pa., Control Zone (39 FR 437); and revoke the Langhorne, Pa., Transition Area (39 FR 526).

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

In view of the foregoing, the proposed regulations are hereby adopted, effective 0901 G.m.t. November 7, 1974.

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

Issued in Jamaica, N.Y., on August 30, 1974.

JAMES BISPO,
Deputy Director,
Eastern Region.

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by deleting the description of the Willow Grove, Pa. Control Zone and by substituting the following in lieu thereof:

Within a 5-mile radius of the center, 40°12'00" N., 75°08'55" W. of Willow Grove NAS, Willow Grove, Pa., extending clockwise from a 347° bearing to a 253° bearing from the airport; within a 5.5-mile radius of the center of the airport, extending clockwise from a 253° bearing to a 347° bearing from the airport; within 3 miles each side of the Willow Grove TACAN 136° radial, extending from the TACAN to 7 miles southeast of the TACAN; within 3.5 miles each side of the Willow Grove TACAN 325° radial, extending from the 5-mile radius and 5.5-mile radius zones centered on Willow Grove NAS to 8.5 miles northwest of the TACAN; within 3.5 miles each side of a 330° bearing from the Willow Grove RBN, extending from the 5 mile radius and 5.5-mile radius zone centered on Willow Grove NAS to 10 miles northwest of the RBN; within a 5-mile radius of the center, 40°12'15" N., 75°04'30" W. of Warminster NAF, Warminster, Pa.; within 1.5 miles each side of the Yardley VORTAC 244° radial, extending from the 5-mile radius zone centered on Warminster NAF to 2 miles southwest of the VORTAC; within 3 miles each side of the Warminster TACAN 083° radial, extending from the 5-mile radius zone centered on Warminster NAF to 6 miles east of the TACAN, excluding the south portion subtended by a chord drawn between the points of intersection of the 5-mile radius zone centered on Warminster NAF with the North Philadelphia, Pa. control zone 6-mile radius zone and excluding that portion of the control zone southeast extension described by reference to the Willow Grove TACAN 136° radial that coincides with the North Philadelphia, Pa. control zone. This control zone is effective from 0700 to 2400 hours, local time, Monday through Friday; and 0001 to 2400 hours, local time, Saturday and Sunday or during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

2. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by deleting the description of the North Philadelphia, Pa. control zone and by substituting the following in lieu thereof:

Within a 5-mile radius of the center, 40°04'49" N., 75°00'45" W. of North Philadelphia Airport, Philadelphia, Pa., extending clockwise from a 030° bearing to a 252° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 252° bearing to a 030° bearing from the airport, excluding the north portion subtended by a chord drawn between the points of intersection of the 6-mile radius zone with that portion of the Willow Grove, Pa. control zone 5-mile radius zone centered on Warminster NAF.

3. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting the description of the North Philadelphia, Pa. transition area and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, 40°04'49" N., 75°00'45" W. of North Philadelphia Airport, Philadelphia, Pa., extending clockwise from a 058° bearing to a 227° bearing from the airport; within an 11-mile radius of the center of the airport, extending clockwise from a 227° bearing to a 277° bearing from the airport; within a 10.5-mile radius of the center of the airport, extendinig clockwise from a 277° bearing to a 058° bearing from the airport; within 3.5 miles each side of the North Philadelphia VOR 045° radial, extending from the VOR to 10 miles northeast of the VOR; within an 8.5-mile radius of the center, 40°16'39" N., 74°48'49" W. of Mercer County Airport, Trenton, N.J., extending clockwise from a 055° bearing to a 245° bearing from the airport; within a 10-mile radius of the center of the airport extending clockwise from a 245° bearing to a 055° bearing from the airport; within 5 miles each side of the Yardley VORTAC 251° radial, extending from the VORTAC to 5 miles west of the VORTAC; within 3.5 miles each side of the Yardley VORTAC 070° radial, extending from Yardley VORTAC to 16 miles east of the VORTAC; within a 5-mile radius of the center 40°08'15" N., 75°16'00" W. of Wings Field, Philadelphia, Pa., extending clockwise from a 118° bearing to a 181° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 181° bearing to a 305° bearing from the airport; within a 5.5-mile radius of the center of the airport, extending clockwise from a 305° bearing to a 118° bearing from the airport; within 4.5 miles northwest 6.5 miles southeast of a 052° bearing and a 232° bearing from a point 40°05'05" N., 75°21'24" W., extending from 5.5 miles northeast to 11.5 miles southwest of said point; within 5 miles each side of a 254° bearing from a point 40°05'06" N., 75°21'24" W., extending from said point to 6.5 miles west of said point; within 5 miles each side of 231° bearing from the Ambler, Pa. RBN 40°07'33" N., 75°17'08" W., extending from the RBN to 6.5 miles southwest of the RBN; within a 9-mile radius of the center, 40°12'00" N., 75°08'55" W. of Willow Grove NAS, Willow Grove, Pa.; within 5 miles each side of the Willow Grove TACAN 136° radial, extending from the 9-mile radius area to 11.5 miles southeast of the TACAN; within 5 miles each side of the Willow Grove TACAN 325° radial, extending from the 9-mile radius area to 13.5 miles northwest of the TACAN; within an 8.5-mile radius of the center, 40°12'15" N., 75°04'30" W. of Warminster NAF, Warminster, Pa. extending clockwise from a 025° bearing to a 254° bearing from the airport; within a 9-mile radius of the center of the airport, extending clockwise from a 254° bearing to a 025° bearing from the airport; within 4 miles each side of a 262° bearing from the Willow Grove RBN, extending from the RBN to 8.5 miles west of the RBN; within 1.5 miles each side of the Yardley VORTAC 244° radial, extending from the 8.5-mile radius area centered on Warminster NAF to the VORTAC; within 5 miles each side of the Warminster TACAN 259° radial, extending from the TACAN to 9.5 miles west of the TACAN; within 4.5 miles each side of the Warminster TACAN 083° radial, extending from the TACAN to 9 miles east of the TACAN; within a 5-mile radius of the center, 40°13'15" N., 75°12'45" W. of Turner Field, Prospectville, Pa.; within 8 miles southwest and 3.5 miles northeast of the North Philadelphia VOR 312° radial, extending from 20 miles northwest of the VOR to 31.5 miles northwest of the VOR; within 5 miles each side of the North Philadelphia VOR 312° radial, extending from 20 miles northwest of the VOR to 26 miles northwest of the VOR; within 2.5 miles each side of the North Philadelphia VOR 312° radial extending from 16 miles northwest of the VOR to 20 miles northwest of the VOR; within a 5-mile radius of the center, 40°11'18" N., 74°53'54" W. of Buehl Field, Langhorne, Pa., extending clockwise from a 032° bearing to a 254° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 254° bearing to a 320° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 320° bearing to a 032° bearing from the airport; within 2 miles each side of the North Philadelphia VOR 038° radial, extending from the 5-mile radius to the North Philadelphia VOR.

4. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by revoking the Langhorne, Pa. Transition Area.

[FR Doc.74-21375 Filed 9-16-74;8:45 am]

[Airspace Docket No. 74-SW-95]

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 Durant, Okla., transition area. On July 26, 1974, a notice of proposed rule making was published in the FEDERAL REGISTER (39 FR 27331) stating the Federal Aviation Administration proposed to designate a transition area at Durant, Okla.

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., November 7, 1974, as hereinafter set forth.

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

DURANT, OKLA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Baker Field (latitude 33°56'30" N., longitude 96°24'00" W.), and within 3 miles each side of a 151° bearing from the Durant NDB (latitude 33°56'32" N., longitude 96°23'54" W.) extending from the 5-mile radius area to 9 miles SE 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 September 5, 1974.

ALBERT H. THURBURN,
Acting Director,
Southwest Region.

[FR Doc.74-21371 Filed 9-16-74;8:45 am]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

PART 620—ENGINEERING

Relinquishment of Highway Facilities

A new part, Part 620, of Title 23 of the Code of Federal Regulations is hereby established. This regulation will constitute Subpart B of Part 620. Subpart A will be reserved.

Parts of Policy and Procedure Memorandum 80-6.1 concerning the relinquishment of highway facilities has been incorporated into the Federal-Aid Highway Program Manual as Volume 6, Chapter 1, Section 1, Subsection 8. Regulatory portions of this directive are hereby published.

General notice of proposed rulemaking is not required since the material published relates to grants, benefits or contracts pursuant to 5 U.S.C. section 553(a)(2). The regulations become effective on date of issuance.

Issued on September 6, 1974.

NORBERT T. TIEMANN,
Federal Highway Administrator.

Subpart B—Relinquishment of Highway Facilities

Sec.
620.201 Purpose.
620.202 Applicability.
620.203 Procedures.

AUTHORITY: 23 U.S.C. 315; 49 CFR 1.48; 23 CFR 1.32.

Subpart B—Relinquishment of Highway Facilities

§ 620.201 Purpose.

To prescribe Federal Highway Administration (FHWA) procedures relating to relinquishment of highway facilities.

§ 620.202 Applicability.

The provisions of this section apply to highway facilities where Federal-aid funds have participated in either right-of-way or physical construction costs of a project.

§ 620.203 Procedures.

(a) After final acceptance of a project on the Federal-aid primary, urban, or secondary system or after the date that the plans, specifications and estimates (PS&E) for the physical construction on the right-of-way for a Federal-aid Interstate project have been approved by the FHWA, relinquishment of the right-of-way or any change made in control of access shall be in accordance with the provisions of this section. For the purposes of this section, final acceptance for a project involving physical construction is the date of the acceptance of the physical construction by the FHWA and for right-of-way projects, the date the division engineer determines to be the date of the completion of the acquisition of the right-of-way shown on the final plans.

(b) For the purposes of this section, "relinquishment" is defined as the conveyance of a portion of a highway right-of-way or facility by a State highway agency (SHA) to another Government agency for highway use.

(c) The following facilities may be relinquished in accordance with paragraph 203(f):

(1) Sections of a State highway which have been superseded by construction on new location and removed from the Federal-aid system and the replaced section thereof is approved by the FHWA as the new location of the Federal-aid route. Federal-aid funds may not participate in rehabilitation work performed for the purpose of placing the superseded section of the highway in a condition acceptable to the local authority. The relinquishment of any Interstate mileage shall be submitted to the Federal Highway Administrator as a special case for prior approval.

(2) Sections of reconstructed local facilities that are located outside the control of access lines, such as turnarounds of severed local roads or streets adjacent to the Federal-aid project's right-of-way, and local roads and streets crossing over or under said project that have been adjusted in grade and/or alignment, including new right-of-way required for adjustments. Eligibility for Federal-aid participation in the costs of the foregoing adjustments is as determined at the time of PS&E approval under policies of the FHWA.

(3) Frontage roads or portions thereof that are constructed generally parallel to and outside the control of access lines of a Federal-aid project for the purpose of permitting access to private properties rather than to serve as extensions of ramps to connect said Federal-aid project with the nearest crossroad or street.

(d) The following facilities may be relinquished only with the approval of the Federal Highway Administrator in accordance with paragraph 203(g).

(1) Frontage roads or portions thereof located outside the access control lines of a Federal-aid project that are constructed to service (in lieu of or in addition to the purposes outlined under paragraph (c)(3) of this section) as connections between ramps to or from the Federal-aid project and existing public roads or streets.

(2) Ramps constructed to serve as connections for interchange of traffic between the Federal-aid project and local roads or streets.

(e) Where a frontage road is not on an approved Federal-aid system title to the right-of-way may be acquired initially in the name of the political subdivision which is to assume control thus eliminating the necessity of a formal transfer later. Such procedure would be subject to prior FHWA approval and would be limited to those facilities which meet the criteria set forth in paragraph (c)(2) and (3) of this section.

(f) Upon presentation by a State that it intends to relinquish facilities such as described in paragraph (c)(1), (2) or (3) of this section to local authorities, the division engineer of the FHWA shall have appropriate field and office examination made thereof to assure that such relinquishments are in accordance with the provisions of the cited paragraphs. Relinquishments of the types described in paragraph (c)(1), (2) or (3) of this section may be made on an individual basis or on a project or route basis subject to the following conditions and understandings:

(1) Immediately following action by the State in approving a relinquishment, it shall furnish to the division engineer for record purposes a copy of a suitable map or maps identified by the Federal-aid project number, with the facilities to be relinquished and the date of such relinquishment action clearly delineated thereon.

(2) If it is found at any time after relinquishment that a relinquished facility is in fact required for the safe and proper operation of the Federal-aid highway, the State shall take immediate action to restore such facility to its jurisdiction without cost to Federal-aid highway funds.

(3) If it is found at any time that a relinquished frontage road or portion thereof or any part of the right-of-way therefor has been abandoned by local governmental authority and a showing cannot be made that such abandoned facility is no longer required as a public road, it is to be understood that the Federal Highway Administrator may cause to be withheld from Federal-aid highway

funds due to the State an amount equal to the Federal-aid participation in the abandoned facility.

(4) In no case shall any relinquishment include any portion of the right-of-way within the access control lines as shown on the plans for a Federal-aid project approved by the FHWA, without the prior approval of the Federal Highway Administrator.

(5) There cannot be additional Federal-aid participation in future construction or reconstruction on any relinquished "off the Federal-aid system" facility unless the underlying reason for such future work is caused by future improvement of the associated Federal-aid highway.

(g) In the event that a State desires to apply for approval by the Federal Highway Administrator for the relinquishment of a facility such as described in paragraph (d) (1) and (2) of this section, the facts pertinent to such proposal are to be presented to the division engineer of the FHWA. The division engineer shall have appropriate review made of such presentation and forward the material presented by the State together with his findings thereon through the Regional Federal Highway Administrator for consideration by the Federal Highway Administrator and determination of action to be taken.

(h) No change may be made in control of access, without the joint determination and approval of the SHA and FHWA. This would not prevent the relinquishment of title, without prior approval of the FHWA, of a segment of the right-of-way provided there is an abandonment of a section of highway inclusive of such segment.

(i) Relinquishments must be justified by the State's finding, concurred in by the FHWA, that:

(1) The subject land will not be needed for Federal-aid highway purposes in the foreseeable future;

(2) That the right-of-way being retained is adequate under present day standards for the facility involved;

(3) That the release will not adversely affect the Federal-aid highway facility or the traffic thereon;

(4) That the lands to be relinquished are not suitable for retention in order to restore, preserve, or improve the scenic beauty adjacent to the highway consonant with the intent of 23 U.S.C. 319 and PL 89-285, Title III, sections 302-305 (Highway Beautification Act of 1965).

(j) If a relinquishment is to a Federal, State or local governmental agency for highway purposes, there need not be a charge to the said agency, nor in such event any credit to Federal funds. If for any reason there is a charge to the said agency and Federal funds participated in the cost of the right-of-way, there shall be a credit to Federal funds on the same basis Federal funds participated in the cost of the right-of-way.

[FR Doc.74-21382 Filed 9-16-74;8:45 am]

SUBCHAPTER H—RIGHT-OF-WAY AND ENVIRONMENT

PART 712—THE ACQUISITION FUNCTION

Functional Replacement of Real Property In Public Ownership

This will amend Part 712 of the regulations of the Federal Highway Administration by adding a new Subpart, Subpart F—Functional Replacement of Real Property in Public Ownership.

This regulation prescribes the Federal Highway Administration policies on the functional replacement of real property in public ownership that is acquired for highway or highway related use. It codifies provisions contained in volume 7, chapter 2, section 2, subsection 1 of the Federal-Aid Highway Program Manual which revised similar provisions formerly contained in FHWA Policy and Procedure Memorandum 80-1. In consideration of the foregoing and effective immediately, Chapter I of Title 23, Code of Federal Regulations is amended by adding Subpart F to Part 712 of the regulations of the Federal Highway Administration.

These regulations are effective on the date of issuance set forth below.

Subpart F—Functional Replacement of Real Property in Public Ownership

Sec.

AUTHORITY: 23 U.S.C. 315; 42 U.S.C. 4633; 49 CFR 1.48(b).

Subpart F—Functional Replacement of Real Property in Public Ownership

§ 712.601 Purpose.

This regulation prescribes Federal Highway Administration (FHWA) policies on functional replacement of real property in public ownership.

§ 712.602 Applicability.

The provisions of this regulation are applicable, to the extent practicable under State law, to all States and political subdivisions thereof that acquire real property for any highway or highway related project in which Federal funds will participate in any part of the right-of-way costs of the project. The provisions of this regulation do not apply to real property owned by utilities or railroads.

§ 712.603 Federal Lands.

Acquisition of real property in Federal ownership shall be in accordance with FHWA regulations on Federal land transfers in 23 CFR 712.501 et seq.

§ 712.604 Functional replacement.

(a) Where the State highway department (SHD) so requests, and can, pursuant to State law, incur costs for the functional replacement of real property in public ownership, Federal funds may participate in such replacement costs provided that it is demonstrated, and FHWA concurs, that functional replacement is in the public interest. Application of functional replacement procedures is at the SHD's election, subject to FHWA approval of a SHD's request.

(b) For the purpose of this regulation, functional replacement is defined as the replacement of real property, either lands or facilities, or both, acquired as a result of a highway or highway related project with lands or facilities, or both, which will provide equivalent utility.

(c) Application of this policy, and Federal participation in costs pursuant thereto require that:

(1) The property to be functionally replaced is in public ownership,

(2) State law permits the incurrence of functional replacement costs,

(3) FHWA has concurred that functional replacement is in the public interest,

(4) FHWA has granted authorization to proceed on such basis prior to incurrence of costs,

(5) The functional replacement actually takes place, and the costs of replacement are actually incurred, and

(6) Replacement sites and construction are in compliance with existing codes, laws, and zoning regulations for the area in which the facility is located.

§ 712.605 Federal participation.

(a) Federal funds may participate in functional replacement costs on the following basis:

(1) The actual functional replacement cost of the facilities required to be replaced, and

(2) The appraised current fair market value of the land to be acquired for highway purposes when the owning agency has land on which to relocate the facilities, or the reasonable costs of acquiring a functionally equivalent substitute site where lands in the same public ownership are not available or suitable.

(b) Costs of increases in capacity and other betterments are not eligible for Federal participation except those necessary to replace utility; those required by existing codes, laws, and zoning regulations; and those related to reasonable prevailing standards for the type of facility being replaced.

(c) Where it is found that the appraised fair market value of the property to be acquired exceeds the cost of functional replacement. Federal funds may participate in the fair market value amount.

§ 712.606 Procedures.

(a) During the early stages of project development, SHD officials should meet with the owning agency to discuss the effect of a possible acquisition and potential application of functional replacement procedures. The results of discussions and decisions concerning functional replacement should be included in negative declarations and environmental impact and section 4(f) statements if required on a project.

(b) At the earliest practicable time, the SHD shall have the property appraised and establish an amount it believes to be just compensation, and shall advise the owning agency of the amount established. Subject to the requirements of this regulation, the owning agency has the option of accepting the amount of compensation established by the appraisal process or accepting functional replacement. The owning agency may waive its right to have an estimate of compensation established by the appraisal process if it prefers functional replacement.

(c) If the owning agency desires functional replacement, it should initiate a formal request to the SHD, and fully explain why it would be in the public interest.

(d) If the SHD agrees that functional replacement is necessary and in the public interest, it must submit a specific request for FHWA concurrence. The request should include:

(1) Cost estimate data relative to contemplated solutions,

(2) Agreements reached at meetings between the SHD and the owning agency, and

(3) An explanation of the basis for its request.

The request shall include a statement that replacement property will be acquired in accordance with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and applicable FHWA regulations.

(e) After concurrence by FHWA that functional replacement is in the public interest, FHWA may, at SHD request, authorize the SHD to proceed with the acquisition of the substitute site and to proceed with physical construction of minor structures, or, in the case of major improvements, to proceed with development of detailed plans, specifications and estimates.

(f) The plans, specifications, and estimates, and modifications thereof, shall be submitted to FHWA for review and approval in accordance with established procedures. Where major improvements are involved, advertising for bids and letting of the contract to construct the replacement facility may follow the general procedures utilized by the owning agency, if acceptable to the SHD and FHWA. The submission, where applicable, shall include provisions for SHD inspection during construction of the replacement facility.

(g) Prior to FHWA concurrence in the award for actual construction, an agreement shall be entered into setting forth the rights, obligations and duties of each party with regard to the faculty being acquired, the acquisition of the replacement site, and the construction of the replacement facility. The executed agreement shall also set forth how the costs of the new facility are to be shared between the parties.

(h) The SHD's request for final payment shall include:

(1) A statement signed by an appropriate official of the owning agency and the SHD certifying that the cost of the replacement facility has actually been incurred in accordance with the provisions of the executed agreement.

(2) The statement shall also certify that a final inspection of the facility was made by the SHD and owning agency and that the SHD is released from any further responsibility.

Issued on: September 9, 1974.

NORBERT T. TIEMANN,
Federal Highway Administrator.

[FR Doc.74-21431 Filed 9-16-74;8:45 am]

Title 36—Parks, Forests and Public Property

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Yellowstone National Park, Wyoming; Snowmobiling

A proposal was published at page 16151 of the FEDERAL REGISTER of May 7, 1974, to amend § 7.13, paragraph (l) of Title 36 of the Code of Federal Regulations. The effect of this amendment is to designate snowmobile routes, to define the term "Unplowed Roadway," and to specify a minimum age for operators of snowmobiles in Yellowstone National Park.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed amendment. No comments, suggestions or objections have been received and the proposed amendments are hereby adopted without change and set forth below. These amendments shall take effect October 17, 1974.

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C. 3)

Paragraph (l) of § 7.13 is amended to read as follows:

§ 7.13 Yellowstone National Park.

* * * * *

(l) *Skiing, sledding, tobogganing, snowshoeing, and oversnow vehicles.* (1) The following activities are prohibited:

* * *

(iv) No person under the age of 16 shall operate a snowmobile.

* * * * *

(3) Snowmobiles: (i) Definitions:

Unplowed roadway. The unplowed roadway shall be limited to that portion of the roadway located between the road shoulders designated by snow poles or poles, ropes, and signs erected by the Superintendent to regulate snowmobile activity.

(ii) Designated Routes:

The designated routes for snowmobile use shall be that portion of the unplowed roadway from:

(*a*) The Grand Loop Road from its junction with Terrace Springs Drive to Norris Junction.

(*b*) Norris Junction to Canyon Road.

(*c*) The Virginia Cascade Drive.

(*d*) The Grand Loop Road from Norris Junction to Madison Junction.

(*e*) The West Entrance Road from the Park Boundary at West Yellowstone to Madison Junction.

(*f*) The Grand Loop Road from Madison Junction to West Thumb.

(*g*) The Firehole Canyon Drive.

(*h*) The Blacktail Plateau Drive.

(*i*) The Fountain Flat Drive.

(*j*) The South Entrance Road from the South Entrance to West Thumb.

(*k*) The Grand Loop Road from West Thumb to its junction with the East Entrance Road.

(*l*) The East Entrance Road from the East Entrance to its junction with the Grand Loop Road.

(*m*) The Grand Loop Road from its junction with the East Entrance Road to Canyon Junction.

(*n*) The Canyon Rim Drives.

(*o*) The Grand Loop Road from Canyon Junction to Tower Junction.

(*p*) In the developed areas of Madison Junction, Old Faithful, Grant Village, Lake, Fishing Bridge, Canyon and Norris Junction, snowmobile routes to scenic points of interest, lodging and other facilities will be designated by appropriate snow poles and signs; said routes being limited to the unplowed roadways. The criteria for determining specific routes in these areas will be: the most direct access, weather and snow conditions and the elimination of congestion and improvement of circulation in the interest of public safety.

(*q*) Maps showing designated routes shall be available at Park Headquarters and each entrance station.

(iii) The Superintendent shall determine the opening and closing dates for use of the designated snowmobile routes each year, taking into consideration snow and other weather conditions, road plowing schedules and other factors that may relate to public safety, and he shall notify the public of such dates by the posting of appropriate signs at the entrances to the routes.

(iv) Snowmobile use outside designated routes is prohibited. This prohibition shall not apply to (*a*) emergency routes designated by the Superintendent with appropriate signs and poles and (*b*) emergency administrative travel by employees of the National Park Service or its contractors and concessioners.

* * * * *

ROBERT C. HARADEN,
Acting Superintendent,
Yellowstone National Park.

[FR Doc.74-21363 Filed 9-16-74;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 248-8]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to New York State Implementation Plans

On September 22, 1972 (37 FR 19815, § 52.1677(b)), pursuant to section 110(a) of the Clean Air Act, (42 U.S.C. 1857c-

5(a)), and 40 CFR Part 51, the Administrator disapproved portions of the New York implementation plan which did not provide for the reporting of periodic increments of progress toward compliance by affected sources or categories of sources.

New York State, on January 17, 1974, submitted supplemental information which consisted of a revised Part 205 (Photochemically Reactive Solvents and Organic Solvents from Certain Processes—New York City Metropolitan Area) of Subchapter A, Chapter III, Title 6 of New York's Official Compilation of Codes, Rules and Regulations (6 NYCRR). The revision to the regulation, which became effective on January 28, 1974, changes the compliance date from December 31, 1974 to January 31, 1974.

On March 4, 1974 (39 FR 8175), the Environmental Protection Agency (EPA) announced that the above mentioned supplemental information would be available for public comment for a period of 30 days. The comment period ended on April 3, 1974 and no comments were received by the EPA Regional Office.

The compliance date revision for Part 205 eliminates the need for increments of progress, since 40 CFR 51.15(c) does not require such increments in cases where the final compliance date does not extend beyond January 31, 1974.

Therefore, the EPA disapproval of Part 205 of Title 6 of the New York Official Compilation of Codes, Rules and Regulations is revoked. This regulation shall become effective on October 17, 1974.

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

Dated: September 11, 1974.

JOHN QUARLES,
Acting Administrator.

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

Subpart HH—New York

1. In § 52.1670, paragraph (c) is amended by revising subparagraph (3) as follows:

§ 52.1670 Identification of plan.

* * * * * * *

(c) * * *

(3) October 26, 1973, November 27, 1973, January 17, 1974.

§ 52.1677 [Amended]

2. In § 52.1677, paragraph (b) is revised by deleting all reference to section 205.10(c).

[FR Doc.74-21502 Filed 9-16-74;8:45 am]

[FRL 264-3]

SUBCHAPTER E—PESTICIDE PROGRAMS

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Thiabendazole

In response to a petition (PP4E1478) submitted by Dr. C. C. Compton, Interregional Research Project No. 4, State Agricultural Experiment Station, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee, the U.S. Department of Agriculture, the Agricultural Experiment Station of Maine, the Maine Department of Agriculture, and the Maine Potato Commission, a notice was published by the Environmental Protection Agency in the FEDERAL REGISTER of July 24, 1974 (39 FR 26917), proposing establishment of a tolerance for negligible residues of the fungicide thiabendazole (2-(4-thiazolyl) benzimidazole) in or on the raw agricultural commodity potatoes, which have been grown from seed potatoes treated with the fungicide, at 0.1 part per million. No comments or requests for referral to an advisory committee were received.

It is concluded that the proposal should be adopted.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a (e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 FR 18805), § 180.242 is amended by inserting the new paragraph "0.1 part per million (negligible residue) *. * *" after the paragraph "0.1 part per million for combined residues * * *", as follows:

§ 180.242 Thiabendazole; tolerances for residues.

* * * * * *

0.1 part per million (negligible residue) in or on potatoes which have been grown from seed potatoes treated with thiabendazole.

* * * * * *

Any person who will be adversely affected by the foregoing order may at any time on or before October 17, 1974, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets, S.W., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on September 17, 1974.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a (e)))

Dated: September 12, 1974.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.74-21507 Filed 9-16-74;8:45 am]

[FRL 264-5]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Isopropyl m-Chlorocarbanilate and Isopropyl Carbanilate; Interim Tolerances

In response to two petitions (PP's 2F1276 and 2F1277) submitted by PPG Industries, Inc., 1 Gateway Center, Pittsburgh, PA 15222, a notice was published by the Environmental Protection Agency in the FEDERAL REGISTER of July 16, 1974 (39 FR 26044), proposing establishment of interim tolerances for residues of the herbicides isopropyl *m*-chlorocarbanilate (CIPC) and isopropyl carbanilate (IPC), respectively, in or on various raw agricultural commodities at various levels. No comments or requests for referral to an advisory committee were received.

It is concluded that the proposal should be adopted.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 FR 18805), § 180.319 is amended by alphabetically inserting two new items in the table as follows:

§ 180.319 Interim tolerances.

* * * * * *

Substance	Use	Tolerance in parts per million	Raw agricultural commodity
*	*	*	*
Isopropyl carbanilate (IPC)	Herbicide	5	Hay of alfalfa, clover, and grass.
		2	Alfalfa, clover, and grass.
		0.1	Flaxseed, lentils, lettuce, peas, safflower seed, spinach, and sugar beets (roots and tops).
		0.05	Eggs; milk; and the meat fat, and meat byproducts of cattle, goats hogs, horses, poultry, and sheep.
Isopropyl *m*-chlorocarbanilate (CIPC).	do	50	Hay of alfalfa, clover, and grass.
		20	Alfalfa, clover, and grass.
		0.3	Beans (dry and succulent), blackberries, blueberries, cranberries, peas (dry and succulent), raspberries, spinach, and sugar beet tops.
		0.1	Carrots, garlic, onions, rice grain, safflower seed, sugar beet roots, and tomatoes.
		0.05	Eggs; milk; and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep.
*	*	*	*

Any person who will be adversely affected by the foregoing order may at any time on or before October 17, 1974, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets, S.W., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on September 17, 1974.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

Dated: September 12, 1974.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.74-21505 Filed 9-16-74;8:45 am]

[FRL 264-6]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Perchloroethylene

No comments or requests for referral to an advisory committee were received in response to a notice published by the Environmental Protection Agency in the FEDERAL REGISTER of July 24, 1974 (39 FR 26918), proposing that perchloroethylene, when used as a solvent or cosolvent, be exempted from the requirement of a tolerance when used in accordance with good agricultural practice as an inert (or occasionally active) ingredient in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest. The maximum percentage in the formulation is to be limited to 0.6 percent.

It is concluded that the proposal should be adopted.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 FR 18805), § 180.1001 is amended by alphabetically inserting a new item in the table in paragraph (c), as follows:

§ 180.1001 Exemption from the requirement of a tolerance.

* * * * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * *	* * *	* * *
Perchloroethylene.	Not more than 0.6% of pesticide formulation.	Solvent, cosolvent.
* * *	* * *	* * *

Any person who will be adversely affected by the foregoing order may at any time on or before October 17, 1974, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets, SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on September 17, 1974.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

Dated: September 12, 1974.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.74-21504 Filed 9-16-74;8:45 am]

[FRL 264-4]

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Ethylene

In response to a petition (PP4E1457) submitted by the U.S. Department of Agriculture, a notice was published by the Environmental Protection Agency in the FEDERAL REGISTER of July 15, 1974 (39 FR 25960), proposing establishment of an exemption from the requirement of a tolerance for residues of ethylene when used to stimulate witchweed germination in control programs. No requests for referral to an advisory committee were received. One comment was received from the North Carolina Department of Agriculture in support of the proposal.

It is concluded that the proposal should be adopted.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (39 FR 18805), § 180.1016 is revised to read as follows:

§ 180.1016 Ethylene; exemption from the requirement of a tolerance.

Ethylene is exempted from the requirement of a tolerance for residues when:

(a) Used as a plant regulator on fruit and vegetable crops in conformity with good agricultural practice before or after harvest, or

(b) Injected into the soil to cause premature germination of witchweed in corn, cotton, peanut and soybean fields as part of the U.S. Department of Agriculture witchweed control program.

Any person who will be adversely affected by the foregoing order may at any time on or before October 17, 1974, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets, S.W., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on September 17, 1974.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

Dated: September 12, 1974.

HENRY J. KORP,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc.74-21506 Filed 9-16-74;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Amdt. E-150]

PART 101-26—PROCUREMENT SOURCES AND PROGRAMS

Subpart 101-26.6—Procurement Sources of the Department of Defense

PURCHASE PROGRAMS OF THE DEFENSE FUEL SUPPLY CENTER

This amendment prescribes procedural changes concerning the fuel and petroleum purchase programs of the Defense Fuel Supply Center (DFSC), including a new due date for the submission of estimated requirements for lubricating oils (nonaircraft) and new DFSC correspondence symbols relating to certain programs.

1. Section 101-26.602-1 is amended as follows:

§ 101-26.602-1 Procurement of lubricating oils, greases, and gear lubricants.

(a) The Defense Fuel Supply Center will make annual procurements of lu-

bricating oils, greases, and gear lubricants for ground type (nonaircraft) equipment and of aircraft engine oils on an annual program basis. Estimates of requirements for items covered by these programs will be solicited annually from agencies on record with the Defense Fuel Supply Center in time for the requirements to arrive at the Center on the following schedule:

	Purchase program	Due on or before
Lubricating oils (nonaircraft).	4.1	November 15.
Aircraft engine oils	4.2	June 15.
Grease and gear oils	4.4	October 15.

(b) Activities not on record but requiring procurement support shall submit requests to: Commander, Defense Fuel Supply Center, Attn: DFSC:PG, Cameron Station, Alexandria, VA 22314, on or before the requirement due dates specified in § 101–26.602–1(a). Submission of requirements is not required if:

* * * * *

2. Section 101–26.602–3 is amended as follows:

§ 101–26.602–3 Procurement of gasoline, fuel oil (diesel and burner), kerosene, and solvents.

(a) Estimates of annual requirements will be solicited annually by the Defense Fuel Supply Center from agencies on record so as to reach that activity approximately 45 days before the due date shown in Defense Fuel Supply Center geographic alignment of States set forth in § 101–26.602–3 (d) and (e). The requirements call will be accomplished by mailing a computer produced record of the file data for each delivery point that has been identified to each submitting addressee; instructions for validation and return will be included. Activities not on record but requiring procurement support shall prepare and submit estimates on DFSC Form 15:18, for petroleum fuel requirements, or on DFSC Form 15:20, for solvents, to the Defense Fuel Supply Center, Cameron Station, Alexandria, VA 22314. Illustrations of these forms are contained in § 101–26.4904. Copies may be obtained on request from: Commander, Defense Fuel Supply Center, Attention: DFSC:PE, Cameron Station, Alexandria, VA 22314.

* * * * *

(b) Agency requirements will be solicited for procurement by the Defense Fuel Supply Center and contracts resulting from these solicitations will be summarized in contract bulletins, separately for each Defense Fuel Supply Center geographic region, and distributed to agencies on record. Activities of agencies requiring additional contract bulletins shall submit requests to: Commander, Defense Fuel Supply Center, Attention: DFSC: PE, Cameron Station, Alexandria, VA 22314.

* * * * *

3. Section 101–26.602–4(d) is revised to read as follows:

§ 101–26.602–4 Procurement of coal.

* * * * *

(d) Copies of DD Form 416 may be obtained from: Commander, Defense Fuel Supply Center, Attention: DFSC: PH, Cameron Station, Alexandria, VA 22314.

* * * * *

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

Effective date. This regulation is effective September 17, 1974.

Dated: September 6, 1974.

ARTHUR F. SAMPSON,
Administrator of General Services.

[FR Doc.74–21267 Filed 9–16–74;8:45 am]

Title 43—Public Lands: Interior

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5433]

[New Mexico 16885]

NEW MEXICO

Powersite Restoration No. 585; Partial Revocation of Waterpower Designation No. 1, New Mexico No. 1 and Partial Revocation of Powersite Reserve No. 548

By virtue of the authority contained in section 24 of the Act of June 10, 1920, 41 Stat. 1075, as amended, 16 U.S.C. 818 (1970), and pursuant to the determination of the Federal Power Commission in DA–84–New Mexico, it is ordered as follows:

1. The departmental order of August 7, 1916, creating Waterpower Designation No. 1, New Mexico No. 1, and the Executive Order of September 30, 1916, creating Powersite Reserve No. 548, are hereby revoked so far as they affect the following described land:

NEW MEXICO PRINCIPAL MERIDIAN

T. 23 N., R. 10 E.,
sec. 27, lot 1.

The area described aggregates 47.44 acres of land in Rio Arriba County.

In its determination DA–84–New Mexico, the Federal Power Commission determined that it had no objection to the revocation of Powersite Reserve No. 548 and Waterpower Designation No. 1 so far as they related to the above described land.

2. The State of New Mexico declined to exercise its preference right to select any or all of the lands involved for highway rights-of-way or material sites as provided by section 24 of the Federal Power Act of June 10, 1920, supra.

3. Subject to valid existing rights, the provisions of existing withdrawals and the requirements af applicable law, the lands shall at 10 a.m. on October 9, 1974, be open to the operation of the public land laws generally. All valid applications received at or prior to 10 a.m. on October 9, 1974, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. The lands have been and will continue to be open to applications and offers under the mineral leasing laws, and to location and entry under the U.S. mining laws.

Inquiries concerning the lands should be addressed to Chief, Division of Technical Services, Bureau of Land Management, Post Office Box 1449, Santa Fe, New Mexico 87501.

JACK O. HORTON,
Assistant Secretary of the Interior.

SEPTEMBER 3, 1974.

[FR Doc. 74–21470 Filed 9–16–74;8:45 am]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 74–119]

REVOCATION AND RECODIFICATION

The Coast Guard is revoking Part 170 and recodifying Parts 136, 137, and 143 of Title 46, Code of Federal Regulations, Parts 136, 137, and 143 are reissued as Parts 4, 5, and 9 respectively of Title 46.

46 CFR Part 170 contains the general provisions for the numbering of undocumented vessels, statistics on numbering, and "boating accident reports" and accident statistics. The substantive boating regulations that 46 CFR Part 170 is addressed to were revoked in the Federal Register issue of October 7, 1972 (37 FR 21404). Because of this revocation, 46 CFR Part 170 does not serve any useful purpose and is being revoked.

46 CFR Part 136, Marine Investigations Regulations, 46 CFR Part 137, Suspension and Revocation Proceedings, and 46 CFR Part 143, Extra Compensation for Overtime Services, now appear between Subchapter J, Electrical Engineering, and Subchapter M, Bulk Grain Cargoes, in Title 46. 46 CFR Parts 136, 137, and 143 are being reissued as 46 CFR Parts 4, 5, and 9 respectively in Subchapter A, Procedures Applicable to the Public, to which these parts are logically related. The recodification will promote reader understanding and facilitate reference.

Furthermore, 46 CFR 4.01–1 and 46 CFR 4.01–5 are revoked because they are references to 46 CFR Part 173 that has been revoked, and 46 CFR Part 136 that is recodified as 46 CFR Part 4 by this document.

Since these amendments are not substantive, notice and public procedure are unnecessary under 5 U.S.C. 553(b)(3)(B), and they are effective immediately under 5 U.S.C. 553(d)(3).

In consideration of the foregoing, Chapter 1, of Title 46, Code of Federal Regulations is amended as follows:

1. 46 CFR Part 170 is revoked.

(46 U.S.C. 1488, 49 CFR 1.46(b))

2. 46 CFR Part 4.01–1 and 46 CFR Part 4.01–5 are revoked and Parts 136, 137, and 143 of Title 46, Code of Federal Regulations are adopted as amendments to Subchapter A of the same title by adding them as new Parts 4, 5, and 9, respectively, as set forth below.

(46 U.S.C. 375, 416, 14 U.S.C. 633, 49 CFR 1.46(b))

Dated: August 30, 1974.

Effective date: This amendment is effective on September 13, 1974.

O. W. SILER,
Admiral, U.S. Coast Guard,
Commandant.

PART 4—MARINE INVESTIGATION REGULATIONS

AUTHORITY: The provisions of this Part 4 issued under sec. 2, 633, 63 Stat. 496, 545; 46 U.S.C. 375, 416, 14 U.S.C. 2, 633. Interpret or apply secs. 1, 2, 49 Stat. 1544, 1545, as amended, sec. 17, 54 Stat. 166, as amended, sec. 3, 54 Stat. 347, as amended, sec. 3, 70 Stat. 152, sec. 93 (e), (f), 63 Stat. 504, secs. 10–13, 18 Stat. 128, as amended, sec. 15, 38 Stat. 1184, as amended, sec. 4, 67 Stat. 462, sec. 3, 68 Stat. 675; 46 U.S.C. 239, 367, 526p, 1333, 390b, 14 U.S.C. 93 (e), (f), 33 U.S.C. 361–364, 365, 43 U.S.C. 1333, 50 U.S.C. 198.

Subpart 4.01—Authority and Scope of Regulations

§ 4.01–1 Authority and scope of regulations.

The regulations in this part promulgated pursuant to the provisions of R.S. 4450, as amended (46 U.S.C. 239), shall govern the conduct of investigations relating to:

(a) Marine casualties and accidents; and,

(b) Acts in violation of Title 46, U.S. Code, sections 170, 214, 215, 222, 224, 224a, 226, 228–234, 239, 240, 361, 362, 364, 367, 372, 373, 375–382, 384, 385, 390–390g 391, 391a, 392, 393, 399, 400, 402–416, 435–440, 451–453, 460–463, 464, 467, 470–481, 482, 489–498, or Title 50, U.S. Code, section 198, or any of the regulations issued thereunder; or,

(c) Acts of incompetency or misconduct committed by any licensed officer or holder of a certificate of service when such acts are committed in connection with any marine casualty or accident.

Subpart 4.03—Definitions

§ 4.03–1 Marine casualty or accident.

(a) The term "marine casualty or accident" shall mean any casualty or accident involving any vessel other than public vessels if such casualty or accident occurs upon the navigable waters of the United States, its territories or possessions or any casualty or accident wherever such casualty or accident may occur involving any United States' vessel which is not a public vessel. (See § 4.03–40 for definition of "Public Vessel.")

(b) A marine casualty of accident shall include any occurrence involving a vessel which results in damage by or to the vessel, its apparel and gear, and/or cargo, or injury or loss of life of any of its crew or passengers; and includes inter alia, collisions, strandings, groundings, founderings, heavy weather damage, fires, explosions, failure of gear and equipment and any other damage which might affect and/or impair the seaworthiness thereof.

§ 4.03–5 Major marine casualty.

A casualty shall be considered a major marine casualty whenever it indicates serious damage to material and results in loss of life or serious injury to crew and/or passengers. A casualty may also be deemed a major marine casualty when the circumstances or unusual conditions thereof are of such a nature that the proper investigation cannot be accomplished solely by an investigating officer.

§ 4.03–10 Party in interest.

The term "party in interest" shall mean any person whom the Marine Board of Investigation or the investigating officer shall find to have a direct interest in the investigation conducted by it and shall include an owner, a charterer, or the agent of such owner or charterer of the vessel or vessels involved in the marine casualty or accident, and all licensed or certificated personnel whose conduct, whether or not involved in a marine casualty or accident is under investigation by the Board or investigating officer.

§ 4.03–15 Commandant.

The Commandant, U.S. Coast Guard, is that officer who acts as chief of the Coast Guard and is charged with the administration of the Coast Guard.

§ 4.03–20 Coast Guard district.

A Coast Guard district is one of the geographical areas whose boundaries are described in 33 CFR Part 3.

§ 4.03–25 District Commander.

The District Commander is the chief of a Coast Guard district and is charged with the administration of all Coast Guard responsibilities and activities within his respective district, except those functions of administrative law judges under the Administrative Procedure Act (60 Stat. 237, 5 U.S.C. 1001 et seq.) and activities of independent units of the Coast Guard, such as the Coast Guard Yard and the Coast Guard Academy.

§ 4.03–30 Investigating officer.

An investigating officer is an officer or employee of the Coast Guard designated by the Commandant, District Commander or the Officer in Charge, Marine

Inspection, for the purpose of making investigations of marine casualties and accidents or other matters pertaining to the conduct of seamen. An Officer in Charge, Marine Inspection, is an investigating officer without further designation.

§ 4.03–40 Public vessels.

Vessels within the statutory exemptions of Title LII of the Revised Statutes of the United States (R.S. 4399–4500) (as amended) relating to the inspection of vessels, are public vessels, and therefore not subject to the regulations in this part. To be deemed public vessels such vessels must:

(a) Be used for a public purpose, not in trade or commercial service; and,

(b) Be owned outright by the United States; it is not sufficient that the United States holds the vessel under a bareboat charter.

Subpart 4.05—Notice of Marine Casualty and Voyage Records

§ 4.05–1 Notice of marine casualty.

The owner, agent, master, or person in charge of a vessel involved in a marine casualty shall give notice as soon as possible to the nearest marine inspection office of the Coast Guard whenever the casualty results in any of the following:

(a) Actual physical damage to property in excess of $1500.00;

(b) Material damage affecting the seaworthiness or efficiency of a vessel;

(c) Stranding or grounding;

(d) Loss of life; or,

(e) Injury causing any persons to remain incapacitated for a period in excess of 72 hours; except injury to harbor workers not resulting in death and not resulting from vessel casualty or vessel equipment casualty.

§ 4.05–5 Substance of marine casualty notice.

The notice required in § 4.05–1 shall show the name and official number of the vessel involved, the owner or agent thereof, and insofar as is practicable, the nature and probable occasion of the casualty, the locality in which it occurred, the nature and extent of injury to personnel and the damage to property.

§ 4.05–10 Report by officer in charge of vessel in person.

(a) In addition to the notice required by § 4.05–1, the person in charge of the vessel shall, as soon as possible report in writing and in person to the Officer in Charge, Marine Inspection, at the port in which the casualty occurred or nearest the port of first arrival: *Provided*, That when from distance it may be inconvenient to report in person it may be done in writing only. The written report required for personal accident shall be made on Form CG–924E and submitted for each individual injured and each loss of life. For all other vessel casualties the written report shall be made on Form CG–2692.

(b) If filed without delay, the Form CG–924E or CG–2692 may also provide the notice required by § 4.05–1.

(Secs. 13, 17, 54 Stat. 166, as amended, 46 U.S.C. 526*l*(c))

§ 4.05–15 Voyage records, retention of.

(a) The owner, agent, master, or person in charge of any vessel involved in a marine casualty shall retain such voyage records as are maintained by the vessel, such as both rough and smooth deck and engine room logs, bell books, navigation charts, navigation work books, compass deviation cards, gyro records, stowage plans, records of draft, aids to mariners, night order books, radiograms sent and received, radio logs, crew and passenger lists, articles of shipment, official logs and other material which might be of assistance in investigating and determining the cause of the casualty. The owner, agent, master, other officer or person responsible for the custody thereof, shall make these records available upon request, to a duly authorized investigating officer, administrative law judge, officer or employee of the Coast Guard.

(b) The investigating officer may substitute photostatic copies of the voyage records referred to in paragraph (a) of this section when they have served their purpose and return the original records to the owner or owners thereof.

§ 4.05–20 Report of accident to aid to navigation.

Whenever a vessel collides with a lightship, buoy, or other aid to navigation under the jurisdiction of the Coast Guard, or is connected with any such collision, it shall be the duty of the person in charge of such vessel to report the accident to the nearest Officer in Charge, Marine Inspection. No report on Form CG–2692 is required unless one or more of the results listed in section 4.05–1 occur.

§ 4.05–25 Reports when state of war exists.

During the period when a state of war exists between the United States and any foreign nation, communications in regard to casualties or accidents shall be handled with caution and the reports shall not be made by radio or by telegram.

Subpart 4.07—Investigations

§ 4.07–1 Commandant or District Commander to order investigation

(a) The Commandant or District Commander upon receipt of information of a marine casualty or accident, will immediately cause such investigation as may be necessary in accordance with the regulations in this part.

(b) The investigations of marine casualties and accidents and the determinations made are for the purpose of taking appropriate measures for promoting safety of life and property at sea, and are not intended to fix civil or criminal responsibility.

(c) The investigation will determine as closely as possible:

(1) The cause of the accident;

(2) Whether there is evidence that any failure of material (either physical or design) was involved or contributed to the casualty, so that proper recommendations for the prevention of the recurrence of similar casualties may be made;

(3) Whether there is evidence that any act of misconduct, inattention to duty, negligence or willful violation of the law on the part of any licensed or certificated man contributed to the casualty, so that appropriate proceedings against the license or certificate of such person may be recommended and taken under Title 46, U.S. Code, section 239;

(4) Whether there is evidence that any Coast Guard personnel or any representative or employee of any other government agency or any other person caused or contributed to the cause of the casualty; or,

(5) Whether the accident shall be further investigated by a Marine Board of Investigation in accordance with regulations in Subpart 4.09.

§ 4.07–5 Investigating officers, powers of.

(a) An investigating officer investigates each marine casualty or accident reported under §§ 4.05–1 and 4.05–10.

(b) Such investigating officer shall have the power to administer oaths, subpoena witnesses, require persons having knowledge of the subject matter of the investigation to answer questionnaires and require the production of relevant books, papers, documents and other records.

(c) Attendance of witnesses or the production of books, papers, documents or any other evidence shall be compelled by a similar process as in the United States District Court.

[CGFR 65–50, 30 FR 17099, Dec. 30, 1965, as amended by CGD–104R, 37 FR 14234, July 18, 1972]

§ 4.07–7 Opening statement.

The investigating officer or the Chairman of a Marine Board of Investigation shall open the investigation by announcing the statutory authority for the proceeding and he shall advise parties in interest concerning their rights to be represented by counsel, to examine and cross-examine witnesses, and to call witnesses in their own behalf.

§ 4.07–10 Report of investigation.

(a) At the conclusion of the investigation the investigating officer shall submit to the Commandant via the Officer in Charge, Marine Inspection, and the District Commander, a full and complete report of the facts as determined by his investigation, together with his opinions and recommendations in the premises. The District Commander shall forward the investigating officer's report to

the Commandant with an indorsement stating:

(1) Approval or otherwise of the findings of fact, conclusions and recommendations;

(2) Any action taken with respect to the recommendations;

(3) Whether or not any action has been or will be taken under Part 5 of this subchapter to suspend or revoke licenses or certificates; and,

(4) Whether or not violations of laws or regulations relating to vessels have been reported on Form CG–2636, report of violation of navigation laws.

(b) Investigating officers in foreign ports shall forward their reports directly to the Commandant.

§ 4.07–15 Recommendations, action on.

Where the recommendations of an investigating officer are such that their accomplishment is within the authority of the District Commander or any of the personnel under his command, immediate steps shall be taken to put them into effect and his forwarding endorsement shall so indicate.

§ 4.07–20 Transfer of jurisdiction.

When it appears to the District Commander that it is more advantageous to conduct an investigation in a district other than in the district where the casualty was first reported, that officer shall transfer the case to the other district together with any information or material relative to the casualty he may have.

§ 4.07–25 Testimony of witnesses in other districts, depositions.

When witnesses are available in a district other than the district in which the investigation is being made, testimony or statements shall be taken from witnesses in the other districts by an investigating officer and promptly transmitted to the investigating officer conducting the investigation. Depositions may be taken in the manner prescribed by regulations in Subpart 4.12.

§ 4.07–30 Testimony of witnesses under oath.

(a) Witnesses to marine casualties or accidents appearing before an investigating officer may be placed under oath and their testimony may be reduced to writing.

(b) Written statements and reports submitted as evidence by witnesses shall be sworn to before an officer authorized to administer oaths and such statements and/or reports shall be signed.

§ 4.07–35 Counsel for witnesses and parties in interest.

(a) All parties in interest shall be allowed to be represented by counsel, to examine and cross-examine witnesses and to call witnesses in their own behalf.

(b) Witnesses who are not parties in interest may be assisted by counsel for the purpose of advising such witnesses concerning their rights; however, such counsel will not be permitted to examine or cross-examine other witnesses or otherwise participate in the investigation.

§ 4.07–45 Foreign units of Coast Guard, investigation by.

Investigations of marine casualties conducted by foreign units of the Coast Guard shall be in accordance with the regulations in this part and all actions taken in connection with the investigations of such marine casualties entered in the official log(s) of the vessel(s) concerned.

§ 4.07–50 Marine Board of Investigation, recommendations for.

When the District Commander is of the opinion, as a result of an investigation under § 4.07–1, or otherwise, that a marine casualty or accident is a major marine casualty (see § 4.03–5), that officer shall immediately inform the Commandant by dispatch with his recommendation whether a further investigation by a Marine Board of Investigation shall be conducted.

§ 4.07–55 Information to be furnished Marine Board of Investigation.

When a Marine Board of Investigation is convened in accordance with § 136.09–1, the investigating officer shall immediately furnish the board with all testimony, statements, reports, documents, papers, a list of witnesses including those whom he has examined, other material which he may have gathered, and a statement of any findings of fact which he may have determined. The preliminary investigation shall cease forthwith and the aforementiond material shall become a part of the Marine Board of Investigation's record.

Subpart 4.09—Marine Board of Investigation

§ 4.09–1 Commandant to designate.

If as a result of an investigation of any casualty, upon recommendation of a District Commander or upon receipt of information from any other source, it appears to the Commandant that a marine casualty or accident is a major casualty (see § 4.03–5) and that further investigation thereof would tend to promote safety of life and property at sea and would be in the public interest, the Commandant will designate an appropriate Marine Board of Investigation to conduct such investigation forthwith.

§ 4.09–5 Powers of Marine Board of Investigation.

Any Marine Board of Investigation so designated shall have the power to administer oaths, summon witnesses, require persons having knowledge of the subject matter of the investigation to answer questionnaires, and to require the production of relevant books, papers, documents or any other evidence. Attendance of witnesses or the production of books, papers, documents or any other evidence shall be compelled by a similar process as in the United States District Court. The chairman shall administer all necessary oaths to any witnesses summoned before said Board.

§ 4.09–10 Witnesses, payment of.

Any witness subpoenaed under § 4.09–5 shall be paid such fees for his travel and attendance as shall be certified by the chairman of a Marine Board of Investigation or an investigating officer, in accordance with § 4.11–10.

§ 4.09–15 Time and place of investigation, notice of; rights of witnesses, etc.

Reasonable notice of the time and place of the investigation shall be given to any person whose conduct is or may be under investigation and to any other party in interest. All parties in interest shall be allowed to be represented by counsel, to cross-examine witnesses, and to call witnesses in their own behalf.

§ 4.09–17 Sessions to be public.

(a) All sessions of a Marine Board of Investigation for the purpose of obtaining evidence shall normally be open to the public, subject to the provision that the conduct of any person present shall not be allowed to interfere with the proper and orderly functioning of the Board. Sessions will not be open to the public when evidence of a classified nature or affecting national security is to be received.

§ 4.09–20 Record of proceedings.

The testimony of witnesses shall be transcribed and a complete record of the proceedings of a Marine Board of Investigation shall be kept. At the conclusion of the investigation a written report shall be made containing findings of fact, opinions, and recommendations to the Commandant for his consideration.

§ 4.09–25 U.S. Attorney to be notified.

The recorder of a Marine Board of Investigation shall notify the United States Attorney for the District in which the Marine Board of Investigation is being conducted of the nature of the casualty under investigation and time and place the investigation will be made.

§ 4.09–30 Action on report.

Upon approval of the report of a Marine Board of Investigation the Commandant will require to be placed into effect such recommendations as he may deem necessary for the better improvement and safety of life and property at sea.

§ 4.09–35 Preferment of charges.

(a) If in the course of an investigation by a Marine Board there appears probable cause for the preferment of charges against any licensed or certificated personnel, the Marine Board shall, either during or immediately following the investigation and before the witnesses have dispersed, apprise the District Commander of such evidence for possible action in accordance with Part 5 of this subchapter, without waiting for the approval of the report by the Commandant. Such action or proceedings shall be independent and apart from any other action which may be later ordered by the

Commandant or taken by other authorities.

Subpart 4.11—Witnesses and Witness Fees

§ 4.11–1 Employees of vessels controlled by Army or Navy as witnesses.

No officer, seaman, or other employee of any public vessel controlled by the Army or Navy (not including the Coast Guard) of the United States, shall be summoned or otherwise required to appear as a witness in connection with any investigation or other proceeding without the consent of the Government agency concerned.

§ 4.11–5 Coercion of witnesses.

Any attempt to coerce any witness or to induce him to testify falsely in connection with a shipping casualty, or to induce any witness to leave the jurisdiction of the United States, is punishable by a fine of $5,000.00 or imprisonment for one year, or both such fine and imprisonment.

§ 4.11–10 Witness fees, subsistence, and mileage.

(a) Duly subpoenaed witnesses, other than Government witnesses, in any investigation or other proceeding may apply for payment for their services as witnesses. Upon the submission of such a request for payment (Standard Form 1157), the chairman of a Marine Board of Investigation or the investigating officer will forward the request to the authorized Coast Guard certifying officer together with a statement that:

(1) The witness seeking payment was duly subpoenaed as a witness by the Coast Guard;

(2) The witness appeared pursuant to such subpoena; and

(3) The witness is entitled to the witness fees, and/or subsistence, and/or mileage claimed.

(b) Upon receipt of such claim (Standard Form 1157) with supporting statement, the Coast Guard authorized certifying officer may certify to the propriety of the claim according to the following scale and submit it to the appropriate disbursing officer for payment:

(1) A fee of $4 for each day or fraction thereof of attendance and for the time necessarily occupied in going to and returning from the investigation or hearing in the case of a witness called to testify as to the facts. A witness called to testify as an expert may be paid a higher fee provided such higher fee is approved by the Commandant prior to his appearance at the investigation or hearing.

(2) A subsistence allowance of $8 for each day or fraction thereof if the witness resides at a distance so far removed from the place at which the investigation, hearing or other proceeding was held as to prohibit his returning to his place of residence each day: *Provided*, That the witness was required to remain at the place at which the investigation, hearing or other proceeding was held for more than one day: *Provided further*, That in the case of employed merchant marine personnel their place of residence will be construed to be the vessel upon which they are employed, and in the case of unemployed merchant marine personnel their place of residence will be construed to be their actual place of residence when ashore, rather than the residence of their next of kin. In cases where subsistence allowance is payable, additional subsistence allowance of $8 per day may be paid for each day necessarily occupied in traveling from the place of residence to attend the investigation, hearing or other proceeding hereunder and return to such residence or place. No subsistence allowance for travel time shall be paid if witness is already present at place of investigation, hearing or other proceeding hereunder. In computing the subsistence allowance due a witness the day shall be regarded as beginning on the hour at which it was necessary for the witness to leave his home in order to arrive at the appointed time at the place where the investigation, hearing or other proceeding is held. The witness is to leave the place of investigation, hearing or other proceeding by the first available transportation after his dismissal.

(3) In computing the witness fee or the subsistence allowance, a fraction of a day will be considered as a whole day.

(4) Travel money at the rate of 8 cents per mile, not to exceed 100 miles, for actual travel from place of residence or place where subpoena was served to place at which the investigation, hearing or other proceeding was held. Travel money at the rate of 8 cents per mile, not to exceed 100 miles, is also allowed for the actual travel involved in return of witness to his place of residence, or if the subpoena was served at a place other than the witness's place of residence, to the place where said subpoena was served. All payments of travel money shall be computed on the basis of mileage by the shortest route. When a witness is furnished transportation by the Government no mileage allowance is authorized. If a witness is unable to furnish funds for transportation charges, Government transportation requests may be issued for his transportation, at the lowest first class rate available, to and from the place of investigation, hearing or other proceeding, in which case the mileage allowance is not authorized. When two or more witnesses are transported at the same time in the same privately owned vehicle, operated by one of the witnesses, the mileage allowance for only one witness is authorized.

(5) The fees provided in this section shall not apply in Alaska. In Alaska such witnesses are entitled to the witness fees and mileage prescribed for witnesses before the United States District Court in the judicial division in which the investigation, hearing or other proceeding is held, as set forth in 28 CFR 21.3.

Subpart 4.12—Testimony by Interrogatories and Depositions

§ 4.12–1 Application, procedure, and admissibility.

(a) Witnesses shall be examined orally, except that for good cause shown, testimony may be taken by deposition upon application of any party in interest or upon the initiative of the investigating officer or Marine Board of Investigation.

(b) Applications to take depositions shall be in writing setting forth the reasons why such deposition should be taken, the name and address of the witness, the matters concerning which it is expected the witness will testify, and the time and place proposed for the taking of the deposition. Such application shall be made to an investigating officer or the Marine Board of Investigation prior to or during the course of the proceedings.

(c) The investigating officer or Marine Board of Investigation, shall, upon receipt of the application, if good cause is shown, make and serve upon the parties an order which will specify the name of the witness whose deposition is to be taken, the name and place of the taking of such deposition and shall contain a designation of the officer before whom the witness is to testify. Such deposition may be taken before any officer authorized to administer oaths by the laws of the United States.

(d) The party desiring the deposition may submit a list of interrogatories to be propounded to the absent witness; then the opposite party after he has been allowed a reasonable time for this purpose, may submit a list of cross-interrogatories. If either party objects to any question of the adversary party, the matter shall be presented to the investigating officer or Marine Board of Investigation for a ruling. Upon agreement of the parties on a list of interrogatories and cross-interrogatories (if any) the investigating officer or Marine Board of Investigation may propound such additional questions as may be necessary to clarify the testimony given by the witness.

(e) The subpoena referred to in Subpart 5.15 of this subchapter together with the list of interrogatories and cross-interrogatories (if any) shall be forwarded to the officer designated to take such deposition. This officer will cause the subpoena to be served personally on the witness. After service the subpoena shall be endorsed and returned to the investigating officer or Marine Board of Investigation.

(f) When the deposition has been duly executed it shall be returned to the investigating officer or Marine Board of Investigation. As soon as practicable after the receipt of the deposition the investigating officer or Marine Board of Investigation shall present it to the parties for their examination. The investigating officer or Marine Board of Investigation shall rule on the admissibility of the deposition or any part thereof and of any objection offered by either party thereto.

Subpart 4.13—Disclosure of Records

§ 4.13–1 General.

(a) Upon oral or written inquiry to the Coast Guard, information as to the time, place, and general subject matter of investigations conducted under this part will be released except when such information is held confidential for se-

curity reasons. The inquiry should be made to the Officer in Charge, Marine Inspection, who has cognizance of the investigation.

(b) Other information with regard to such investigations which is required to be kept by the Coast Guard will be released only to the extent and under the conditions provided in this subpart.

§ 4.13–5 Applications.

(a) *Form.* The applications for access to and release of information may be made orally except when the regulations in this subpart require a written application for such record. When a written application is required, the application should be addressed to the Officer in Charge, Marine Inspection, or to the person designated as having authority to grant access to or release of information from such records. The written application shall be executed by the parties desiring the information or by any person designated to represent such party as described in § 4.13–10.

(b) *Contents.* The application shall:

(1) Clearly state or describe the information desired;

(2) Identify the applicant, and if the applicant is a representative of another, specify the nature of the representation and attach proof of designation when required;

(3) Set forth the interest of the applicant in the subject matter;

(4) The purpose for which the information is desired; and

(5) Whether or not the information or record sought is intended for use in prosecuting a claim against the United States.

§ 4.13–10 Designation of representatives.

(a) In any case when access to or release of information from any record is permitted to any party by this subpart, the permission shall extend, when such party is deceased or incompetent, to an executor, administrator, heir, guardian, trustee, or legal representative of such party: *Provided*, That the relationship is established by production of satisfactory documentary evidence.

(b) When access to or release of information from any record is sought by one acting as agent or attorney on behalf of any party recognized by regulations in this chapter, the representation as agent or attorney shall be established by the filing with the Officer in Charge, Marine Inspection, documentary proof of such representation. This proof may be in one of the following forms:

(1) A statement of authority in the handwriting of and signed by the party represented; or,

(2) A notarized statement of authority signed by the party represented; or,

(3) A copy of a contract or retainer signed by the party represented.

(c) This authorization shall contain a statement of the specific matters in which representation is authorized.

§ 4.13–15 Casualties involving loss of life.

(a) Records of investigations involving loss of life resulting from marine casualties are public records available for inspection, upon oral or written inquiry.

§ 4.13–20 Casualty investigation records.

(a) Records of investigation conducted by investigating officers pursuant to the provisions of this part, after action thereon by the District Commander, will be made available to parties in interest before such investigation upon oral or written inquiry. Such records will be made available to persons otherwise properly and directly concerned upon written application to the District Commander or the Officer in Charge, Marine Inspection, having cognizance of such investigation. If extra copies of the records are available, such copies may be furnished to parties in interest.

(b) The records of investigations of marine casualties made by investigating officers, which will be made available to persons properly and directly concerned, shall include notice of casualty or accident, statements and/or testimony of witnesses, exhibits, and any other evidentiary material presented in the investigations, and the findings of fact as determined by the investigating officers, but shall not include the opinions, conclusions, and recommendations of such officers. However, in casualties involving loss of life, the investigating officer's opinions, conclusions and recommendations will be released after final action thereon has been taken by the Commandant.

(c) The District Commander or his representative, upon inquiry, will advise persons properly and directly concerned as to whether or not further action will be recommended or instituted, such as appropriate suspension and revocation proceedings, citation for violation(s) involving fines or penalties, or a recommendation for referral of the record of investigation to the U.S. Department of Justice for further investigation and possible criminal action.

§ 4.13–25 Records of Marine Boards of Investigation.

(a) The record of investigation made by a Marine Board of Investigation will be made available to parties in interest at any stage of the Board's proceedings upon oral or written inquiry to the chairman: *Provided*, That such request does not, in any way, interfere with the proper and orderly functioning of the Board. After the Board has completed its investigation, the record will be made available to parties in interest upon oral or written inquiry to the District Commander or Officer in Charge, Marine Inspection, having cognizance of such investigation. Also, such records will be made available to persons otherwise properly and directly concerned upon written application to the District Commander or Officer in Charge, Marine Investigation, having cognizance of such investigation.

(b) Records of a Marine Board of Investigation shall include testimony and/or statements of witnesses, exhibits, records of investigation made by an investigating officer, and any other evidentiary material used by the Board in arriving at its determination.

(c) The report of a Marine Board of Investigation, consisting of the findings of fact, conclusions, opinions, and recommendations shall not become public or be made available until final action thereon has been taken by the Commandant. At such time the report will be made available in the same manner as provided for the record of investigation in paragraph (a) of this section.

§ 4.13–30 Records confidential.

(a) Except as specifically set forth in this subpart, all files, records, testimony, documents, reports, or other data pertaining to the internal management of the Marine Board of Investigation or to the investigation or disposition of charges or petitions during the non-public investigative stages of the investigation and before the institution of a Marine Board in the course of investigation, which have not been offered in evidence during the investigation or have not been made a part of the official record by stipulation, in Coast Guard Headquarters or in other offices, are administrative records and are not available to public inspection.

§ 4.13–35 Production upon compulsory process.

(a) When a request for information or material from a marine casualty investigation record is denied for any reason, the applicant shall be advised that the information or material may be produced upon service of a subpena duces tecum or an order from a court of competent jurisdiction if such information or material is not held confidential for security reasons.

§ 4.13–40 Costs.

The access to and release of information, as authorized in this subpart, shall be subject to the payment of costs. (See 33 CFR 1.25.)

Subpart 4.15—Persons in Service of Coast Guard

§ 4.15–1 Persons in service of Coast Guard.

(a) No person in the service of the Coast Guard shall, without prior approval of the Commandant, give any testimony with respect to any investigation or any other official proceedings in any suit or action in the courts. This applies equally to cases in state or Federal courts and to civil as well as criminal cases.

(b) In cases involving (1) civil litigation between private parties; or, (2) criminal matters before state courts; or, (3) civil litigation for or against the United States where Coast Guard personnel are called by parties opposing the United States; an affidavit by the litigant or his attorney setting forth the interest of the litigant and the information with respect to which the testimony of such Coast Guard officer or employee is desired must be submitted before permission to testify will be granted. Permission to testify will, in all cases, be limited to the information set forth in the affidavit, or to such portions thereof as may be deemed proper. In addition to the permission required by this para-

graph, the Commandant may insist that the appearance of the Coast Guard officer or employee as a witness be conditioned on the issuance of a subpena or subpena duces tecum (as appropriate) from a court of competent jurisdiction.

(c) In cases where the appearance of Coast Guard personnel is desired by Counsel representing the United States to support the affirmative claims or defenses of the United States in civil matters or on behalf of the United States in criminal matters no affidavit as described in paragraph (b) of this section shall be required, but the Commandant's prior approval must nevertheless be obtained, except in those cases where the Coast Guard personnel desired as witnesses file the original complaint or have made original inquiry into the subject matter which resulted in the filing of an original complaint.

Subpart 4.19—Construction of Regulations and Rules of Evidence

§ 4.19–1 Construction of regulations.

The regulations in this part shall be liberally construed to insure just, speedy, and inexpensive determination of the issues presented.

§ 4.19–5 Adherence to rules of evidence.

As hearings under this part are administrative in character, strict adherence to the formal rules of evidence is not imperative. However, in the interest of orderly presentation of the facts of a case, the rules of evidence should be observed as closely as possible.

Subpart 4.21—Computation of Time

§ 4.21–1 Computation of time.

The time, within which any act, provided by the regulation in this subchapter, or an order of the Marine Board of Investigation is to be done, shall be computed by excluding the first day and including the last unless the last day is Sunday or a legal holiday, in which case the time shall extend to and include the next succeeding day that is not a Sunday or legal holiday: *Provided, however,* That where the time fixed by the regulations in this subchapter or an order of the Board is five days or less all intervening Sundays or legal holidays, other than Saturdays, shall be excluded.

Subpart 4.23—Evidence of Criminal Liability

§ 4.23–1 Evidence of criminal liability.

If as a result of any investigation or other proceeding conducted hereunder, evidence of criminal liability on the part of any licensed officer or certificated person or any other person is found, such evidence shall be referred to the U.S. Attorney General.

PART 5—SUSPENSION AND REVOCATION PROCEEDINGS

Subpart 5.01—Authority and Scope

Subpart 5.02—Definitions of Terms Used

Subpart 5.03—Statements of Policy and Interpretations

Subpart 5.05—Investigations

Subpart 5.10—Deposit or Surrender of License, Certificate or Document

Subpart 5.13—Issuance of New Licenses, Certificates or Documents After Revocation or Surrender

Subpart 5.15—Subpenas and Service of Process

Subpart 5.17—Witness Fees

Subpart 5.20—Hearings

Subpart 5.25—Reopening of Hearings

Subpart 5.30—Appeals

Subpart 5.35—Review of Administrative Law Judges' Decisions in Guilty Cases

AUTHORITY: The provisions of this Part 5 issued under sec. 633, 66 Stat. 545, as amended, and sec. 6(b), 80 Stat. 938; 16 U.S.C. 375, 416, 14 U.S.C. 633, 49 U.S.C. 1655(b); 49 CFR 1.46(b) (35 F.R. 4959). Interpret or apply secs. 1, 2, 49 Stat. 1544, 1545, as amended, secs. 7, 17, 54 Stat. 165, as amended, 166, as amended, secs. 1, 2, 68 Stat. 484, as amended, sec. 3, 68 Stat. 675 sec. 3, 70 Stat. 152, sec. 4, 74 Stat. 260, as amended, secs. 551–559, 80 Stat. 38–388, as amended; 46 U.S.C. 216b, 239, 239a, 239b, 367, 390b, 404, 526f, 526p, 5 U.S.C. 551–559, 50 U.S.C. 198.

Subpart 5.01—Authority and Scope

§ 5.01–1 Authority for regulations.

(a) The authority to prescribe regulations generally with respect to navigation and vessel inspection is set forth in Title 46, U.S. Code, sections 375 and 416 (R.S. 4405, as amended, 4462, as amended). Under the provisions of Title 46, U.S. Code, section 372 (R.S. 4403, as amended), the Commandant, United States Coast Guard, superintends the administration of the navigation and vessel inspection laws, and is required to produce a correct and uniform administration of such laws, rules and regulations.

(1) Where the provisions in Title 46, U.S. Code, section 239, or other laws or regulations contain a reference to "title 52 of the Revised Statutes or of any of the regulations issued thereunder," or one similar to it, it is deemed to be a general reference to the applicable provisions in Title 46, U.S. Code, sections 170, 214, 215, 222, 224, 224a, 226, 228, 229, 230–234, 239, 240, 361, 362, 364, 372, 375, 391, 391a, 392, 393, 399, 400, 402–414, 416, 435, 436, 451–453, 460, 461, 462, 467, 470–482, and 489–498, and the regulations issued thereunder, which are in this chapter.

(b) The mandatory provisions in Title 46, U.S. Code, section 239, govern suspension and revocation proceedings and are the basic authority therefor; while the Administrative Procedure Act Title 5, U.S. Code, sections 1001–1011, 50 Stat. 237–244) and Title 46, U.S. Code, section 239b (P.L. 500, 83d Cong., approved July 15, 1954, 68 Stat. 484), require the hearings in such proceedings to be presided over by an administrative law judge, before the Coast Guard may suspend or revoke a license, certificate, or document issued.

(c) Other marine safety laws and regulations in this chapter also provide authority for suspension or revocation of specific categories of licenses, certificates or documents issued by the Coast Guard or predecessor authorities. For examples, see Title 46, U.S. Code, sections 214, 224a, 226, 228, 229, 229c, 232, 234, 240, 246, 391a, 457, 526f, 672, or Title 33, U.S. Code, sections 153, 412, 435, 442, 1006.

(d) Other authority to promulgate regulations deemed appropriate to carry out the provisions of any law applicable to the Coast Guard or to issue rules, orders, and instructions, not inconsistent with law, is set forth in Title 14, U.S. Code, section 633.

§ 5.01–5 Assignment of functions.

(a) By Reorganization Plan No. 3 of 1946, effective July 16, 1946, the marine inspection functions of the former Bureau of Marine Inspection and Navigation and its officers and employees were transferred to the Commandant, United States Coast Guard. By Reorganization Plan No. 26 of 1950 (5 U.S. Code, Note under 241), effective July 31, 1950, the functions formerly vested in the Commandant, United States Coast Guard, were transferred to the Secretary of the Treasury with certain specified exceptions. The Secretary of the Treasury by a Treasury Department Order 120, dated July 31, 1950 (15 F.R. 6521), delegated to the Commandant the functions formerly performed by him under Reorganization Plan No. 3 of 1946. This included suspension or revocation of any license, certificate, or document issued by the Coast Guard or predecessor authorities under Title 46, U.S. Code, section 239. The Commandant delegates to administrative law judges the authority to suspend or revoke any license, certificate, or document issued to person by the Coast Guard or predecessor authorities under any navigation or vessel inspection law.

(b) The Acting Secretary of the Treasury in Treasury Department Order 167–9, dated August 3, 1954 (19 F.R. 5195), delegated to the Commandant, United States Coast Guard, the functions vested in the Secretary of the Treasury by Title 46, U.S. Code, sections 239a and 339b (P.L. 500, 83d Cong., approved July 15, 1954, 68 Stat. 484) to revoke a license, certificate, or document of a person convicted of a narcotic drug law violation or otherwise involved with narcotics. The Commandant delegates to administrative law judges the authority to revoke a license, certificate, or document issued to a person by the Coast Guard or predecessor authorities under any navigation or vessel inspection law.

(c) The Secretary of the Treasury by Treasury Department Order 167–20, dated June 18, 1956 (21 F.R. 4894), delegated to the Commandant, United States Coast Guard, the functions vested in the Secretary of the Treasury by Title 46, U.S. Code, sections 390–390g, 404, and 5261 (P.L. 519, 84th Cong., approved May 10, 1956, 70 Stat. 151–154). The Commandant delegates to administrative law judges the authority to revoke or suspend a license issued to a person by the Coast Guard under Title 46, U.S. Code, sections 390b, 404 and 5261.

§ 5.01–10 Purpose of regulations.

(a) The regulations establish policies and procedures for remedial action (in respect to licenses, certificates and documents already issued to persons) pursuant to the authority set forth in § 5.01–1, and the regulations prescribed thereunder by the Commandant which are in this part or in Part 1 of this chapter.

§ 5.01–15 Purpose of suspension and revocation proceedings.

(a) The suspension and revocation proceedings are for the purpose of assisting in carrying out the statutory duty of the Coast Guard to promote safety of life and property. This obligation extends to the interest of passengers, crews, cargoes, shipowners and the general public.

§ 5.01–20 Nature of suspension and revocation proceedings.

(a) The suspension and revocation proceedings are remedial and not penal in nature because they are intended to maintain standards of competence and conduct essential to the purpose stated in § 5.01–15 to promote the safety of life and property at sea by insuring that the licensed or certificated persons continue to be qualified to carry out their duties and responsibilities.

§ 5.01–25 Construction of regulations.

(a) The regulations in this part shall be liberally construed so as to obtain just, speedy and economical determination of the issues presented.

§ 5.01–30 Instituting suspension and revocation proceedings.

(a) Suspension and revocation proceedings shall be instituted by an investigating officer in any case in which it appears, as a result of any investigation made under this part or Part 4, that there are reasonable grounds to believe that the holder of a license, certificate or document issued by the Coast Guard or its predecessor authorities, has:

(1) Committed an act of incompetency, misconduct, negligence, or unskillfulness while acting under the authority of his license, certificate or document; or,

(2) Endangered life while acting under the authority of his license, certificate or document; or,

(3) Willfully violated any of the provisions of title 52 of the Revised Statutes or of any of the regulations issued thereunder; or

(4) Been convicted of a narcotic drug law violation, or has been a user of or addicted to the use of a narcotic drug,

so as to be subject to provisions of Title 46, U.S. Code, section 239b.

§ 5.01–35 Acting under authority of license, certificate, or document.

(a) A person employed in the service of a vessel is considered to be acting under the authority of a license, certificate or document held by him either when the holding of such license, certificate or document is required by law or regulation or is required in fact as a condition of employment. A person does not cease to act under the authority of his license, certificate or document while ashore on authorized or unauthorized shore leave from the vessel.

§ 5.01–40 Violation of law or regulation.

(a) Under Title 46, U.S. Code, section 239, suspension and revocation proceedings may be conducted, without regard to whether the person charged was in the service of a vessel at the time of the alleged offense, when the charge is a willful violation of any of the provisions of title 52 of the Revised Statutes or of any of the regulations issued thereunder.

§ 5.01–45 Violation of narcotic laws.

(a) Under Title 46, U.S. Code, section 239b, revocation proceedings may be conducted if the person charged holds a valid license, certificate or document issued by the Coast Guard or its predecessor authorities without regard to whether or not the holder was in the service of a vessel at the time of the alleged offense.

Subpart 5.02—Definitions of Terms Used

§ 5.02–1 Commandant.

(a) This term means the Commandant of the Coast Guard.

§ 5.02–5 Coast Guard District.

(a) A Coast Guard District is a geographical area which is assigned to a Coast Guard District Commander.

(b) For descriptions of the Coast Guard districts see 33 CFR Part 3.

§ 5.02–10 District Commander.

(a) This term means an Officer of the Coast Guard designated as such by the Commandant to command all Coast Guard activities within his respective district, which include the inspection, enforcement, and administration of Title 46, U.S. Code, sections 170, 214, 215, 222, 224, 224a, 226, 228, 229, 230–234, 239, 240, 361, 362, 364, 372, 375, 381, 391, 391a, 392, 393, 399, 400, 402–414, 416, 435, 436, 451–453, 460, 461, 462, 464, 467, 470–482, and 489–498, and acts amendatory thereof or supplemental thereto, and rules and regulations thereunder, except those functions of administrative law judges under the Administrative Procedure Act (5 U.S.C. 1001–1011).

§ 5.02–15 Administrative Law Judge.

(a) An administrative law judge shall mean any person designated by the Commandant pursuant to the Administrative Procedure Act (5 U.S.C. 1001–1011) for the purposes of conducting hearings arising under Title 46, U.S. Code, section 239 or 239b.

§ 5.02–20 Investigating officer.

(a) An investigating officer is an officer or employee of the Coast Guard designated by the Commandant, District Commander or the Officer in Charge, Marine Inspection, for the purpose of making investigations of marine casualties and accidents or other matters pertaining to the conduct of seamen. An Officer in Charge, Marine Inspection, is an investigating officer without further designation.

§ 5.02–25 Marine inspection zone.

(a) A marine inspection zone is a geographical area within a Coast Guard District which is assigned to an Officer in Charge, Marine Inspection.

(b) For descriptions of marine inspection zone boundaries see 33 CFR Part 3.

Subpart 5.03—Statements of Policy and Interpretations

§ 5.03–1 Effect of Commandant's decisions in appeal or review cases.

(a) The decisions of the Commandant in cases of appeal or review of administrative law judges' decisions shall be officially noticed by and shall be binding upon all administrative law judges. The administrative law judges shall follow the principles and policies enunciated by the Commandant in such decisions unless they are modified or rejected by competent authority.

§ 5.03–3 Possession of narcotics; prima facie case.

When a charge of misconduct is supported by a specification alleging possession of narcotic drugs, including marijuana, or dangerous drugs, evidence or possession is enough to support a finding of misconduct, unless the administrative law judge is satisfied by other evidence that the possession was not wrongful.

§ 5.03–4 Offenses for which revocation of licenses or documents is mandatory.

Whenever a charge of misconduct by virtue of the possession, use, sale or association with narcotic drugs, including marijuana, or dangerous drugs is found proved, the administrative law judge shall enter an order revoking all licenses, certificates and documents held by such a person. However, in those cases involving marijuana, where the administrative law judge is satisfied that the use, possession or association, was the result of experimentation by the person and that the person has submitted satisfactory evidence that such use will not recur, he may enter an order less than revocation.

§ 5.03–5 Offenses for which revocation of licenses or documents is sought.

(a) The Coast Guard will initiate administrative action seeking the revocation of licenses, certificates or documents held by persons who have been involved in acts of such serious nature that permitting such persons to sail under their licenses, certificates and documents would be clearly a threat to the safety of life or property.

(b) These offenses, which are deemed to affect safety of life at sea, the welfare of seamen or the protection of property aboard ship, are:

(1) Assault with dangerous weapon (injury).

(2) Malicious destruction of ship's property.

(3) Misconduct resulting in loss of life or serious injury.

(4) Molestation of passengers.

(5) Murder or attempted murder.

(6) Mutiny.

(7) Perversion.

(8) Possession, use, sale or association with drugs, including marijuana.

(9) Sabotage.

(10) Serious neglect of duty.

(11) Serious theft of ship's property or stores.

(12) Smuggling of aliens.

§ 5.03–7 Effect of court actions.

(a) Except for the serious offenses referred to in §§ 5.03–3, 5.03–5, and 5.03–10, the Coast Guard in other situations will take into consideration court convictions when determining whether or not to initiate administrative action seeking the suspension or revocation of licenses, certificates or documents.

§ 5.03–10 Court convictions in narcotic cases.

(a) After proof of a narcotics conviction by a court of record as required by Title 46, U.S. Code, section 239b, whether or not further court action is pending, the Coast Guard may take action based upon this conviction. After proof of alleged conviction or plea of "guilty," the administrative law judge shall enter an order revoking the seaman's licenses, certificates, and documents. A conviction becomes final when no issue of law or fact determinative of the seaman's guilt remains to be decided by the trial court.

(b) An order of revocation will be rescinded by the Commandant if the seaman submits satisfactory evidence that the court conviction on which the revocation is based has been set aside for all purposes (see § 5.20–190(b)). An order of revocation will not be rescinded as the result of the operation of any law providing for the subsequent conditional setting aside or modification of the court conviction, in the nature of the granting of clemency or other relief, after the court conviction has become final.

(c) After the conviction has become final within the meaning of paragraph (a) of this section, the conditional setting aside or modification of the conviction will not act as a bar to the subsequent revocation of a seaman's document under Title 46, U.S. Code, section 239b.

§ 5.03–15 Court of record.

(a) In the administration of Title 46, U.S. Code, section 239b, and this part, a "court of record" means a court:

(1) Which conforms with the common law principles in that it has a clerk, a seal, keeps a record of its proceedings, and has the power to fine and imprison; and,

(2) Where its proceedings are, by law or usage in the State, District of Columbia, or Territory where rendered, recognized as conclusive evidence in other courts of that jurisdiction.

§ 5.03–20 Maritime labor disputes.

(a) Under no circumstances shall the statutory machinery of the Coast Guard be used for the purpose of favoring any party to a maritime or other labor controversy. However, if a situation affecting the safety of the vessel or persons on board is presented, and a complaint in writing is lodged, the matter shall be thoroughly investigated and when a violation of existing statutes or regulations is indicated appropriate action shall be taken.

§ 5.03–25 Physician-patient privilege.

(a) For the purpose of these proceedings, the physician-patient privilege is not considered to exist between a ship's physician and a seaman employed on the same ship.

Subpart 5.05—Investigations

§ 5.05–1 Investigations made by investigating officer.

(a) Investigations will be made by an investigating officer of:

(1) All acts in violation of any of the provisions of Title 46, U.S. Code, sections 170, 214, 215, 222, 224, 224a, 226, 228, 229, 230–234, 239, 240, 361, 362, 364, 372, 375, 381, 391, 391a, 392, 393, 399, 400, 402–414, 416, 435, 436, 451–453, 460, 461, 462, 464, 467, 470–482, and 489–498 whether or not committed in connection with any marine casualty or accident; and

(2) All acts in violation of any regulation in this chapter or in 33 CFR Chapter I, whether or not committed in connection with any marine casualty or accident; and

(3) All acts of incompetency, negligence or misconduct, whether or not committed in connection with any marine casualty or accident, when committed by persons holding licenses, certificates or documents.

§ 5.05–5 Powers of investigating officer.

(a) In the conduct of an investigation, the investigating officer shall have the power to administer oaths, subpena witnesses, require persons having knowledge of the subject matter of the investigation to answer questions and require the production of relevant books, papers, documents, licenses, certificates, or other records.

§ 5.05–10 Advising person of complaint.

(a) The investigating officer conducting an investigation under this part will, where the person whose conduct is being investigated is available, advise such person informally of the substance of the complaint against him and afford him an opportunity to make such comment as he may desire.

§ 5.05–15 Courses of action available.

(a) During or at the conclusion of an investigation, the investigating officer shall take appropriate action as follows:

(1) *Prefer charges.* The investigating officer may prefer charges if he finds reasonable grounds to believe that a person holding a license, certificate or document has committed some offense or act, or has been convicted for a narcotic offense, or has failed to perform some duty, or is incompetent.

(2) *Recommend closing the case.* The investigating officer may recommend closing the case and taking no action on alleged acts if he finds that there is no:

(i) Basis for the complaint; or,

(ii) Jurisdiction; or,

(iii) Reasonable expectation that corrective measures could be accomplished.

(3) *Refer cases to others for further action.* The investigating officer may refer the case to the Commandant or to an Officer in Charge, Marine Inspection, at any port for completion of administrative action if he finds adequate basis for action and the person under investigation and/or witnesses are not then available.

(4) *Accept voluntary deposit of license, certificate or document.* The investigating officer may accept a voluntary deposit of a license, certificate or document from a person under investigation when there is evidence of physical or mental incompetence from any cause other than the use of, or addiction to narcotics.

(5) *Accept voluntary surrender of license, certificate or document.* The investigating officer may accept the voluntary surrender of a license, certificate or document when the person under investigation desires to avoid a hearing.

(6) *Give a warning.* The investigating officer may give a warning in writing to any person holding a license, certificate or document and recommend closing the case. Upon refusal to accept the written warning at the time the warning is given, it shall be withdrawn and the investigating officer may prefer charges. An unrejected warning will become a part of the person's record.

(b) When required, the investigating officer will also submit a report of investigation.

§ 5.05–17 Charges and specifications.

(a) A "charge" is a designation of an offense in general terms. The offense must be one within the purview of Title 46, U.S. Code, section 239 or 239b. A "charge" must be supported by one or more "specifications." Under no circumstances does a "charge" constitute evidence of guilt nor may any inference of guilt be drawn from the fact that the holder of a license, certificate, or document has been the subject of a "charge."

(b) A "specification" sets forth the facts which form the basis of the "charge." The purpose of a "specification" is to enable the person charged to identify the offense so that he will be in a position to prepare his defense. Each specification shall state:

(1) Basis for jurisdiction;

(2) Date and place of offense; and

(3) A statement of the facts constituting the offense.

§ 5.05–20 Types of charges.

(a) *General.* In lieu of or supplementary to the charges described in paragraphs (b) and (c) of this section, the charges may be:

(1) *Misconduct.* "Misconduct" is a human behavior which violates some formal, duly established rule, such as the common law, the general maritime law, a ship's regulation or order, or shipping articles. In the absence of such a rule, "misconduct" is human behavior which a reasonable person would consider to constitute a failure to conform to the standard of conduct which is required in the light of all the existing facts and circumstances.

(2) *Negligence or inattention to duty.* "Negligence" and "inattention to duty" are essentially the same and cover both the aspects of misfeasance and nonfeasance. They are therefore defined as the commission of an act which a reasonably prudent person of the same station, under the same circumstances, would not commit, or the failure to perform an act which a reasonably prudent person of the same station, under the same circumstances, would not fail to perform.

(3) *Incompetence.* "Incompetence" is the inability on the part of a person to perform required duties, whether due to professional deficiencies, physical disability, mental incapacity, or any combination of same.

(b) *Violation of law or regulation.* Where the proceeding is based exclusively on that part of Title 46, U.S. Code, section 239, which refers to a willful violation of any of the provisions of title 52 of the Revised Statutes or of any of the regulations issued thereunder, the "charge" shall be "violation of statute" or "violation of regulation." The "specification" shall state the specific statute or regulation by title and section number, and the particular manner in which it was allegedly violated.

(c) *Narcotic drug law violation or use or addiction to use of narcotics.* Where the proceeding is based exclusively on the provisions of Title 46, U.S. Code, section 239b, the "charge" will be "conviction for a narcotic drug law violation" or "use of narcotics" or "addiction to use of narcotics," depending upon the circumstances. The "specification" will allege jurisdiction by stating the elements as required by Title 46, U.S. Code, sections 239 and 239b, and the approximate time and place of the offense.

§ 5.05–23 Time limitations for service of charges and specifications.

(a) The time limitations for service of various charges and specifications are as follows:

(1) For a charge and specification based exclusively on Title 46, U.S. Code, section 239b, service shall be within the time as set forth in this law; namely, 10 years after date of conviction in a

court of record subsequent to July 15, 1954, or at any time if a user of or addicted to the use of a narcotic drug after July 15, 1954.

(2) For a charge and specification describing one of the more serious types of offenses specified in § 5.03–5, service shall be within five years after the commission of the offense alleged therein.

(3) For a charge and specification describing an offense not otherwise provided for, the service shall be within three years after the commission of the offense alleged therein.

(b) When computing the period of time specified in this section there shall be excluded any period or periods of time when the person could not attend a hearing by reason of being in a foreign country or by reason of being in prison or asylum.

§ 5.05–25 Procedure preparatory to hearing.

(a) To institute hearing proceedings preparatory to hearing, the investigating officer shall prepare charges and specifications, as required, together with a notice of the time and place of the hearing.

(b) The notice of the time and place of the hearing and the original of the charges and specifications shall be served upon the person charged, either by personal service or certified mail with return receipt requested, notice to be signed by the addressee only.

(c) When service is by mail, it shall be sufficiently in advance of the time set for the hearing so as to give the person charged a reasonable opportunity to prepare his defense.

(d) When service is made personally upon the person charged, the person making such service shall give the original of the notice of the hearing, the charges and the specifications to the person charged, shall read them to such person if he cannot read, and shall make a record of the time and date of service. When personal service is made, the written acceptance on the reverse side of the form containing the charges and specifications shall be sufficient to show service as of the date on the face of the form unless otherwise indicated by separate notation thereon by the person effecting such service.

(e) Further, at the time of such service, whether personal or by registered mail, the person charged will be also advised with respect to:

(1) The nature of suspension and revocation proceedings and the possible results thereof.

(2) His right to have counsel represent him at the hearing, and that counsel may be a lawyer or any other person he desires to represent him.

(3) His right to have witnesses and/or records subpenaed in his behalf.

(f) If the offense alleged involves mental incompetence, the person charged shall be advised (when the service of the charge and specification and notice of hearing is made) to procure counsel to represent him.

§ 5.05–30 Evidence of criminal liability.

(a) If, as a result of any investigation, evidence of criminal liability on the part of any holder of a license, certificate or document, or any other person is found, such evidence shall be referred to the Attorney General, or his local representative.

(b) The investigating officer shall determine whether to institute suspension and revocation proceedings under Title 46, U.S. Code, section 239 or 239b, for use or addiction to the use of narcotics, before criminal action may be initiated or completed against the holder of a license, certificate or document, or to defer instituting such proceedings pending the outcome of the criminal action in a Federal or State court. One controlling factor will be whether or not the witnesses will be available if the hearing is delayed.

Subpart 5.10—Deposit or Surrender of License, Certificate or Document

§ 5.10–1 Voluntary deposit in event of mental or physical incompetence.

(a) A person may deposit his license, certificate or document with an investigating officer in any case where there is evidence of mental or physical incompetence for any reason other than when caused by use of, or addiction to, narcotics.

(b) A voluntary deposit is accepted on the basis of a written agreement which specifies the conditions accompanying the deposit. The original or a copy will be given to the person making the deposit. The Coast Guard agrees to return the license, certificate or document deposited by the person described therein when he obtains a certificate from the U.S. Public Health Service, or other authorized medical officer showing the person is considered to be fit for sea duty.

(c) Where the mental or physical incompetence of a holder of a license, certificate or document is caused by use of, or addiction to, narcotics, such person may only surrender such license, certificate or document in accordance with § 5.10–10.

§ 5.10–10 Voluntary surrender to avoid hearing.

(a) Any person may surrender his license, certificate or document to an investigating officer in preference to appearing at a hearing.

(b) Whenever a person voluntarily surrenders his license, certificate or document, he shall sign a written statement containing the following stipulations that:

(1) This surrender is made voluntarily in preference to appearing at a hearing;

(2) All title to the license, certificate or document surrendered is permanently relinquished; and,

(3) His rights with respect to a hearing, appeal, and review are waived.

(c) A voluntary surrender of a license, certificate or document to an investigating officer in preference to appearing at a hearing should not be accepted by an investigating officer unless the investigating officer is convinced that the seaman fully realizes the effect of such surrender.

Subpart 5.13—Issuance of New Licenses, Certificates or Documents After Revocation or Surrender

§ 5.13–1 Time limitations.

(a) Any person whose license, certificate or document has been revoked or surrendered for one or more of the offenses described in §§ 5.03–3, 5.03–5, and 5.03–10, or for mental or physical incompetence resulting from use of, or addiction to, narcotics may after three years apply by letter and the application form requesting the issuance of a new license, certificate or document.

(b) Any person whose license, certificate or document has been revoked or surrendered for one or more offenses which are not specifically described in §§ 5.03–3 and 5.03–5 may after one year apply by letter and the application form requesting the issuance of a new license, certificate or document.

§ 5.13–5 Application.

(a) The letter and application shall be addressed to the Commandant, U.S. Coast Guard, Washington, D.C. 20226, but should be filed in person with the nearest Officer in Charge, Marine Inspection, since this officer will submit a preliminary evaluation and recommendation.

(b) The letter shall be an informal request for the issuance of a new license, certificate or document and shall transmit the following:

(1) A letter from each employer during time applicant was without a license or document, stating dates of employment and attesting to the satisfactory work record. (Times or periods of unemployment shall be satisfactorily explained in the letter.)

(2) At least three character references from responsible persons and stating how long they have known him.

(c) The Officer in Charge, Marine Inspection, will forward the letter and application, together with a preliminary evaluation and recommendation, to the Commandant.

§ 5.13–10 Commandant's decision on application.

(a) Every letter and application received, as well as the preliminary evaluation and recommendation of an Officer in Charge, Marine Inspection, will be referred to a special board appointed by the Commandant. The board will examine all the material submitted with the application and such other information as may, in the judgment of the board, be considered necessary. The board shall submit its findings and recommendations to the Commandant.

(b) The Commandant shall determine whether or not the issuance of a new license, certificate or document shall be made.

Subpart 5.15—Subpenas and Service of Process

§ 5.15–1 Authority for subpenas.

(a) There is delegated to investigating officers and administrative law judges authority to issue subpenas under Title 46, U.S. Code, section 239, to command attendance of witnesses or the production of books, papers, documents, or any other evidence necessary.

§ 5.15–5 Form of subpena.

(a) Every subpena shall bear at least the name "United States Coast Guard", the word "subpena", and local Coast Guard address from which issued. It may be a letter or Form CG–2639B.

(b) Every subpena shall command the person to whom it is directed to attend at a specified time and place to give testimony or to produce books, papers, documents, or any other evidence, which shall be described with such particularity as necessary to identify what is desired.

§ 5.15–10 Issuance of subpenas.

(a) During the investigation and prior to the hearing, the investigating officer shall issue subpenas for the attendance of witnesses or for the production of books, papers, documents, or any other relevant evidence that he may need or that may be needed by the person charged.

(b) During the hearing, the administrative law judge shall issue subpenas for the attendance and the giving of testimony by witnesses or for the production of books, papers, documents, or any other relevant evidence, either upon his own motion or upon a request of either of the parties.

§ 5.15–15 Service of subpenas.

(a) Any person capable of reading and writing may serve a subpena upon the person named therein. Service of a subpena upon a person named therein shall be made by delivering such subpena to such person by personal service, or by certified mail with return receipt to be signed by the addressee only.

(b) The investigating officer shall serve or have served every subpena that he issues in his own behalf, or on behalf of the person charged when feasible.

(c) The person charged or his counsel is responsible for serving subpenas issued at his request by an administrative law judge. However, if the administrative law judge finds that the person charged or his counsel is physically unable to effect the service, despite diligent and bona fide attempts to do so, and if the administrative law judge further finds that the existing impediment to the services of the subpena is peculiarly within the authority of the Coast Guard to overcome, the administrative law judge will have the subpena delivered to such person as the District Commander may designate for the purpose of effecting service.

§ 5.15–20 Proof of service.

(a) The person serving a subpena shall make a written statement setting forth the date, time and manner of service and shall return such report with or on a copy of the subpena to the investigating officer or administrative law judge who issued it. In case of failure to make service of a subpena, the person assigned to serve such subpena shall make a written statement setting forth the reasons, which statement should be on the subpena or attached to it.

(b) When service of a subpena is made by certified mail with return receipt to be signed by the addressee only, the person mailing the subpena shall make a written statement on a copy of the subpena or attached to it, setting forth the date, time and place of Post Office where mailed, and Post Office number assigned thereto. If delivered, the receipt requested shall be returned to the investigating officer or administrative law judge who issued the subpena. In case the subpena is not delivered, any information reported by the Post Office regarding non-delivery shall be given to the investigating officer or administrative law judge who issued the subpena.

§ 5.15–25 Quashing a subpena.

(a) The person to whom a subpena is directed may, prior to or during the hearing, apply in writing to the administrative law judge conducting the hearing a request that the subpena be quashed or modified. The administrative law judge will notify the party for whom the subpena was issued.

(b) The administrative law judge shall rule on the matter promptly. He may quash the subpena if it is unreasonable or requires evidence not relevant to any matter in issue, or he may deny the request.

§ 5.15–30 Enforcement.

(a) Upon application and for good cause shown, or upon its own initiative, the Coast Guard will seek judicial enforcement of subpenas issued by investigating officers or administrative law judges. This may be done by making application to the United States District Court to issue an order compelling the attendance of, and/or giving of testimony by, witnesses.

Subpart 5.17—Witness Fees

§ 5.17–1 Witness's request for payment of fees.

(a) Duly subpenaed witnesses, other than government employees, may apply for payment for their services as witnesses by submitting a request for payment (Standard Form No. 1157) to the administrative law judge presiding over the hearing or to the investigating officer (28 U.S. Code, section 1821). The administrative law judge or investigating officer will forward the request to the Coast Guard authorized certifying officer together with a statement that:

(1) The witness seeking payment was duly subpenaed as a witness by the Coast Guard;

(2) The witness appeared pursuant to such subpena, the name of the person charged or under investigation, and the name of city and state where investigation or hearing was held; and,

(3) The witness is entitled to witness fees, and/or subsistence, and/or mileage allowance claimed.

(b) Upon receipt of the witness's claim (Standard Form 1157) with supporting statement, the Coast Guard authorized certifying officer may certify to the propriety of the claim according to the scale of fees, subsistence, and mileage in § 5.17–5, and submit it to the appropriate disbursing officer for payment.

(c) Government employees who are witnesses at a hearing or investigation may be paid travel expenses as provided by the Standardized Government Travel Regulations. Coast Guard personnel may be paid travel expenses as provided in the Coast Guard Travel Manual.

§ 5.17–5 Scale of fees, subsistence, and mileage.

(a) A subpenaed witness may be paid a fee of $4.00 for each day or fraction thereof of attendance and for time necessarily occupied in going to and returning from the place of hearing or investigation (28 U.S. Code, section 1821). A witness called to testify as an expert may be paid a higher fee provided such higher fee is approved by the Commandant prior to his appearance.

(b) A subsistence allowance of $8.00 for each day or fraction thereof may be paid if the subpenaed witness resides at a distance so far removed from the place at which the hearing or investigation was held so as to prohibit his returning to his place of residence each day, and if such witness was required to remain at the place where the hearing or investigation was held for more than one day. In a case where subsistence allowance is payable under this paragraph and the subpenaed witness is required to travel, a subsistence allowance of $8.00 per day may be paid for each day necessarily occupied in traveling from the place of residence to attend the hearing or investigation and return to such place: *Provided*, That no subsistence allowance for travel time shall be paid if the witness is already present at place of investigation or hearing at time of service of subpena.

(c) In computing the witness fee or the subsistence allowance, a fraction of a day will be considered as a whole day, the day will be considered as consisting of 24 hours, and a day will be regarded as beginning on the hour at which the witness had to leave his residence in order to arrive at the appointed time at the place where the investigation or hearing was held. After dismissal, the witness is assumed to leave the place of the investigation or hearing for his residence by the first available transportation, and the period of time will be terminated at the time of arrival at his residence.

(d) Travel money at the rate of 8 cents per mile, not to exceed 100 miles, for actual travel from place of residence or place where subpena was served to place at which the investigation or hearing was held may be paid to a subpenaed

witness. Travel money at the rate of 8 cents per mile, not to exceed 100 miles, is also allowed for the actual travel involved in return of witness to his place of residence, or if the subpena was served at a place other than the witness's place of residence, to the place where said subpena was served. All payments of travel money shall be computed on the basis of mileage by the shortest route. When a witness is furnished transportation by the Government, no mileage allowance is authorized. If a witness is unable to furnish funds for transportation charges, Government transportation requests may be issued for his transportation, at the lowest first class rate available, to and from the place of hearing, in which case the mileage allowance is not authorized. When two or more witnesses are transported at the same time in the privately owned vehicle, operated by one of the witnesses, the mileage allowance for only one witness is authorized.

(e) The fees provided in paragraphs (a), (b), and (d) of this section shall not apply in Alaska. In Alaska subpenaed witnesses are entitled to the fees, subsistence, and mileage allowances to the same extent as may be prescribed for witnesses before the United States District Court in the judicial division in which the hearing is held. (See 28 CFR 21.3 for schedule of fees and allowances of witnesses in the District of Alaska.)

(f) In the case of employed merchant marine personnel their place of residence will be construed to be the vessel upon which they are employed, and in the case of unemployed merchant marine personnel their place of residence will be construed to be their actual place of residence when ashore at time of the investigation or hearing rather than the residence of their next of kin.

Subpart 5.20—Hearings

§ 5.20–1 General.

(a) A hearing in a suspension and revocation proceeding conducted under Title 46, U.S. Code, section 239 or 239b, is the adjudication of the case. It is presided over and is conducted under the exclusive administrative control of a civilian administrative law judge in accordance with applicable requirements in Title 5, U.S. Code, sections 1001–1011, inclusive (Administrative Procedure Act), and the regulations in this part. The administrative law judge shall regulate and conduct the hearing in such a manner so as to bring out all the relevant and material facts, and to insure a fair and impartial hearing.

(b) An administrative law judge shall not consult with any one concerning any fact in issue in a suspension and revocation proceeding unless, after notice, all parties are permitted to participate. An administrative law judge shall not informally obtain advice or opinions from the parties or their counsel or from any officer or employee of the Coast Guard as to the weight or interpretation to be given to evidence. The administrative law judge may at any time consult with or receive instructions from the Commandant.

(c) The procedure usually followed in a hearing is:

(1) Administrative Law Judge's opening statement.

(2) Appearances of persons at the hearing.

(3) Verification of currently valid license, certificate and/or document held by person charged.

(4) Administrative Law Judge advises person charged of his rights.

(5) Exclusion of witnesses from the hearing room.

(6) Preliminary motions, objections and/or corrections to the charges and specifications.

(7) Arrangement and plea of person charged.

(8) Opening statement of investigating officer.

(9) Opening statement by or on behalf of person charged or statements in mitigation if there has been a "guilty" plea.

(10) Submission of evidence.

(11) Argument by the investigating officer and argument by or on behalf of the person charged.

(12) Submission of proposed findings and conclusions by the investigating officer and/or by or on behalf of the person charged.

(13) Findings and conclusions of the administrative law judge.

(14) Prior record of the person charged.

(15) The complete decision of the administrative law judge.

(16) Service of the order or complete decision.

(17) Obtain or return the license, certificate or document, as appropriate.

(18) Advise the person charged of his right of appeal.

(19) Administrative Law Judge's declaration that the hearing is closed.

§ 5.20–5 Public access to hearings.

(a) Every hearing conducted by an administrative law judge shall be open to the public except when the administrative law judge finds that subject matter to be or being brought out in the evidence concerns classified matter relating to national security, or when other circumstances exist which court decisions have held to warrant a limitation or exception to the right of a public hearing.

(b) Representatives of the press shall not be excluded from a hearing unless the hearing concerns classified matter relating to national security.

§ 5.20–10 Continuance of a hearing.

(a) The administrative law judge may, for good cause to be shown in the record, either on his own motion or the motion of the investigating officer or person charged, continue the hearing from day to day or adjourn such hearing to a later date or to a different place by announcement at the hearing or by other appropriate notice. In making such determination, consistent with the rights of the person charged to a fair and impartial hearing, the administrative law judge shall give careful consideration to the future availability of witnesses and to the prompt dispatch of vessel or vessels on which the person charged and/or witnesses may be employed.

§ 5.20–15 Disqualification of administrative law judge.

(a) In any suspension and revocation proceeding conducted under this part, an administrative law judge may withdraw voluntarily from a particular case when he deems himself unqualified. In such event the administrative law judge shall immediately notify the Commandant of his desire to withdraw and his reasons.

(b) In any case the person charged or the investigating officer may, in good faith, request the administrative law judge to withdraw on the grounds of personal bias or other disqualification. The person seeking the administrative law judge's disqualification shall file with the administrative law judge a timely affidavit or statement sworn to before a Coast Guard officer or official authorized to administer oaths setting forth in detail the facts alleged to constitute the grounds for disqualification. The administrative law judge may file a response thereto and shall rule whether or not he considers himself disqualified.

(c) If the person seeking disqualification takes exception to the ruling of the administrative law judge, he may appeal such ruling to the Commandant. The administrative law judge shall immediately forward the affidavit or sworn statement with his decision. If the administrative law judge believes himself not disqualified and he so rules, the administrative law judge shall also have all matters relating to such claims of disqualification affirmatively appear in the record. The administrative law judge shall then proceed with the hearing unless it can be shown that a delay in the hearing pending a determination of the appeal will not interfere with the future availability of the person charged and witnesses, or the prompt dispatch of the vessel or vessels on which the person charged and/or witnesses may be employed.

§ 5.20–25 Failure of person charged to appear at hearing.

(a) In any case in which the person charged, after being duly served with the original of the notice of the time and place of the hearing and the charges and specifications, fails to appear at the time and place specified for the hearing, a notation to that effect shall be made in the record and the hearing may then be conducted "in absentia."

(b) The administrative law judge shall also cause to be placed in the record all the facts concerning the issuance and service of the notice of hearing and the charges and specifications.

§ 5.20–27 Person charged may be required to submit to medical examination.

(a) In a hearing in which the physical or mental condition of the person charged is in controversy, the administrative law judge on his own motion may order the person charged to submit to a medical examination, or the investigating officer may submit a written petition

requesting such person to be required to submit to a medical examination by a physician. The administrative law judge shall decide from the evidence or information submitted to him by the investigating officer whether or not to order the person charged to submit to an examination before a physician of the U.S. Public Health Service, and also to an examination before another physician if the person charged so desires and pays for the required examination.

(b) If the person named in the administrative law judge's order fails or refuses to submit to such duly ordered examination such failure shall receive due weight in determining the facts alleged in the specifications.

§ 5.20–30 Time and place of hearing.

(a) The hearing shall be held at the time and place specified in the notice of the hearing served upon the person charged by or under the direction of the investigating officer.

§ 5.20–35 Opening the hearing.

(a) The administrative law judge shall open the hearing at the time and place specified in the notice, administer all necessary oaths, and cause a complete record of the proceedings to be kept.

(b) The administrative law judge shall open the hearing with appropriate identification of the proceeding and announce the statutory jurisdiction under which the hearing is being conducted. The administrative law judge shall describe the nature of the proceedings and state that it is concerned solely with the rights of the person charged to continue holding specific license, certificate, and/or document, and any endorsement thereon, as the case may be, issued by the Coast Guard or by any predecessor authority.

§ 5.20–37 Appearances.

(a) The appearances of persons at the hearing shall be entered in the following order:

(1) The investigating officer;

(2) The person charged; and,

(3) The counsel for the person charged, if any.

§ 5.20–40 Verification of license, certificate or document.

(a) Since the proceeding involves a license, certificate or document issued by the Coast Guard, the administrative law judge shall require the person charged to produce and present to him at the opening of the hearing and on each day the hearing is in session thereafter, all valid licenses, certificates, and/or documents issued to the person charged. In the event that the person charged alleges he has lost any such license, certificate or document, the administrative law judge shall require the person charged to execute a lost document affidavit (Form CG–719E). The administrative law judge shall warn the person charged that a willful misstatement of any material item in such affidavit is punishable as a violation of a federal criminal statute.

(b) When a hearing is continued or delayed, the administrative law judge shall return the license, certificate, and/or document to the person charged upon demand: *Provided*, That such action shall not be taken if a prima facie case has been established that the person charged committed an offense which shows that he has such propensities and proclivities as to constitute a definite danger to the safety of life or property at sea.

§ 5.20–45 Rights of person charged.

(a) The administrative law judge shall advise the person charged of his rights to:

(1) Be represented by professional counsel, or any other person he may desire;

(2) Have witnesses and relevant evidence subpenaed;

(3) Examine witnesses, cross-examine witnesses testifying against him, and introduce relevant evidence into the record; and,

(4) Testify in his own behalf or remain silent.

(b) All matters on which the administrative law judge is required to advise the person charged shall affirmatively appear in the record.

§ 5.20–60 Witnesses excluded from hearing room.

(a) All witnesses shall be excluded from the hearing room prior to the taking of their testimony and the administrative law judge may separate government witnesses if he deems it desirable.

§ 5.20–63 Preliminary motions or objections.

(a) Any preliminary motion or objection shall be heard and disposed of by the administrative law judge.

§ 5.20–65 Correction or amendment of charges and/or specifications.

(a) The administrative law judge shall examine the charges and specifications to determine their correctness as to form and legal sufficiency.

(b) The administrative law judge may, on his own motion or the motion of the investigating officer or person charged, permit the amendment of charges and specifications to correct harmless errors by deletion or substitution of words or figures: *Provided*, That a legal specification is left remaining. Broad and liberal discretion shall be exercised by administrative law judges in permitting such amendments.

(c) When errors of substance are found in charges and specifications, the administrative law judges shall rule that the defective charge or specification is withdrawn. The investigating officer may then prepare and serve a new charge and specification on the person charged.

§ 5.20–75 Arraignment and plea.

(a) The administrative law judge shall read each charge and specification to the person charged and shall obtain from him or counsel a definite plea to each charge and specification. If the person charged does not make a definite plea, the administrative law judge shall enter a plea of "not guilty" and proceed with the hearing.

(b) If the person charged fails to appear at the hearing, the administrative law judge will comply with the procedures in § 5.20–25. If no valid reason to the contrary appears, the administrative law judge shall enter pleas of "not guilty" to all the charges and specifications, and shall then proceed with the hearing.

§ 5.20–77 Burden of proof.

(a) The investigating officer has the burden of proof and shall present his evidence first.

§ 5.20–80 Opening statement of investigating officer.

(a) If the person charged pleads "not guilty," the investigating officer shall make a brief statement outlining the basis for the preferment of the charges; particulars incident to the substance of the complaint; and a summary of matters expected to be proved.

(b) If the person charged pleads "guilty," the opening statement of the investigating officer shall contain a summary of the evidence upon which the charge and specification are based.

§ 5.20–85 Opening statement by or on behalf of the person charged.

(a) The person charged or his counsel shall be afforded an opportunity to state what he intends to establish. This may be waived or deferred at the option of the person charged.

(b) If the person charged pleads "guilty," he may present evidence or mitigating circumstances believed to be material. Should this presentation be inconsistent with a "guilty" plea, the administrative law judge shall reject the plea, change the plea to "not guilty" and proceed with the hearing.

§ 5.20–87 Coercion of witnesses.

(a) Any attempt to coerce any witness or to induce him to testify falsely, is an offense which may be punishable by fine of $5,000 or imprisonment for 5 years, or both fine and imprisonment. (See 18 U.S.C. 1505, 46 U.S.C. 239.)

§ 5.20–90 Witnesses.

(a) All witnesses shall be sworn, duly examined, and may be cross examined. At any time a witness is on the stand he may be questioned by an administrative law judge.

(b) The investigating officer or person charged who calls a witness shall begin his direct examination by identifying the witness. When possible, the witness will be required to identify the person charged.

(c) In any case where the person charged has entered a "guilty" plea, witnesses may be called to establish matters of aggravation or matters of mitigation.

§ 5.20–93 Witness's personal counsel.

(a) Any witness may have personal counsel to advise him as to his rights, but such counsel may not otherwise participate in the hearing.

§ 5.20–95 Evidence.

(a) In these administrative proceedings, strict adherence to the rules of evidence observed in courts is not required. All relevant and material evidence, oral or written, shall be received except that hearsay evidence shall be rejected if the declarant is readily available to appear as a witness. In deciding whether the declarant's testimony should be obtained, the importance of such evidence shall be balanced against the difficulty of producing the witness. Hearsay evidence shall be accorded such weight as the circumstances warrant, including consideration of whether it is opposed by other evidence. Irrelevant, immaterial and unduly repetitious evidence should be excluded.

(b) Findings must be supported by substantial evidence of a reliable and probative character. By this is meant evidence of such probative value as a reasonably prudent and responsible person is accustomed to rely on when making decisions in important matters. It is not limited to evidence which is considered to be competent evidence for the purpose of admissibility under the jury-trial rules.

(c) In conducting a hearing the administrative law judge will extend reasonable latitude to the person charged who does not have professional counsel to represent him. Investigating officers and counsel should be required to conform to the rules of evidence to a greater degree than persons charged without counsel.

§ 5.20–100 Documentary evidence generally.

(a) Except as modified by the regulations in this part, documentary evidence shall be admissible in accordance with the applicable rules of evidence, as set forth in § 5.20–95.

§ 5.20–102 Official notice by Commandant and administrative law judges.

(a) The Commandant and the administrative law judges shall consider the following without requiring the person charged or the Coast Guard to submit them in evidence:

(1) *Federal law.* The Constitution; Congressional Acts, Resolutions, Records, Journals and Committee Reports; Decisions of Federal Courts; Executive Orders and Proclamations; and of rules, regulations, orders and notices published by the Treasury Department or United States Coast Guard in the FEDERAL REGISTER.

(2) *State law.* The Constitution and public laws of each State.

(3) *Governmental organizations.* The organization, territorial limitations, officers, departments, and general administration of the Government of the United States, its territories, possessions and the Commonwealth of Puerto Rico; the several States; and foreign nations.

(4) *Coast Guard organization.* The Coast Guard's organization, administration, officers, personnel, and official publications pertaining to organization.

(5) *Commandant's decisions.* The Commandant's decisions in all appeal and review cases under this part. (See § 5.03–1).

(b) The Commandant and administrative law judges may, upon request, take official notice of those matters of which the courts usually take judicial notice, and matters which adjudicated cases recognize may be officially noticed by administrative agencies. However, the matters thus officially noticed by the administrative law judge shall be specified on the record. Either party shall be afforded an opportunity, on the record, to rebut such matters.

§ 5.20–105 Certification of court records.

(a) A copy of a court record such as the court conviction or judgment, shall be certified to be a true copy by the clerk or deputy clerk of the court and under the seal of the court, with or without the certification of the judge that the attestation by the clerk is in proper form.

§ 5.20–106 Certification of extracts from shipping articles, logbooks, etc.

(a) Extracts from records in the custody of the Coast Guard, shipping articles, and logbooks, shall be certified by an investigating officer or custodian of such records.

(b) Any commissioned officer of the Coast Guard is authorized to certify extracts from Coast Guard records, shipping articles, and logbooks as being true copies of the original by certifying that he has seen the original and compared the copy with it and found it to be a true copy. The officer so certifying shall subscribe his name, rank, and duty station.

§ 5.20–107 Admissibility and weight of entries from Official Logbooks.

(a) The Official Logbook of a vessel, or a duly certified copy of an entry made therein, shall be admissible in evidence, under authority of Title 28, U.S. Code, section 1732.

(b) An entry in an Official Logbook of a vessel made in substantial compliance with the requirements of Title 46, U.S. Code, section 702, in addition to being admissible in evidence, shall constitute prima facie evidence of the facts therein recited. However, an entry not made in substantial compliance with the requirements of Title 46, U.S. Code, section 702, while admissible, in evidence, does not constitute prima facie evidence of the facts therein recited.

§ 5.20–110 Use of judgments of conviction.

(a) The judgment of conviction by a Federal court is conclusive in proceedings under Title 46, U.S. Code, section 239, where acts forming the basis of the charges in a Federal court are the same. The person charged may not challenge the jurisdiction of a Federal or State court in proceedings under Title 46, U.S. Code, sections 239 and 239b.

(b) Where the acts involved in a judgment of conviction of a State court are the same as those involved in proceedings under Title 46, U.S. Code, section 239, the judgment of conviction is not conclusive of the issues decided. However, such judgment of conviction is admissible in evidence in the latter proceedings and constitutes substantial evidence adverse to the person charged.

(c) The judgment of conviction for a narcotic drug law violation by a Federal court or a State court of record is conclusive in proceedings under Title 46, U.S. Code, section 239b.

§ 5.20–115 Admissibility of reports of consul.

(a) The original or a duly authenticated copy of a report made by a consul or a vice consul of the United States shall be admissible in evidence.

§ 5.20–117 Admissibility of records of proceedings at Coast Guard investigations.

(a) The records of proceedings at Coast Guard investigations, including testimony and statements of witnesses and all exhibits received, are admissible in hearings conducted under this part, pursuant to stipulation by the investigating officer and the person charged.

(b) The stipulation shall be in writing, shall describe the specific portions of the record to be submitted as evidence, and shall be signed by the investigating officer and the person charged or his counsel. The stipulation and the portions of the records referred to therein shall upon presentation be made a part of the record of the hearing.

§ 5.20–118 Admissibility of seaman's Coast Guard records.

(a) The prior negative disciplinary record of the person charged is admissible as character evidence of his general good reputation.

(b) A commendatory record pertaining to the specific trait of character in question is admissible.

(c) No part of a prior disciplinary record may be used to show particular acts in order to refute directly evidence as to the good character of the person charged. However, it is admissible for the limited purposes of:

(1) Impeaching the credibility of the person charged on cross-examination after he has testified, on direct examination, that he has no prior disciplinary record.

(2) Impeaching the credibility of the person charged by showing offenses of such a nature as to indicate his general lack of veracity.

(3) Testing the qualifications of character witnesses who express opinions concerning the general good reputation of the person charged.

(4) Proving prior conduct tending to show guilty knowledge, design, intent,

motive, or the like, which is relevant to the offense alleged.

§ 5.20–120 Admissions by person charged during a Coast Guard investigation.

(a) No person shall be permitted to testify with respect to admissions made by the person charged during or in the course of a Coast Guard investigation except for the purpose of impeachment.

§ 5.20–125 Other admissions by person charged.

(a) Any person other than a Coast Guard investigating officer may testify as to admissions voluntarily made by the person charged in the presence of the witness other than during or in the course of an investigation by the Coast Guard.

§ 5.20–130 Impeachment of witnesses.

(a) A witness, including the person charged if he voluntarily testifies in his own behalf, may be impeached by proof of prior inconsistent statements, whether oral or written, which were made by him. However, before evidence of such inconsistent statements is admissible in evidence, a proper foundation must be established.

(b) Evidence of prior inconsistent statements by a witness is admissible for the limited purpose of impeaching the credibility of the witness.

(c) A party calling a witness or otherwise making a witness his own may, after orally pleading surprise, be permitted to impeach him in the discretion of the administrative law judge.

§ 5.20–135 Testimony of absent witnesses.

(a) The testimony of a witness other than the person charged taken under oath during a Coast Guard investigation may be received in evidence in lieu of the appearance of the witness when it is established to the satisfaction of the administrative law judge that:

(1) Whereabouts of the witness is unknown after diligent search; or,

(2) Witness is non compos mentis; or,

(3) Witness is deceased; or,

(4) Witness is ill or incapacitated to such an extent that neither his testimony nor a deposition can be taken; or,

(5) Witness is more than 100 miles from the place of hearing and at a place so remote and inaccessible as to make it impracticable to take his deposition.

(b) In considering the admissibility and credibility of the testimony taken under oath during an investigation and offered in evidence under paragraph (a) of this section, the administrative law judge shall consider the apparent trustworthiness of the testimony, and shall take into consideration whether or not the parties were represented or afforded the right to be present and to cross examine the witness.

§ 5.20–140 Testimony by deposition.

(a) Testimony may be taken by deposition upon application, and for good cause shown, by any party or upon the initiative of the administrative law judge.

(b) The application to the administrative law judge shall be in writing, setting forth the reasons why it should be taken, the name and address of the witness, the matters concerning which it is expected the witness will testify, the time and place proposed for the taking of the deposition and whether it shall be by oral examination or written interrogatories.

(c) The administrative law judge will for good cause shown, serve upon the parties an order specifying the name of the witness, the time and place for taking the deposition, and a designation of a person before whom the witness is to testify. Such deposition may be taken before any person authorized to administer oaths.

(d) The party desiring a deposition by written interrogatories shall submit a list of interrogatories to be propounded to the absent witness; then the opposite party after he has been allowed a reasonable time for this purpose, may submit a list of cross-interrogatories. If either party objects to any question, the matter shall be presented to the administrative law judge for a ruling. Upon agreement of the parties on a list of interrogatories and cross-interrogatories (if any) the administrative law judge may propound additional questions.

(e) The subpena referred to in Subpart 57.15, of this part together with the list of interrogatories and cross-interrogatories (if any), shall be forwarded to the person designated to take such deposition. This person will cause the subpena to be served personally on the witness, and a copy shall be endorsed and returned to the administrative law judge.

(f) When the deposition has been transcribed, it shall be presented to the witness for examination and correction and then shall be subscribed by him. The person taking the deposition shall certify the signature of the witness. If for any reason the deposition or interrogatory is not subscribed by the witness, then the person taking the deposition shall recite under oath thereon the reason it is not subscribed.

(g) When the deposition has been duly executed it shall be returned to the administrative law judge. As soon as practicable after the receipt of the deposition the administrative law judge shall present it to the parties for their examination. The administrative law judge shall rule on the admissibility of the deposition or any part thereof and on any objections.

(h) In the event one party files interrogatories, the other party, in lieu of filing cross-interrogatories, may attend the taking of the deposition and cross-examine the witness.

§ 5.20–145 Argument.

(a) After all the evidence has been presented the parties may present oral and/or written argument in the following order:

(1) Opening argument by the investigating officer;

(2) Argument by the person charged or his counsel; and,

(3) Closing argument by the investigating officer.

§ 5.20–150 Submission of proposed findings and conclusions.

(a) The administrative law judge shall afford the investigating officer and the person charged reasonable opportunity to submit, either orally or in writing, proposed findings and conclusions with supporting reasons. If either party desires to submit such matter, the administrative law judge shall fix the time within which it shall be filed. Failure to comply within the time so fixed by the administrative law judge shall be regarded as a waiver of the right.

§ 5.20–155 Administrative law judge's decision.

(a) The administrative law judge shall render a decision consisting of:

(1) "Findings of Fact," including necessary evidentiary and ultimate facts pertaining to each specification;

(2) "Conclusions" as to whether or not the charges and specifications are found proved;

(3) "Rulings" on proposed findings and conclusions;

(4) "Opinion," discussing the reasons, precedents, legal authorities, or other basis for the findings, conclusions and order on all material issues of fact, law, or discretion, with such specificity as to advise the parties of their record and legal basis; and,

(5) "Order," reciting disposition of the case. The order is only given after consideration of the prior record of the person charged as provided in § 5.20–160.

(b) A separate conclusion shall be made by the administrative law judge on each charge and specification. A specification may alternately be found "not proved," "proved in part," "proved," or "proved by plea."

§ 5.20–160 Prior record.

(a) Except as provided for in § 5.20–118, the prior commendatory and/or disciplinary record of the person charged will not be disclosed to the administrative law judge until after he has made the conclusions as to each charge and specification, and then only if at least one charge has been found "proved."

(b) In order to expedite the administrative law judge's decision, if prior record is not available at the hearing, the person charged, if he consents, may be questioned under oath as to his prior record. Erroneous information given by the person charged shall be grounds for the administrative law judge to reopen the case and amend his order.

§ 5.20–165 Table of average orders.

(a) The Table 5.20–165 is for the information and guidance of administrative law judges. The orders listed for the various offenses are average only and should not in any manner affect the fair

and impartial adjudication of each case on its individual facts and merits.

(b) The Table 5.20–165 is divided into seven groups. In the table, the first numeral indicates the period of suspension in months and when followed by a zero means an outright suspension. For example, 1–0 means a one-month suspension without probation. Where the first numeral is followed by a numeral other than zero, a probationary suspension is indicated. For example, 6–12 means a six-month suspension, with a twelve-month period of probation.

TABLE 5.20–165—SCALE OF AVERAGE ORDERS

Type of Offense	Number of times committed				
	First	Second	Third	Fourth	Fifth
Group A (1) (offenses committed within 3 years are to be considered as repeated):					
Absent over leave	[1] Adm.	1–0	3–0	6–0	[1] Rev.
Absent without leave	Adm.	1–0	3–0	6–0	Rev.
Failure to join (domestic)	Adm.	1–0	3–0	6–0	Rev.
Inattention to duty (unintentional)	Adm.	1–0	3–0	6–0	Rev.
Violation of a regulation (unintentional)	Adm.	1–0	3–0	6–0	Rev.
Group A (2) (offenses committed within 3 years are to be considered as repeated):					
Creating a disturbance aboard ship due to intoxication	Adm.	2–0	4–0	Rev.	----------
Failure to join (foreign)	Adm.	2–0	4–0	Rev.	----------
Failure to perform duty	Adm.	2–0	4–0	Rev.	----------
Group B (time between offenses not to have any bearing when considering whether man is repeater):					
Attempt to illegally take or smuggle property ashore	6&2	6–0	Rev.	----------	----------
Desertion (domestic)	6&2	6–0	Rev.	----------	----------
Failure to report marine casualty	6&2	6–0	Rev.	----------	----------
Failure to manifest	6&2	6–0	Rev.	----------	----------
Neglect of duty	6&2	6–0	Rev.	----------	----------
Possession of intoxicating liquor	6&2	6–0	Rev.	----------	----------
Possession of firearms	6&2	6–0	Rev.	----------	----------
Sleeping on watch	6&2	6–0	Rev.	----------	----------
Use of profane and threatening language to superior	6&2	6–0	Rev.	----------	----------
Violation of a regulation (intentional)	6&2	6–0	Rev.	----------	----------
Wilful disobedience of a lawful order	6&2	6–0	Rev.	----------	----------
Group C (time between offenses not to have any bearing when considering whether man is repeater):					
Assault	10	4–0	Rev.	----------	----------
Group D (time between offenses not to have any bearing when considering whether man is repeater):					
Inattention to duty (intentional)	30	12–0	Rev.	----------	----------
Illegal possession of cargo or ship's property	30	12–0	Rev.	----------	----------
Neglect of duty; damage to vessel, cargo or personnel (ordinary negligence)	30	12–0	Rev.	----------	----------
Pilfering cargo or ship's equipment	30	12–0	Rev.	----------	----------
Refusing to perform duty	30	12–0	Rev.	----------	----------
Sale of ship's property	30	12–0	Rev.	----------	----------
Theft	30	12–0	Rev.	----------	----------
Group E (time between offenses not to have any bearing when considering whether man is repeater):					
Assault and battery	60	Rev.	----------	----------	----------
Assault with dangerous weapon (no injury)	60	Rev.	----------	----------	----------
Destruction of ship's cargo or property	60	Rev.	----------	----------	----------
Desertion (foreign)	60	Rev.	----------	----------	----------
Continued disobedience of lawful order	60	Rev.	----------	----------	----------
Embezzling ship's cargo or property	60	Rev.	----------	----------	----------
Neglect of duty; damage to ship, cargo or persons (gross or wilful)	60	Rev.	----------	----------	----------
Interference with master, ship's officer, or Government official in performance of official duties	60	Rev.	----------	----------	----------
Smuggling of property	60	Rev.	----------	----------	----------
Sale of intoxicating liquor	60	Rev.	----------	----------	----------
Group F:					
Assault with dangerous weapon (injury)	Rev.	----------	----------	----------	----------
Malicious destruction of ship's property	Rev.	----------	----------	----------	----------
Misconduct resulting in loss of life or serious injury	Rev.	----------	----------	----------	----------
Molestation of passengers	Rev.	----------	----------	----------	----------
Murder or attempted murder	Rev.	----------	----------	----------	----------
Mutiny	Rev.	----------	----------	----------	----------
Perversion	Rev.	----------	----------	----------	----------
Possession, use, sale or association with drugs, including marijuana	Rev.	----------	----------	----------	----------
Sabotage	Rev.	----------	----------	----------	----------
Serious neglect of duty	Rev.	----------	----------	----------	----------
Serious theft of ship's property or stores	Rev.	----------	----------	----------	----------
Smuggling of aliens	Rev.	----------	----------	----------	----------

[1] Abbreviation for "Admonition."
[2] Abbreviation for "Revocation."

§ 5.20–170 Order.

(a) If no charge is found "proved," the order of the administrative law judge shall state that the charge or charges are "dismissed."

(b) If a charge is found "proved," the administrative law judge shall order an admonition, suspension with or without probation, or revocation.

(c) An order shall be directed against all licenses, certificates, and/or documents, except that in cases of negligence or professional incompetence, the order may be made applicable to specific licenses or documents in qualified ratings.

(d) When an administrative law judge determines that the person charged is professionally incompetent in the grade of the license, certificate or document he holds, but is considered competent in a lower grade, the administrative law judge may revoke the license, certificate or document and order the issuanace of one of a lower grade.

(e) In a decision rendered in the United States, an order of revocation or outright suspension shall direct the person charged to surrender his license, certificate and/or document immediately. Any domestic order should state that it is effective on service and that the license, certificate and/or document affected is:

(1) Revoked; or,

(2) Suspended outright until a specified period after surrender; or,

(3) Suspended for a specified period subject to a specified period of probation; or,

(4) A combination of subparagraph (2) of this paragraph and a probationary suspension, as indicated in subparagraph (3) of this paragraph, extending from the beginning of the outright suspension until a specified period after the termination of the outright suspension.

(f) In a decision rendered outside of the United States, an order shall differ only in that a revocation or outright suspension is not to be effective until the date of arrival of the person charged in the United States.

§ 5.20–175 Delivery of order and complete decision.

(a) Whenever possible, the administrative law judge shall prepare in writing his complete decision, including the order, and personally deliver it to the person charged or his authorized representative at the final session of the hearing. The decision, including the order, is effective on the date of such delivery.

(b) If it is not possible for the administrative law judge to deliver his complete written decision at the final session of the hearing, he shall render his oral decision on the record, then prepare the order in writing and personally deliver it to the person charged or his authorized representative. The decision, including the order, is effective upon such delivery of the written order. When the written decision is available, the administrative law judge will cause it to be delivered to the person charged or his authorized representative.

(c) If it is not possible for the administrative law judge at the conclusion of the hearing to render an oral decision on the record and to follow the procedures provided for in paragraph (a) or (b) of this section, the written decision, including the order, shall be delivered to the person charged or his authorized representative, at the earliest possible date, either personally or by certified mail with return receipt required to be signed only by the person charged or his authorized representative. The signed acknowledgement or the affidavit of personal delivery, or the return receipt shall be made a part of the record and shall determine the effective date of the decision, including the order, unless good cause is shown why this date should not apply.

(d) As used in this section, the phrase "authorized representative" means any person who has been authorized, as shown by the hearing record, to receive service and take an appeal on behalf of the person charged.

§ 5.20–180 Notification of right to appeal.

(a) The person charged shall be advised by the administrative law judge of his right to appeal in accordance with Subpart 5.30 of this part. The administrative law judge shall also advise the person charged that if such appeal is not taken within the time limit specified in Subpart 5.30 of this part it will not be accepted.

§ 5.20–185 Completion of the hearing.

(a) Upon completion of the procedures in this subpart, the hearing is completed.

§ 5.20–190 Modification of administrative law judge's order and decision.

(a) After an administrative law judge renders his order and decision, it may be modified or changed pursuant to procedures set forth in paragraph (b) of this section, or in Subpart 5.25 of this part for reopening of hearings, or in Subpart 5.30 of this part for appeals, or in Subpart 5.35 of this part for review of administrative law judge's decisions. In the absence of any such procedures, the decision of the administrative law judge is final and binding.

(b) When the proceeding under the provisions of Title 46, U.S. Code, section 239b, is based on a narcotics conviction as referred to in § 5.03–10, rescission of the revocation of a license, certificate or document will not be considered, unless the applicant submits a specific court order to the effect that his conviction has been unconditionally set aside for all purposes. The Commandant reserves the personal right to make the determination in such case.

Subpart 5.25—Reopening of Hearings

§ 5.25–1 Petition to reopen hearing.

(a) At any time prior to a final decision on appeal or within one year from the date of service of the administrative law judge's decision, a person found guilty of any offense may petition to reopen the hearing on the basis of newly discovered evidence.

(b) If at the time the petition is filed an appeal to the Commandant from the administrative law judge's decision has not been filed, the petition to reopen the hearing shall be considered by an administrative law judge. If an appeal to the Commandant has been filed, the petition to reopen the hearing shall be considered by the Commandant.

§ 5.25–5 Form of petition.

(a) The petition shall be in letter form, typewritten or written in a legible hand, and addressed to the administrative law judge or the Commandant, as appropriate.

(b) The petition shall contain the following:

(1) A descriptive identification of the hearing desired to be reopened, including place of hearing, full name of person found guilty, number and description of license and/or document involved, the name of the administrative law judge and date of the decision.

(2) An affirmative declaration that no appeal has been taken pursuant to Subpart 5.30 of this part, or if an appeal has been taken, the date and with whom such appeal was filed.

(3) A statement setting forth why the evidence would probably produce a different result favorable to the person found guilty.

(4) A statement as to whether or not the additional evidence was known to the petitioner at the time of the hearing, and if applicable, reasons why the petitioner, with due diligence, could not have discovered such new evidence prior to the date the hearing was completed.

(5) A statement setting forth briefly and specifically:

(i) The precise nature and purpose of such additional evidence; and,

(ii) The names and addresses of persons to be called as witnesses and the time and place when such witnesses will be available to testify personally or by deposition.

§ 5.25–10 Action on petition.

(a) After the receipt of the petition, an investigating officer shall be afforded a reasonable time within which to file an answer in writing on the merits of the petition. The decision on the petition will be based on a consideration of the petition, the record of the hearing, and the answer, if any.

(b) The petition shall only be granted when new evidence is described which has a direct and material bearing on the issues, and when valid explanation is given for the failure to produce this evidence at the hearing.

(c) The administrative law judge or the Commandant shall render a decision in writing, either granting or denying the petition.

(d) If the administrative law judge grants the petition, he shall reopen the hearing to permit the offer of new evidence described in the petition.

(e) If the petition is granted by the Commandant, he will remand the case to an administrative law judge with directions to reopen the hearing.

(f) On the basis of the record of the original hearing and the new evidence received, the administrative law judge shall either affirm the original decision or withdraw the original decision and render a new one.

(g) The petition, and answer, if any, the administrative law judge's or Commandant's decision, and the additional evidence will be added to the original record.

(h) The filing of a petition to reopen the hearing shall not stay an existing order of the administrative law judge.

(i) If a petition to reopen a hearing is filed within 30 days after the service of the administrative law judge's decision, it will toll or defer the running of the 30-day statutory period of appeal as provided in Subpart 5.30 of this part until an administrative law judge has acted on the petition.

§ 5.25–15 Appeal from action on petition.

(a) If the petition to reopen the hearing is denied by the administrative law judge, the person found guilty may appeal to the Commandant within 30 days from the date of service of the denial of the petition. The review by the Commandant on this appeal will be limited to the issue raised by the petition. Other grounds for appeal must be in accordance with Subpart 5.30 of this part.

(b) If the petition to reopen the hearing is granted and a previous finding of "proved" is affirmed by the administrative law judge, the person found guilty may appeal the decision as provided for in Subpart 5.30 of this part.

Subpart 5.30—Appeals

§ 5.30–1 Time for filing, contents, etc.

(a) A person found guilty by an administrative law judge may, within 30 days after the date of the order of the administrative law judge is effective, take an appeal to the Commandant. This appeal shall be taken by filing a notice of appeal with the administrative law judge who heard the case or with any Officer in Charge, Marine Inspection, for forwarding to such administrative law judge.

(b) The notice of appeal shall:

(1) Be typewritten or written legibly;

(2) Be addressed to the Commandant; and,

(3) Set forth the name of the appellant, the number and description of license, and/or document involved, nature of the charge, the order, and the administrative law judge who made the decision.

(c) The notice of appeal may contain a statement of grounds for appeal and/or exceptions. The appellant may file with the notice of appeal a brief or memorandum in elaboration of the matters set forth in the notice of appeal. The notice of appeal may contain a request for transcript of the hearing. No request for such transcript will be accepted unless it is submitted with the notice of appeal.

(d) The administrative law judge shall promptly transmit the notice of appeal and his action, if any, on a request for a temporary document to the Commandant. He will also transmit a complete transcript of the hearing and any material received in support of the appeal to the Commandant.

(e) After the appellant or his counsel has received a transcript of the record, any exceptions submitted shall be identified by specific citations to pages in the transcript and shall contain legal and other authorities relied upon to support such exceptions.

(f) The only matters which will be considered by the Commandant on appeal are:

(1) Exceptions properly raised by the appellant as indicated in paragraph (e) of this section;

(2) Clear errors in the record; and,

(3) Jurisdictional questions.

(g) In the preparation of an appeal, administrative law judge will assist the appellant beyond the point of informing him of the proper form to be used and the applicable regulations.

§ 5.30–3 Time in which to complete appeal.

(a) Appellant may submit grounds for appeal and exceptions to the administrative law judge's decision, whether or not any such matter was filed with the notice of appeal. This matter must be submitted within 60 days after receipt of the transcript of the hearing record, or, if no transcript was requested within 60 days of the date of effective service of the decision. Nothing further will be received and considered as a part of the appeal record after the applicable time has elapsed unless it is extended by the Commandant.

(b) Prior to the expiration of the applicable 60-day period of extension thereof as set forth in paragraph (a) of this section, at least one ground for appeal or exception to the administrative law judge's decision must be filed in support of the notice of appeal. Failure to do so will result in one of the following:

(1) Termination of the case by written notice to the appellant or his counsel, that the decision of the administrative law judge constitutes the final agency action on the merits of the case; or,

(2) Consideration of the appeal on the merits of the case and publication of the Commandant's decision without prior notice to the appellant or his counsel. This will only be done when some clear error appears in the record or when the case presents some novel policy consideration.

§ 5.30–5 Record for decision on appeal.

(a) The transcript of hearing, together with all papers and exhibits filed, shall constitute the record for decision on appeal.

§ 5.30–10 Action on appeal.

(a) The Commandant may affirm, reverse, alter, or modify the decision of the administrative law judge, or he may remand the case for further hearing. The decision of the Commandant on appeal shall be final in the absence of a remand.

§ 5.30–15 Temporary documents.

(a) Any person who has appealed from a decision suspending or revoking his document may file a written request for a temporary document with the Administrative Law Judge who rendered the decision or with any Officer in Charge, Marine Inspection, for forwarding to such Administrative Law Judge. The request will be granted by the Administrative Law Judge except (1) when the hearing transcript has been forwarded to the Commandant, or (2) when, in the opinion of the Administrative Law Judge, the order of suspension or revocation rests upon a finding of guilty for a serious offense of such a character that the presence of the person charged on board a vessel, either immediately or for the indefinite future, would be incompatible with the requirements of safety of life or property at sea, or for a serious offense found by the Administrative Law Judge to have been committed willfully.

(b) If the transcript has been forwarded to the Commandant, or if the request is denied by the Administrative Law Judge, the request shall be forwarded by the Administrative Law Judge to the Commandant for final action. A temporary document may be issued in the discretion of the Commandant, except where such action, in the opinion of the Commandant, would be incompatible with the requirements of safety of life or property at sea.

(c) A temporary document shall be subject to such terms and conditions as the Commandant or Administrative Law Judge may prescribe. However, all such documents shall provide that they expire not more than six months after issuance or upon service of the Commandant's decision on appeal, whichever occurs first. If a temporary document expires before the Commandant's decision is rendered, it may be renewed, after authorization by the Commandant, by the issuance of a new temporary document by an Officer in Charge, Marine Inspection.

(d) Copies of the temporary documents issued shall become a part of the record on appeal.

§ 5.30–20 Appeal cases remanded for further proceedings.

(a) When the Commandant renders a decision remanding a case for further proceedings, the remand is directed to the administrative law judge. The administrative law judge shall notify the parties and set a date for continuance of the proceedings. In the absence of specific directions from the Commandant, the administrative law judge shall either reopen the former hearing or conduct a new hearing.

(b) If the hearing is reopened, the evidence in the prior hearing shall be evaluated together with the new evidence submitted.

(c) In a new hearing, the evidence in the prior hearing may be used for purposes of impeachment. Evidence in the prior hearing may be stipulated as a part of the record of the new hearing.

(d) The administrative law judge shall render either an entirely new decision or a decision incorporating by reference his original decision as necessary.

§ 5.30–25 Commandant's decisions on appeals.

(a) The Commandant's Decisions on Appeals are the final actions taken by the Coast Guard in appeals under the suspension and revocation proceedings provided by this part. These Decisions are issued seriatim and are public records.

(b) The Commandant's Decisions on Appeals are available for reading purposes at Coast Guard Headquarters, and at Offices of District Commanders and Officers in Charge, Marine Inspection.

§ 5.30–30 Appeals to the National Transportation Safety Board

(a) The rules of procedure for appeals to the National Transportation Safety Board from decisions of the Commandant, U.S. Coast Guard, sustaining orders of revocation of licenses, certificates, documents, and registers are in 14 CFR Part 425. These rules give the party adversely affected by the Commandant's decision 10 days after service upon him or his attorney of the Commandant's decision to file a notice of appeal with the Board.

(b) In all cases under this part which are appealed to the National Transportation Safety Board under 14 CFR 425, the Chief Counsel of the Coast Guard is designated as the representative of the Commandant for service of notices and appearances. Communications should be addressed to Commandant (CL), Washington, D.C. 20591.

(c) In cases before the National Transportation Safety Board the Chief Counsel of the Coast Guard may be represented by others designated "of counsel."

(d) It should be noted that 14 CFR Part 425 is limited to Commandant's Decisions sustaining orders of revocation by administrative law judges. The National Transportation Safety Board in 14 CFR Part 400 (32 FR 12839) has delegated to the Commandant, U.S. Coast Guard, all of its review authority in section 5(b)(2) of the Department of Transportation Act (49 U.S.C. 1544(b)(2)) in other Coast Guard matters, which include Commandant's Decisions sustaining orders suspending licenses, certificates, documents, and registers in proceedings under this part.

Subpart 5.35—Review of Administrative Law Judge's Decisions in Guilty Cases

§ 5.35–1 Commandant's review.

(a) Any decision of an administrative law judge, in which there has been a guilty finding, may be called up for review by the Commandant on his own motion, or direction, within sixty (60) days, after the decision is announced or has been made effective, whichever date is later. On occasion, such action may be taken upon recommendation of the District Commander within whose jurisdiction the decision of the administrative law judge was announced. As used in the regulations in this part the phrase, "on his own motion" means by the Commandant's direction or order, without other procedural formality.

(b) The processes in effect with respect to the preparation and presentation of the record on appeals by merchant seamen, shall apply to the consideration of cases brought up on review by the Commandant.

§ 5.35–5 Record for decision on review.

(a) The transcript of hearing, together with all papers and exhibits filed,

shall constitute the record for consideration on review.

§ 5.35–10 Scope of review.

(a) The review will be restricted to questions of law, fact, and policy.

§ 5.35–15 Action on review.

(a) In no case will the review by the Commandant be followed by any order increasing the severity of the administrative law judge's original order.

(b) The Commandant may adopt in whole or in part the findings, conclusions, and basis therefor stated by the administrative law judge, or he may make entirely new findings on the record, or he may remand the case to the administrative law judge for further proceedings.

(c) The decision of the Commandant, on review, shall be final in the absence of a remand.

§ 5.35–20 Commandant's Decisions on Review.

(a) The Commandant's Decision on Review sets forth the rulings which shall be the governing precedents in future cases on the same type of facts. These Decisions are issued seriatim and are public records.

(b) The Commandant's Decisions on Review are available for reading purposes at Coast Guard Headquarters, and at Offices of District Commanders and Officers in Charge, Marine Inspection.

Subpart 5.50—Disclosure of Information

§ 5.50–1 Public information.

(a) Upon inquiry information may be released as to whether an investigation of a specified complaint is in progress, or that charges have been preferred, or that an investigation has been closed.

(b) Upon inquiry information may be released as to scheduled times of hearings and the substance of charges to be considered.

(c) Upon inquiry information disclosed at public hearings before administrative law judges may be released so long as the cases have current public interest. Such information regarding cases no longer having current public interest will not be released unless otherwise provided for in this subpart or Subpart 5.55 of this part.

§ 5.50–5 Public records.

(a) There shall be maintained as public records available for inspection at Coast Guard Headquarters, in each district office, and in each marine inspection office, a file of the Commandant's Decisions on Appeal or Review.

(b) There shall be maintained as public records available for inspection at Coast Guard Headquarters a file of the decisions of administrative law judges.

(c) There shall be maintained as public records available for inspection in the Office of the District Commander a file of copies of decisions of administrative law judges rendered within such district.

§ 5.50–10 Administrative records.

(a) All files, records, testimony, documents, reports, or other data pertaining to an investigation to determine whether or not a hearing should be instituted, are administrative records. They are not public records available for inspection.

Subpart 5.55—Release of Records

§ 5.55–1 Public records.

(a) Upon written application, copies of public records referred to in Subpart 5.50 of this part may be obtained by persons properly concerned because of litigation or other reasonable collateral interest in the proceedings.

§ 5.55–5 Hearing transcript to appellant.

(a) A copy of the complete hearing transcript will be given to an appellant when it is requested in accordance with § 5.30–1.

§ 5.55–10 Hearing transcript to other persons.

(a) Upon written application, a complete copy of, or excerpts from, a hearing record may be obtained by persons properly concerned because of litigation or other reasonable collateral interest in the proceedings: *Provided*, That the record has been transcribed and copies are available.

§ 5.55–15 Written applications.

(a) A written application required by this subpart shall be addressed to the person in charge of the office where such records are maintained. The application shall be made by the party desiring the record or his authorized representative and shall:

(1) Identify the applicant (submit proof if representing another person);

(2) Specify the material desired;

(3) State the reason for the request; and,

(4) State whether or not the material is intended for use in litigation involving the United States.

§ 5.55–20 Action on written applications.

(a) The person to whom a written application for the release of records is addressed shall comply with the request if it meets the requirements of this subpart. Otherwise, the request shall be denied or, in doubtful cases, referred to the Commandant for determination.

§ 5.55–25 Authorized representatives.

(a) When the release of records is provided for in this subpart, such records may be obtained by an agent or attorney whose authority to act on behalf of another person is established by:

(1) A signed statement by the party represented or,

(2) A statement, on the hearing record, by the party represented; or,

(3) A copy of a contract of retainer signed by the party represented.

(b) When the release of records is provided for in this subpart, such records may be obtained by an executor, administrator, heir, guardian, trustee or other legal representative of a deceased or incompetent person: *Provided*, That proof of the relationship is submitted.

§ 5.55–30 Production upon compulsory process.

(a) When a request for records is denied for any reason, the applicant shall be advised that the records may be obtained by service of a subpena duces tecum or an order from a court of competent jurisdiction. However, if the information desired is classified for security reasons or by virtue of a specific law or executive order the applicant shall also be advised that such subpena or court order should be addressed to the Commandant.

§ 5.55–35 Persons directly concerned.

(a) Appellants in these proceedings are the only persons considered to be directly concerned and, therefore, entitled to free copies of these records as a matter of right upon proper request.

§ 5.55–40 Costs.

(a) The release of records authorized by this subpart shall be subject to the payment of costs prescribed in 33 CFR 1.25 with the exception of hearing transcripts furnished to appellants.

Subpart 5.60—Persons in Service of Coast Guard

§ 5.60–1 Testimony by Coast Guard personnel.

(a) Except as provided in paragraph (c) of this section, no person in the service of the Coast Guard shall, without prior approval of the Commandant, give any testimony with respect to any investigation or any other official proceedings in any suit or action in the courts. This applies equally to cases in State or Federal courts and to civil as well as criminal cases.

(b) In cases involving (1) civil litigation between private parties; or, (2) criminal matters before State courts; or, (3) civil litigation for or against the United States where Coast Guard personnel are called by parties opposing the United States, an affidavit by the litigant or his attorney setting forth the interest of the litigant and the information with respect to which the testimony of such Coast Guard officer or employee is desired must be submitted before permission to testify will be granted. Permission to testify will, in all cases, be limited to the information set forth in the affidavit, or to such portions thereof as may be deemed proper. In addition to the permission required by this paragraph, the Commandant may insist that the appearance of the Coast Guard officer or employee as a witness be conditioned on the issuance of a subpena or subpena duces tecum (as appropriate) from a court of competent jurisdiction.

(c) In cases where the appearance of Coast Guard personnel is desired by counsel representing the United States to support the affirmative claims or defenses of the United States in civil matters or on behalf of the United States in

criminal matters, no affidavit as described in paragraph (b) of this section shall be required, but the Commandant's prior approval must be nevertheless obtained, except in those cases where the Coast Guard personnel desired as witnesses file the original complaint or have made original inquiry into the subject matter which resulted in the filing of an original complaint.

PART 9—EXTRA COMPENSATION FOR OVERTIME SERVICES

Sec.

AUTHORITY: The provisions of this Part 9 issued under 46 U.S.C. 416. Interpret or apply sec. 6, 49 Stat. 1385, as amended; 46 U.S.C. 382b.

§ 9.1 Extra compensation; Coast Guard civilian personnel.

Civilians assigned to the duties formerly assigned to local inspectors and their assistants, United States shipping commissioners and their deputies and assistants prior to Reorganization Plan No. 3 of 1946 (3 CFR, 1946 Supp.), and customs officers and employees, while performing duties in connection with the inspection of vessels or their equipment, supplying or signing on or discharging crews of vessels, at night or on Sundays and holidays, shall receive extra compensation to be paid by the master, owner, or agent of the vessel to the local United States collector of customs or his representative. (See § 9.16.)

§ 9.2 Payment although no actual service performed.

The rates of extra compensation are payable in cases where the services of officers or employees have been duly requested and the officers or employees have reported for duty, even though no actual service may be performed.

§ 9.3 Overtime earnings not basis for overtime under Federal Employees Pay Act of 1945.

Overtime, Sunday, and holiday services which are covered by payments under this part shall not also form a basis for overtime or extra pay under the Federal Employees Pay Act of 1945.

§ 9.4 Waiting time; actual report for duties.

Extra compensation for "waiting time" will not be allowed unless and until an officer or employee actually reports for duty.

§ 9.5 Night, Sunday, and holiday defined.

(a) For the purpose of this part the word "night" shall mean the time between 5 p.m. of any day and 8 a.m. of the following day.

(b) The term "holiday" shall mean only national legal public holidays, viz., January 1, February 22, May 30, July 4, the 1st Monday in September, November 11, the 4th Thursday in November, December 25, and such other days as may be declared legal public holidays by an act of Congress or by an Executive order of the President of the United States.

(c) The term "Sunday" shall include the first day of each calendar week.

§ 9.6 Rate for night service.

The rate of extra compensation for authorized overtime services performed at night on any week day is hereby fixed at one half the gross daily rate of regular pay of the employee who performs the services for each 2 hours of compensable time, any fraction of 2 hours amounting to at least one hour to be counted as 2 hours. In computing the amount earned, each 2 hours is the time period for the purpose of computation, at least one hour means the minimum service in each period for which extra pay may be granted. If service continues beyond a 2 hour period, it must extend for at least one hour into the following 2 hour period to be entitled to extra pay for the second period. When the overtime extends beyond 5 p.m., payment of extra compensation from 5 p.m., for services consisting of at least one hour is authorized, even though such services may not actually begin until 7 p.m., 9 p.m., or later: *Provided,* That the officer rendering the service remained on duty from 5 p.m., in which case the time between 5 p.m., and the time of beginning the actual service shall be computed as waiting time; and where the actual services begin as late as 9 p.m., there should be an affirmative statement that the officer was required to remain on duty between 5 p.m., and 9 p.m., if a charge for waiting time is made. The maximum amount of extra compensation which may be paid an employee for services during one night shall not exceed two and one-half times the gross daily rate of his regular pay.

§ 9.7 Rate for Sunday or holiday services.

The rate of extra compensation for Sunday or holiday services is hereby fixed at twice the gross daily rate of regular pay of the employee who performs the service, for any and all services totaling an aggregate of not more than nine hours, with one hour for food and rest, during the 24 hours from midnight to midnight of the Sunday or holiday including actual waiting time and time required for travel between posts of duty but not including other time not spent at the post of duty. This rate shall apply regardless of the length of time served within the aggregate of the aforesaid 9 hours, whether it is served continuously or in broken periods, and whether it is served for one or more applicants. Services in excess of an aggregate of the aforesaid 9 hours performed during the 24 hours of a Sunday or holiday shall be compensated on the same basis as overtime services performed at night on a weekday, the time between the completion of the aggregate of the aforesaid 9 hours and midnight being considered as the hours of a night. The maximum amount which may be paid an employee for services performed during the 24 hours of a Sunday or holiday shall not exceed four and one-half times the gross daily rate of his regular pay.

§ 9.8 Broken periods.

In computing extra compensation where the services rendered are in broken periods and less than 2 hours intervene between such broken periods the time served should be combined with the waiting time and computed as continuous service.

§ 9.9 Two hours between broken periods.

Where 2 hours or more intervene between broken periods, one-half day's extra pay will be allowed for each distinct 2-hour period or part of a 2-hour period, if wating time and actual service rendered within each period consists of at least 1 hour.

§ 9.10 Waiting time.

The same construction should be given the act when charging for waiting time as governs the charge for services actually rendered. No charge should be made unless after having reported for duty the waiting time amounts to at least one hour.

§ 9.11 Proration of charges.

If services are performed for two or more applicants during one continuous tour of overtime duty, the charge for the extra compensation earned shall be prorated equitably according to the time attributable to the services performed for each applicant.

§ 9.12 Travel status overtime.

When employees are in travel status, overtime shall apply the same as at official station.

§ 9.13 Congressional appropriations necessary.

Payment of extra compensation for overtime services shall be subject to appropriations being made therefor by Congress.

§ 9.14 Assessment and collection of fees.

Assessment and collection of fees against steamship companies for overtime services shall be made even though the payment to employees for such serv-

ices may not be made until funds are appropriated for that purpose.

§ 9.15 Application form.

An application on a form prescribed by the Commandant of the Coast Guard, shall be filed with the office being requested to furnish overtime services before such assignment can be made.

§ 9.16 Billing for services.

Overtime services shall be billed to the steamship companies on collection voucher provided for that purpose. Remittance shall be made by postal money order or certified check payable to the "Collector of Customs, Treasury Department" and forwarded to that officer at the port indicated on the voucher, who shall in turn deposit such remittance to a properly designated receipt account.

§ 9.17 Protests.

Protests against the exaction of extra compensation shall be forwarded to the Commandant of the Coast Guard.

[FR Doc.74-21163 Filed 9-16-74;8:45 am]

Title 49—Transportation

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

[Docket No. 69-19; Notice 9]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Lamps, Reflective Devices, and Associated Equipment

This notice amends 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment*, to waive the requirement that there be a 4-inch minimum spacing between a front turn signal and a low-beam headlamp whenever the turn signal lamp's photometric output is at least two and one-half times the minimum required. The amendment is effective October 17, 1974.

Interested persons have been afforded an opportunity to participate in the making of the amendment by a notice of proposed rulemaking (Docket No. 69-19; Notice 3) published on October 25, 1972 (37 FR 22801), and due consideration has been given to the comments received in response to the notice.

In order to enhance detectability of front lamp function by oncoming drivers at a distance, Standard No. 108 through its incorporation of SAE Standard J588d, "Turn Signal Lamps," requires at least 4 inches of spacing between a front turn signal lamp and a low beam headlamp. However, as part of Notice 3, the NHTSA proposed in paragraph S8.12 that turn signal lamps and low beam headlamps could be closer if the candlepower output of the turn signal lamp is at least two and one-half times that specified for yellow turn signal lamps in the SAE standard. Mercedes-Benz of North America has asked the NHTSA to make an early decision on the proposal to facilitate its product development plans.

Comments in general supported the proposal. Some requested removal of the 4-inch limitation regardless of turn signal photometric output. Others felt that the photometric values of all front turn signal lamps should be two and one-half times the present minimum. The NHTSA has decided to amend the standard primarily as proposed, but with reference to the grouped test points of Figure 1 of the standard rather than to the individual test points of J588.

In consideration of the foregoing, 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, is amended by adding new paragraph S4.3.1.7 to read:

S4.3.1.7 The requirement that there be not less than 4 inches between a front turn signal lamp and a low beam headlamp, specified in SAE Standard J588d, "Turn Signal Lamps," June 1966, shall not apply if the sum of the candlepower values of the turn signal lamp measured at the test points within each group listed in Figure 1 is not less than two and one-half times the sum specified for each group for yellow turn signal lamps.

Effective date: October 17, 1974. Because the amendment relieves a restriction without imposing new requirements on any person, it is found for good cause shown that an effective date earlier than 180 days after the issuance of the amendment is in the public interest.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.51)

Issued on September 12, 1974.

JAMES B. GREGORY,
Administrator.

[FR Doc.74-21445 Filed 9-16-74;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER C—ACCOUNTS, RECORDS AND REPORTS

[No. 34178 (Sub-No. 2)]

ACCOUNTING FOR INCOME TAXES; INTERPERIOD TAX ALLOCATION, DEFERRED TAXES

At a General Session of the Interstate Commerce Commission held at its office in Washington, D.C., on the 9th day of August, 1974.

Miscellaneous Amendments

Consideration having been given to the matters and things involved in this proceeding, and the said Commission, on the date hereof, having made and filed a report[1] herein containing its findings and conclusions, which report is hereby made a part hereof:

It is ordered, That the request of the State of Michigan, Public Service Commission, for oral hearings and a delay in the disposition of this proceeding be, and it is hereby, denied.

It is further ordered, That Parts 1201 through 1210 of Title 49 of the Code of Federal Regulations be, and they are hereby, revised to read as set forth below.

It is further ordered, That the prescribed amendments shall be effective January 1, 1974, and that all carriers except those subject to Part 1204 shall recognize the accumulated provision for deferred taxes as of December 31, 1973, by direct charge (credit) to retained income and contra credit (charge) to the appropriate deferred tax account(s) as established in the attached appendices.

And it is further ordered, That service of this order shall be made on all affected carriers; and to the Governor of every State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

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.

(Authority: (5 U.S.C. 553, 559; 49 U.S.C. 12, 20, 304, 913, 1012.))

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

PART 1201—UNIFORM SYSTEM OF ACCOUNTS—RAILROAD COMPANIES

LIST OF INSTRUCTIONS AND ACCOUNTS

Under "General Instructions" amend line item "1-11 *Accounting for the Investment Tax Credit*" to read:

1-11 Accounting for income taxes.

Under "Income Accounts" the following revisions are made:

After line item "532 *Railway tax accruals*" add:

533 Provision for deferred taxes.

Amend line item "590 Federal income taxes on extraordinary and prior period items" to read:

590 *Income taxes on extraordinary and prior period items.*

After line item "590 *Income taxes on extraordinary and prior period items*" add:

591 *Provision for deferred taxes—extraordinary and prior period items.*

Under "General Balance Sheet Accounts" add the following immediately after line item "758 *Accrued depreciation; leased property*":

* * * * *

714 Deferred income tax charges.

* * * * *

744 Accumulated deferred income tax charges.

* * * * *

762 Deferred income tax credits.

* * * * *

786 Accumulated deferred income tax credits.

[1] Report filed as part of the original document.

REGULATIONS PRESCRIBED

Under (ii) Definitions add definition 21 as follows:

* * * * *

21. (a) "Income taxes" means taxes based on income determined under provisions of the United States Internal Revenue Code and foreign, state and other taxes (including franchise taxes) based on income.

(b) "Income tax expense" means the amount of income taxes (whether or not currently payable or refundable) allocable to a period in the determination of net income.

(c) "Pretax accounting income" means income or loss for a period, exclusive of related income tax expense.

(d) "Taxable income" means the excess of revenues over deductions or the excess of deductions over revenues to be reported for income tax purposes for a period.

(e) "Timing differences" means differences between the periods in which transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income. Timing differences originate in one period and reverse or "turn around" in one or more subsequent periods. Some timing differences reduce income taxes that would otherwise be payable currently; others increase income taxes that would otherwise be payable currently.

(f) "Permanent differences" means differences between taxable income and pretax accounting income arising from transactions that, under applicable tax laws and regulations, will not be offset by corresponding differences or "turn around" in other periods.

(g) "Tax effects" means differentials in income taxes of a period attributable to (1) revenue or expense transactions which enter into the determination of pretax accounting income in one period and into the determination of taxable income in another period, (2) deductions or credits that may be carried backward or forward for income tax purposes and (3) adjustments of prior periods and direct entries to other stockholders' equity accounts which enter into the determination of taxable income in a period but which do not enter into the determination of pretax accounting income of that period. A permanent difference does not result in a "tax effect" as that term is used in this definition.

(h) "Deferred taxes" means tax effects which are deferred for allocation to income tax expense of future periods.

(i) "Interperiod tax allocation" means the process of apportioning income taxes among periods.

(j) "Tax allocation within a period" means the process of apportioning income tax expense applicable to a given period between income before extraordinary items and extraordinary items, and of associating the income tax effects of adjustments of prior periods and direct entries to other stockholders' equity accounts with these items.

GENERAL INSTRUCTIONS

The title and text of instruction 1–11 *"Accounting for the investment tax credit"* are amended to read:

1–11 **Accounting for income taxes.**

(a) The interperiod tax allocation method of accounting shall be applied where material timing differences (see definition 21(e)) occur between pretax accounting income and taxable income. Carriers may elect, as provided by the Revenue Act of 1971, to account for the investment tax credit by either the flow through method or the deferred method of accounting. See paragraphs (d) and (e) below. All income taxes (Federal, state and other) currently accruable for income tax return purposes shall be charged to account 532, *"Railway tax accruals"*, and account 590, "Income Taxes on Extraordinary and Prior Period Items," as applicable.

(b) Under the interperiod tax allocation method of accounting the tax effect of timing differences (see definitions 21 (g) and (e)) originating in the current accounting period are allocated to income tax expense of future periods when the timing differences reverse. Similar timing differences originating and reversing in the current accounting period should be combined into groups and the current tax rates applied to determine the tax effect of each group. A carrier shall not apply other than current tax rates in determining the tax effect of reversing differences except upon approval of the Commission. When determining the amount of deferred taxes, rather than computing state and other taxes individually by jurisdiction, the Federal income tax rate may be increased by a percent equivalent to the effect of taxes imposed by the jurisdictions.

(c) The future tax benefits of loss carryforwards shall normally be recognized in the year in which such loss is applied to reduce taxes. Only in those unusual instances when realization is assured beyond any reasonable doubt should the future tax benefits of loss carryforwards be recognized in the year of loss. The tax effects of any realizable loss carrybacks shall be recognized in the determination of net income (loss) of the loss periods; appropriate adjustments of existing net deferred tax credits may also be necessary in the loss period.

(d) Carriers electing to account for the investment tax credit by the flow through method shall credit account 532, "Railway tax accruals," or account 590, "Income taxes on extraordinary and prior period items," as applicable, and charge account 760, "Federal income taxes accrued" with the amount of investment tax credit utilized in the current accounting period. When the flow through method is followed for the investment tax credit, account 533, "Provision for Deferred Taxes," shall reflect the difference between the tax payable (after recognition of allowable investment tax credit) based on taxable income and tax expense (with full recognition of investment tax credit that would be allowable based on accounting income) based on accounting income.

(e) Carriers electing to account for the investment tax credit by the deferred method shall concurrently with making the entries prescribed in (d) above charge account 533, "Provision for deferred taxes" or account 591, "Provision for deferred taxes—extraordinary and prior period items," as applicable, and shall credit account 786, "Accumulated deferred income tax credits," with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credit so deferred shall be amortized by credits to account 533, "Provision for deferred taxes".

NOTE A: Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear deferred investment tax credits because of a change from the deferral method to the flow through method shall submit the proposed journal entry to the Commission for consideration and advice.

NOTE B: The carrier shall follow generally accepted accounting principles where an interpretation of the accounting rules for income taxes is needed or obtain an interpretation from its public accountant or the Commission.

INCOME ACCOUNTS

The text of account 532, *"Railway tax accruals"* is amended by revising paragraph (c) and deleting paragraph (d). As amended the text reads as follows:

532 **Railway tax accruals.**

* * * * *

(c) Accruals for all income taxes which are estimated to be payable and which are applicable to ordinary income (see instruction 1–11) shall be included in this account. See texts of account 590, "Income taxes on extraordinary and prior period items," account 606, "Other credits to retained income," and account 616, "Other debits to retained income," for recording other income tax consequences.

NOTE A: * * *

* * * * *

After the text of account 532, *"Railway tax accruals"* the following new account number, title and text are added:

533 **Provision for deferred taxes.**

(a) This account shall include the net tax effect of all material timing differences (see definitions 21 (g) and (e)) originating and reversing in the current accounting period, and the future tax benefits of loss carryforwards recognized in accordance with instruction 1–11(c).

(b) This account shall include credits for the amortization of the investment tax credit if the carrier elected to use the deferred method of accounting for the investment tax credit. (See instruction 1–11(d).)

The text of account 570, *"Extraordinary items (net)"* is amended by revising paragraph (c) to read:

570 Extraordinary items (net).

• • • • •

(c) Income tax consequences of charges and credits to this account shall be recorded in account 590, "Income taxes on extraordinary and prior period items" and account 591, "Provision for deferred taxes—extraordinary and prior period items," as applicable.

The text of account 580, *"Prior period items (net)"* is amended by revising paragraph (c) to read:

580 Prior period items (net).

• • • • •

(c) Income tax consequences of charges and credits to this account shall be recorded in account 590, "Income taxes on extraordinary and prior period items" and account 591, "Provision for deferred taxes—extraordinary and prior period items," as applicable.

The title and text of account 590, *"Federal income taxes on extraordinary and prior period items"* is revised to read:

590 Income taxes on extraordinary and prior period items.

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which for accounting purposes are classified as unusual and extraordinary, and are recorded in accounts 570, "Extraordinary items (net)" and 580, "Prior period items (net)." The tax effect of any timing differences caused by recognizing an item in the accounts provided for extraordinary and prior period items in different periods in determining accounting income and taxable income shall be included in account 591, "Provision for deferred taxes—extraordinary and prior period items."

After the text of account 590, "Income taxes on extraordinary and prior period items," the following new account number, title and text are added:

591 Provision for deferred taxes—extraordinary and prior period items.

This account shall include debits or credits for the current accounting period for income taxes deferred currently, or for amortization of income taxes deferred in prior accounting periods applicable to items of revenue or expense included in accounts 570, "Extraordinary items (net)" and 580, "Prior period items (net)" (See instruction 1–11.)

Account 599, "Form of income statement" is revised as follows:

After line item 532, "Railway tax accruals" add:

533. Provision for deferred taxes.

Amend line item 590, "Federal income taxes on extraordinary and prior period items" to read:

590 Income taxes on extraordinary and price period items.

After line item 590, "Income taxes on extraordinary and prior period items" add:

591 Provision for deferred taxes—extraordinary and prior period items.

GENERAL BALANCE SHEET ACCOUNTS

After the text of account 713, "Other Current Assets," the following new account number, title and text are added:

714 Deferred Income Tax Charges.

(a) This account shall include the portion of deferred income tax charges and credits relating to current assets and liabilities, when the balance is a net debit.

(b) A net credit balance shall be included in account 762, "Deferred income tax credits".

After the text of account 743, "Other Deferred Charges," the following new account number, title and text are added:

744 Accumulated Deferred Income Tax Charges.

This account shall include the amount of deferred taxes (see definition 21(h)) determined in accordance with instruction 1–11 and the text of account 786 "Accumulated deferred income tax credits," when the balance is a net debit.

After the text of account 761, "Other Taxes Accrued," the following new account number, title and text are added:

762 Deferred Income Tax Credits.

(a) This account shall include the portion of deferred income tax charges and credits relating to current assets and liabilities, when the balance is a net credit.

(b) A net debit balance shall be included in account 714, "Deferred income tax charges."

784 [Amended]

The text of account 784 "Other deferred credits" is revised by deleting paragraph (b).

After the text of account 785 "Accrued depreciation; leased property," the following new account number, title and text are added:

786 Accumulated deferred income tax credits.

(a) This account shall be credited (charged) with amounts concurrently charged (credited) to account 533, "Provision for deferred taxes," and account 591, "Provision for deferred taxes—extraordinary and prior period items," representing the net tax effect of material timing differences (see definitions 21 (g) and (e)) originating and reversing in the current accounting period.

(b) This account shall be credited with the amount of investment tax credit utilized in the current year for income tax purposes but deferred for accounting purposes (see instruction 1–11).

(c) This account shall be concurrently debited with amounts credited to account 533, "Provision for deferred taxes," representing amortization of amounts for investment tax credits deferred in prior accounting periods.

(d) This account shall be maintained in such a manner as to show separately: (1) The unamortized balance of deferred income taxes and deferred investment tax credit separately as of the beginning and as of the end of each year entries are made affecting the account balance, (2) the current years net credit or charges applicable to timing differences and deferred investment tax credits.

NOTE A: The portion of deferred charges and credits relating to current assets and liabilities should likewise be classified as current and included in accounts 714, "Deferred Income Tax Charges," or 762, "Deferred Income Tax Credits," as appropriate.

NOTE B: This account shall include a net credit balance only. A net debit balance shall be recorded in account 799, "Accumulated Deferred Income Tax Credits."

Account 799, "Form of General Balance Sheet Statement," is revised by adding the following new account numbers and titles:

799 Form of General Balance Sheet Statement.

• • • • •

714 Deferred Income Tax Charges.

• • • • •

744 Accumulated Deferred Income Tax Charges.

• • • • •

LIST OF INSTRUCTIONS AND ACCOUNTS

PART 1202—UNIFORM SYSTEM OF ACCOUNTS—ELECTRIC RAILWAYS

Under "Operating Expenses" amend instruction "01–16 Accounting for the Investment Tax Credit" to read:

01–16 Accounting for income taxes.

Under "Income Accounts" the following revisions are made:

After line item "215 Taxes assignable to transportation operations" add:

215–5 Provision for deferred taxes.

After line item "290 Income taxes on extraordinary and prior period items" add:

291 Provision for deferred taxes—extraordinary and prior period items.

Under "General Balance Sheet Accounts" the following new account numbers and titles are added:

• • • • •

413–5 Deferred income tax charges.

• • • • •

420–5 Accumulated deferred income tax charges.

• • • • •

436–5 Deferred income tax credits.

• • • • •

447 Accumulated deferred income tax credits.

DEFINITIONS

Section "00–2 Definitions" is amended by adding the following definitions immediately after the definition for "Time of retirement":

00–2 Definitions.

• • • • •

"Income taxes" means taxes based on income determined under provisions of the United States Internal Revenue Code

and foreign, state and other taxes (including franchise taxes) based on income.

"Income tax expense" means the amount of income taxes (whether or not currently payable or refundable) allocable to a period in the determination of net income.

"Pretax accounting income" means income or loss for a period, exclusive of related income tax expense.

"Taxable income" means the excess of revenues over deductions or the excess of deductions over revenues to be reported for income tax purposes for a period.

"Timing differences" means differences between the periods in which transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income. Timing differences originate in one period and reverse or "turn around" in one or more subsequent periods. Some timing differences reduce income taxes that would otherwise be payable currently; others increase income taxes that would otherwise be payable currently.

"Permanent differences" means differences between taxable income and pretax accounting income arising from transactions that, under applicable tax laws and regulations, will not be offset by corresponding differences or "turn around" in other periods.

"Tax effects" means differentials in income taxes of a period attributable to (1) revenue or expense transactions which enter into the determination of pretax accounting income in one period and into the determination of taxable income in another period, (2) deductions or credits that may be carried backward or forward for income tax purposes and (3) adjustments of prior periods and direct entries to other stockholders' equity accounts which enter into the determination of taxable income in a period but which do not enter into the determination of pretax accounting income of that period. A permanent difference does not result in a "tax effect" as that term is used in this definition.

"Deferred taxes" means tax effects which are deferred for allocation to income tax expense of future periods.

"Interperiod tax allocation" means the process of apportioning income taxes among periods.

"Tax allocation within a period" means the process of apportioning income tax expense applicable to a given period between income before extraordinary items and extraordinary items, and of associating the income tax effects of adjustments of prior periods and direct entries to other stockholders' equity accounts with these items.

Operating Expenses, General Instructions

The title and text of instruction "01–16 Accounting for the investment tax credit" are amended to read:

01–16 Accounting for income taxes.

(a) The interperiod tax allocation method of accounting shall be applied where material timing differences (see definitions) occur between pretax accounting income and taxable income. Carriers may elect, as provided by the Revenue Act of 1971, to account for the investment tax credit by either the flow-through method or the deferred method of accounting. See paragraphs (d) and (e) below. All income taxes (Federal, state and other) currently accruable for income tax return purposes shall be charged to account 215, "Taxes assignable to transportation operations," and account 290, "Income taxes on extraordinary and prior period items," as applicable.

(b) Under the interperiod tax allocation method of accounting the tax effect of timing differences (see definitions) originating in the current accounting period are allocated to income tax expense of future periods when the timing differences reverse. Similar timing differences originating and reversing in the current accounting period should be combined into groups and the current tax rates applied to determine the tax effect of each group. A carrier shall not apply other than current tax rates in determining the tax effect of reversing differences except upon approval of the Commission. When determining the amount of deferred taxes, rather than computing state and other taxes individually by jurisdiction, the Federal income tax rate may be increased by a percent equivalent to the effect of taxes imposed by the jurisdictions.

(c) The future tax benefits of loss carryforwards shall normally be recognized in the year in which such loss is applied to reduce taxes. Only in those unusual instances when realization is assured beyond any reasonable doubt should the future tax benefits of loss carryforwards be recognized in the year of loss. The tax effects of any realizable loss carrybacks shall be recognized in the determination of net income (loss) of the loss periods; appropriate adjustments of existing net deferred tax credits may also be necessary in the loss period.

(d) Carriers electing to account for the investment tax credit by the flow-through method shall credit account 215, "Taxes assignable to transportation operations", or account 290, "Income taxes on extraordinary and prior period items," as applicable, and charge account 435–1, "Taxes accrued" with the amount of investment tax credit utilized in the current accounting period.

When the flow-through method is followed for the investment tax credit, account 215–5, "Provision for Deferred Taxes," shall reflect the difference between the tax payable (after recognition of allowable investment tax credit) based on taxable income and tax expense (with full recognition of investment tax credit that would be allowable based on accounting income) based on accounting income.

(e) Carriers electing to account for the investment tax credit by the deferred method shall concurrently with making the entries prescribed in (d) above charge account 215–5, "Provision for deferred taxes" or account 291, "Provision for deferred taxes—extraordinary and prior period items," as applicable, and shall credit account 447, "Accumulated deferred income tax credits" with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credit so deferred shall be amortized by credits to account 215–5, "Provision for deferred taxes".

NOTE A.—Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear deferred investment tax credits because of a change from the deferral method to the flow through method shall submit the proposed journal entry to the Commission for consideration and advice.

NOTE B.—The carrier shall follow generally accepted accounting principles where an interpretation of the accounting rules for income taxes is needed to obtain an interpretation from its public accountant or the Commission.

Income Instructions and Accounts

Instruction "03–6 Form of income statement" is revised by adding line items 215–5 and 291 as follows:

After line item "215 Taxes assignable to transportation operations" add:

215–5 Provision for deferred taxes.

After line item "290 Income taxes on extraordinary and prior period items" add:

291 Provision for deferred taxes—extraordinary and prior period items.

The text of account "215 Taxes assignable to transportation operations" is amended by revising paragraph (c) and deleting paragraph (e). As amended the text reads as follows:

215 Taxes assignable to transportation operations.

* * * * *

(c) Accruals for all income taxes which are estimated to be payable and which are applicable to ordinary income (see instruction 07–16) shall be included in this account. See texts of account 290, "Income taxes on extraordinary and prior period items," account 306, "Other credits to earned surplus," and account 317, "Other debits to earned surplus," for recording other income tax consequences.

* * * * *

After the text of account "215 Taxes assignable to transportation operations" the following new account number, title and text are added:

215–5 Provision for deferred taxes.

(a) This account shall include the net tax effect of all material timing differences (see definitions) originating and reversing in the current accounting period, and the future tax benefits of loss carryforwards recognized in accordance with instruction 01–16 (c).

(b) This account shall include credits for the amortization of the investment

tax credit if the carrier elected to use the deferred method of accounting for the investment tax credit. (See instruction 01–16(d).)

The text of account "270 Extraordinary items (net)" is amended by revising paragraph (b) to read:

270 Extraordinary items (net).

• • • • •

(b) Income tax consequences of charges and credits to this account shall be included in account 290, "Income taxes on extraordinary and prior period items" and account 291, "Provision for deferred taxes—extraordinary and prior period items," as applicable.

• • • • •

The text of account "280 Prior period items (net)" is amended by revising paragraph (b) to read:

280 Prior period items (net).

• • • • •

(b) Income tax consequences of charges and credits to this account shall be included in account 290, "Income taxes on extraordinary and prior period items" and account 291, "Provision for deferred taxes—extraordinary and prior period items," as applicable.

• • • • •

The text of account "290 Income taxes on extraordinary and prior period items" is revised to read:

290 Income taxes on extraordinary and prior period items.

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which for accounting purposes are classified as unusual and extraordinary, and are recorded in accounts 270, "Extraordinary items (net)" and 280, "Prior period items (net)". The tax effect of any timing differences caused by recognizing an item in the accounts provided for extraordinary and prior period items in different periods in determining accounting income and taxable income shall be included in account 291, "Provision for deferred taxes—extraordinary and prior period items".

After the text of account "290 Income taxes on extraordinary and prior period items" add the following new account number, title and text:

291 Provision for deferred taxes—extraordinary and prior period items.

This account shall include debits or credits for the current accounting period for income taxes deferred currently, or for amortization of income taxes deferred in prior accounting periods applicable to items of revenue or expense included in accounts 270, "Extraordinary items (net)" and 280, "Prior period items (net)". (See instruction 01–16).

GENERAL BALANCE SHEET

Instruction "05–7 Form of general balance sheet statements" is revised by adding the following line items:

• • • • •

413–5 Deferred income tax charges.

• • • • •

420–5 Accumulated deferred income tax charges.

• • • • •

436–5 Deferred income tax credits.

• • • • •

447 Accumulated deferred income tax credits.

GENERAL BALANCE SHEET ACCOUNTS

After the text of account "413 Other current assets," the following new account number, title and text are added:

413–5 Deferred income tax charges.

(a) This account shall include the portion of deferred income tax charges and credits relating to current assets and liabilities, when the balance is a net debit.

(b) A net credit balance shall be included in account 436–5, "Deferred income tax credits."

After the text of account "420 Other unadjusted debits," the following new account number, title and text are added:

420–5 Accumulated deferred income tax charges.

This account shall include the amount of deferred taxes (see definition) determined in accordance with instruction 01–16 and the text of account 447, "Accumulated deferred income tax credits," when the balance is a net debit.

After the text of account "436 Other current liabilities," the following new account number, title and text are added:

436–5 Deferred income tax credits.

(a) This account shall include the portion of deferred income tax charges and credits relating to current assets and liabilities, when the balance is a net credit.

(b) A net debit balance shall be included in account 413–5, "Deferred income tax charges."

The text of account "446 Other unadjusted credits" is revised by deleting paragraph (b).

After the text of account "446 Other unadjusted credits" add the following new account number, title and text:

447 Accumulated deferred income tax credits.

(a) This account shall be credited (charged) with amounts concurrently charged (credited) to account 215–5, "Provision for deferred taxes" and account 291, "Provision for deferred taxes—extraordinary and prior period items", representing the net tax effect of material timing differences (see definitions) originating and reversing in the current accounting period.

(b) This account shall be credited with the amount of investment tax credit utilized in the current year for income tax purposes but deferred for accounting purposes (see instruction 01–16).

(c) This account shall be concurrently debited with amounts credited to account 215–5, "Provision for deferred taxes" representing amortization of amounts for investment tax credits deferred in prior accounting periods.

(d) This account shall be maintained in such a manner as to show separately: (1) the unamortized balance of deferred income taxes and deferred investment tax credit separately as of the beginning and as of the end of each year entries are made affecting the account balance, (2) the current years net credit or charges applicable to timing differences and deferred investment tax credits.

NOTE A: The portion of deferred charges and credits relating to current assets and liabilities should likewise be classified as current and included in account 413–5, "Deferred income tax charges," or account 436–5, "Deferred income tax credits," as appropriate.

NOTE B: This account shall include a net credit balance only. A net debit balance shall be recorded in account 420–5, "Accumulated deferred income tax charges."

PART 1203—UNIFORM SYSTEM OF ACCOUNTS FOR EXPRESS COMPANIES

LIST OF INSTRUCTIONS AND ACCOUNTS

Under "General Instructions" amend line item "1–18 Accounting for the Investment Tax Credit" to read:

1–18 Accounting for income taxes.

Under "Balance Sheet Account Classifications" the following line items are added:

• • • • •

119–5 Deferred income tax charges.

• • • • •

145 Accumulated deferred income tax charges.

• • • • •

219–5 Deferred income tax credits.

• • • • •

243 Accumulated deferred income tax credits.

• • • • •

Under "Income Accounts" the following revisions are made:

After line item "813 Other income taxes" add:

820 Provision for deferred taxes.
821 Provision for deferred taxes.

After line item "931 Income taxes on extraordinary and prior period items" add:

940 Provisions for deferred taxes—extraordinary and prior period items.
941 Provision for deferred taxes—extraordinary and prior period items.

DEFINITIONS

In part (i) "Definitions", after the text of definition 40 "Used", add the following:

(i) *Definitions.* • • •

• • • • •

41.(a) "Income taxes" means taxes based on income determined under provisions of the United States Internal Revenue Code and foreign, state and other taxes (including franchise taxes) based on income.

(b) "Income tax expense" means the amount of income taxes (whether or not currently payable or refundable) allocable to a period in the determination of net income.

(c) "Pretax accounting income" means income or loss for a period, exclusive of related income tax expense.

(d) "Taxable income" means the excess of revenues over deductions or the excess of deductions over revenues to be reported for income tax purposes for a period.

(e) "Timing differences" means differences between the periods in which transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income. Timing differences originate in one period and reverse or "turn around" in one or more subsequent periods. Some timing differences reduce income taxes that would otherwise be payable currently.

(f) "Permanent differences" means differences between taxable income and pretax accounting income arising from transactions that, under applicable tax laws and regulations, will not be offset by corresponding differences or "turn around" in other periods.

(g) "Tax effects" means differentials in income taxes of a period attributable to (1) revenue or expense transactions which enter into the determination of pretax accounting income in one period and into the determination of taxable income in another period, (2) deductions or credits that may be carried backward or forward for income tax purposes and (3) adjustments of prior periods and direct entries to other stockholders' equity accounts which enter into the determination of taxable income in a period but which do not enter into the determination of pretax accounting income of that period. A permanent difference does not result in a "tax effect" as that term is used in this definition.

(h) "Deferred taxes" means tax effects which are deferred for allocation to income tax expense of future periods.

(i) "Interperiod tax allocation" means the process of apportioning income taxes among periods.

(j) "Tax allocation within a period" means the process of apportioning income tax expense applicable to a given period between income before extraordinary items and extraordinary items, and of associating the income tax effects of adjustments of prior periods and direct entries to other stockholders' equity accounts with these items.

GENERAL INSTRUCTIONS

Instruction "1–2 Accounting scope", paragraph (d), is amended by adding the following:

1–2 Accounting scope.

• • • • •

(d) • • •

119–5 Deferred income tax charges.

• • • • •

145 Accumulated deferred income tax charges.

• • • • •

219–5 Deferred income tax credits.

• • • • •

243 Accumulated deferred income tax credits

• • • • •

815 Provision for deferred taxes

• • • • •

932 Provision for deferred taxes—extraordinary and prior period items

Instruction "1–18 Accounting for the investment tax credit" is amended by revising the title and text to read:

1–18 Accounting for income taxes.

(a) The interperiod tax allocation method of accounting shall be applied where material timing differences (see definition 41(e)) occur between pretax accounting income and taxable income. Carriers may elect, as provided by the Revenue Act of 1971, to account for the investment tax credit by either the flow through method or the deferred method of accounting. See paragraphs (d) and (e) below. All income taxes (Federal, state and other) currently accruable for income tax return purposes shall be charged to account 810, Income taxes on ordinary income, and account 930, Income taxes on extraordinary and prior period items, as applicable.

(b) Under the interperiod tax allocation method of accounting the tax effect of timing differences (see definitions 41 (g) and (e)) originating in the current accounting period are allocated to income tax expense of future periods when the timing differences reverse. Similar timing differences originating and reversing in the current accounting period should be combined into groups and the current tax rates applied to determine the tax effect of each group. A carrier shall not apply other than current tax rates in determining the tax effect of reversing differences except upon approval of the Commission. When determining the amount of deferred taxes, rather than computing state and other taxes individually by jurisdiction, the Federal income tax rate may be increased by a percent equivalent to the effect of taxes imposed by the jurisdictions.

(c) The future tax benefits of loss carryforwards shall normally be recognized in the year in which such loss is applied to reduce taxes. Only in those unusual instances when realization is assured beyond any reasonable doubt should the future tax benefits of loss carryforwards be recognized in the year of loss. The tax effects of any realizable loss carrybacks shall be recognized in the determination of net income (loss) of the loss periods; appropriate adjustments of existing net deferred tax credits may also be necessary in the loss period.

(d) Carriers electing to account for the investment tax credit by the flow through method shall credit account 810, Income taxes on ordinary income, or account 930. Income taxes on extraordinary and prior period items, as applicable, and charge account 215, Income taxes accrued, with the amount of investment tax credit utilized in the current accounting period. When the flow-through method is followed for the investment tax credit, account 815, Provision for deferred taxes, shall reflect the difference between the tax payable (after recognition of allowable investment tax credit) based on taxable income and tax expense (with full recognition of investment tax credit that would be allowable based on accounting income) based on accounting income.

(e) Carriers electing to account for the investment tax credit by the deferred method shall concurrently with making the entries prescribed in (d) above charge account 820, Provision for deferred taxes or account 940, Provision for deferred taxes—extraordinary and prior period items, as applicable, and shall credit account 243, Accumulated deferred income tax credits with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credit so deferred shall be amortized by credits to account 820, Provision for deferred taxes.

NOTE A: Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear deferred investment tax credits because of a change from the deferral method to the flow through method shall submit the proposed journal entry to the Commission for consideration and advice.

NOTE B: The carrier shall follow generally accepted accounting principles where an interpretation of the accounting rules for income taxes is needed or obtain an interpretation from its public accountant or the Commission.

BALANCE SHEET ACCOUNT CLASSIFICATIONS

After the text of account "119 Other current assets", the following new account number, title and text are added:

119–5 Deferred income tax charges.

(a) This account shall include the portion of deferred income tax charges and credits relating to current assets and liabilities, when the balance is a net debit.

(b) A net credit balance shall be included in account 219–5, "Deferred income tax credits".

After the text of account "144 Special funds", the following new account number, title and text are added:

145 Accumulated deferred income tax charges.

This account shall include the amount of deferred taxes (see definition 41(h)) determined in accordance with instruction 1–18 and the text of account 243, "Accumulated deferred income tax credits", when the balance is a net debit.

After the text of account "219 Other current liabilities", the following new account number, title and text are added:

219–5 Deferred income tax credits.

(a) This account shall include the portion of deferred income tax charges and credits relating to current assets and liabilities, when the balance is a net credit.

(b) A net debit balance shall be included in account 119–5, "Deferred income tax charges".

242 [Amended]

The text of account "242 Deferred credits" is revised by deleting paragraph (d).

After the text of account "242 Deferred credits" add the following new account number, title and text:

243 Accumulated deferred income tax credits.

(a) This account shall be credited (charged) with amounts concurrently charged (credited) to account 820, Provision for deferred taxes and account 940, Provision for deferred taxes—extraordinary and prior period items, representing the net tax effect of material timing differences (see definitions 41 (g) and (e)) originating and reversing in the current accounting period.

(b) This account shall be credited with the amount of investment tax credit utilized in the current year for income tax purposes but deferred for accounting purposes (see instruction 1–18).

(c) This account shall be concurrently debited with amounts credited to account 820, Provision for deferred taxes representing amortization of amounts for investment tax credits deferred in prior accounting periods.

(d) This account shall be maintained in such a manner as to show separately: (1) the unamortized balance of deferred income taxes and deferred investment tax credit separately as of the beginning and as of the end of each year entries are made affecting the account balance, (2) the current years net credit or charges applicable to timing differences and deferred investment tax credits.

NOTE A: The portion of deferred charges and credits relating to current assets and liabilities should likewise be classified as current and included in account 119–5, "Deferred income tax charges", or account 219–5, "Deferred income tax credits", as appropriate.

NOTE B: This account shall include a net credit balance only. A net debit balance shall be included in account 145, "Accumulated deferred income tax charges".

Account "299 Form of balance sheet" is amended by adding the following:

299 Form of balance sheet.

* * * * *

119–5 Deferred income tax charges.

* * * * *

145 Accumulated deferred income tax charges.

* * * * *

219–5 Deferred income tax credits.

* * * * *

243 Accumulated deferred income tax credits.

INCOME ACCOUNTS

After the text of account "813 Other income taxes" the number and title for new control account 820, and the number, title and text for new account 821 are added to read:

820 Provision for deferred taxes.

821 Provision for deferred taxes.

(a) This account shall include the tax effect of all timing differences (see definitions 41 (g) and (e)) originating and reversing in the current accounting period, and the future tax benefits of loss carryforwards recognized in accordance with instruction 1–18(c).

(b) This account shall include credits for the amortization of the investment tax credit if the carrier elected to use the deferred method of accounting for the investment tax credit. (See instruction 1–18(d).)

The text of account "911 Extraordinary items (net)" is amended by revising paragraph (b) to read:

911 Extraordinary items (net).

* * * * *

(b) Income tax consequences of charges and credits to this account shall be included in account 930, Income taxes on extraordinary items, and account 940, Provision for deferred taxes—extraordinary and prior period items, as applicable.

* * * * *

The text of account "921 Prior period items (net)" is amended by revising paragraph (b) to read:

921 Prior period items (net).

* * * * *

(b) Income tax consequences of charges and credits to this account shall be included in account 930, Income taxes on extraordinary items, and account 940, Provision for deferred taxes—extraordinary and prior period items, as applicable.

* * * * *

The text of account "931 Income taxes on extraordinary and prior period items" is revised to read:

931 Income taxes on extraordinary and prior period items.

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which for accounting purposes are classified as unusual and extraordinary, and are recorded in accounts 910, Extraordinary items (net) and 920, Prior period items (net). The tax effect of any timing differences caused by recognizing an item in the accounts provided for extraordinary and prior period items in different periods in determining accounting income and taxable income shall be included in account 940, Provision for deferred taxes—extraordinary and prior period items.

Following the text of account "931 Income taxes on extraordinary and prior period items," the title for control account "940, Provision for deferred taxes—extraordinary and prior period items," and the title and text for account "941, Provision for deferred taxes—extraordinary and prior period items" are added to read:

940 Provision for deferred taxes—extraordinary and prior period items.

941 Provision for deferred taxes—extraordinary and prior period items.

This account shall include debits or credits for the current accounting period for income taxes deferred currently, or for amortization of income taxes deferred in prior accounting periods applicable to items of revenue or expense included in accounts 910, Extraordinary items (net) and 920, Prior period items (net). (See instruction 1–18.)

Account "999 Form of Income Statement" is revised as follows:

After line item "810 Income taxes on ordinary income" add:

820 Provision for deferred taxes.

After line item "930 Income taxes on extraordinary and prior period items" add:

940 Provision for deferred taxes—extraordinary and prior period items.

PART 1204—UNIFORM SYSTEM OF ACCOUNTS FOR PIPELINE COMPANIES

LIST OF INSTRUCTIONS AND ACCOUNTS

Under "General Instructions" amend instruction "1–12 Accounting for the Investment Tax Credit" to read:

1–12 Accounting for income taxes.

Under "Balance Sheet Accounts" the following are added:

* * * * *

19–5 Deferred income tax charges.

* * * * *

45 Accumulated deferred income tax charges.

* * * * *

59 Deferred income tax charges.

* * * * *

64 Accumulated deferred income tax credits.

Under "Income Accounts" the following revisions are made:

Line item "670 Federal income taxes on ordinary income" is revised to read:

670 Income taxes on ordinary income.

After line item "670 Income taxes on ordinary income" add:

671 Provision for deferred taxes.

Amend line item "695 Federal income taxes on extraordinary and prior period items" to read:

695 Income taxes on extraordinary and prior period items.

After line item "695 Income taxes on extraordinary and prior period items" add:

696 Provision for deferred taxes—extraordinary and prior period items.

DEFINITIONS

After the text of definition 29 "Straight-line method" add the following definitions:

Definitions. * * *

* * * * *

30. (a) "Income taxes" means taxes based on income determined under provisions of the United States Internal Revenue Code and foreign, state and other taxes (including franchise taxes) based on income.

(b) "Income tax expense" means the amount of income taxes (whether or not currently payable or refundable) alloca-

ble to a period in the determination of net income.

(c) "Pretax accounting income" means income or loss for a period, exclusive of related income tax expense.

(d) "Taxable income" means the excess of revenues over deductions or the excess of deductions over revenues to be reported for income tax purposes for a period.

(e) "Timing differences" means differences between the periods in which transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income. Timing differences originate in one or more subsequent periods. Some timing differences reduce income taxes that would otherwise be payable currently; others increase income taxes that would otherwise be payable currently.

(f) "Permanent differences" means differences between taxable income and pretax accounting income arising from transactions that, under applicable tax laws and regulations, will not be offset by corresponding differences or "turn around" in other periods.

(g) "Tax effects" means differentials in income taxes of a period attributable to (1) revenue or expense transactions which enter into the determination of pretax accounting income in one period and into the determination of taxable income in another period, (2) deductions or credits that may be carried backward or forward for income tax purposes and (3) adjustments of prior periods and direct entries to other stockholders' equity accounts which enter into the determination of taxable income in a period but which do not enter into the determination of pretax accounting income of that period. A permanent difference does not result in a "tax effect" as that term is used in this definition.

(h) "Deferred taxes" means tax effects which are deferred for allocation to income tax expense of future periods.

(i) "Interperiod tax allocation" means the process of apportioning income taxes among periods.

(j) "Tax allocation within a period" means the process of apportioning income tax expense applicable to a given period between income before extraordinary items and of associating the income tax effects of adjustments of prior periods and direct entries to other stockholders' equity accounts with these items.

General Instructions

Instruction "1–12 Accounting for the investment tax credit" is amended by revising the title and text to read:

1–12 Accounting for income taxes.

(a) The interperiod tax allocation method of accounting shall be applied where material timing differences (see definition 30(e)) occur between pretax accounting income and taxable income. Carriers may elect, as provided by the Revenue Act of 1971, to account for the investment tax credit by either the flow through method or the deferred method of accounting. See paragraphs (d) and (e) below. All income taxes (Federal, state and other) currently accruable for income tax return purposes shall be charged to account 670, Income taxes on ordinary income, and account 695, Income taxes on extraordinary and prior period items, as applicable.

(b) Under the interperiod tax allocation method of accounting the tax effect of timing differences (see definitions 30 (g) and (e)) originating in the current accounting period are allocated to income tax expense of future periods when the timing differences reverse. Similar timing differences originating and reversing in the current accounting period should be combined into groups and the current tax rates applied to determine the tax effect of each group. A carrier shall not apply other than current tax rates in determining the tax effect of reversing differences except upon approval of the Commission. When determining the amount of deferred taxes, rather than computing state and other taxes individually by jurisdiction, the Federal income tax rate may be increased by a percent equivalent to the effect of taxes imposed by the jurisdictions.

(c) The future tax benefits of loss carryforwards shall normally be recognized in the year in which such loss is applied to reduce taxes. Only in those unusual instances when realization is assured beyond any reasonable doubt should the future tax benefits of loss carryforwards be recognized in the year of loss. The tax effects of any realizable loss carrybacks shall be recognized in the determination of net income (loss) of the loss periods; appropriate adjustments of existing net deferred tax credits may also be necessary in the loss period.

(d) Carriers electing to account for the investment tax credit by the flow through method shall credit account 670, Income taxes on ordinary income, or account 695, Income taxes on extraordinary and prior period items, as applicable, and charge account 56, Taxes payable, with the amount of investment tax credit utilized in the current accounting period. When the flow through method is followed for the investment tax credit, account 671, Provision for deferred taxes, shall reflect the difference between the tax payable (after recognition of allowable investment tax credit) based on taxable income and tax expense (with full recognition of investment tax credit that would be allowable based on accounting income) based on accounting income.

(e) Carriers electing to account for the investment tax credit by the deferred method shall concurrently with making the entries prescribed in (d) above charge account 671, "Provision for deferred taxes" or account 696, "Provision for deferred taxes"—extraordinary and prior period items," as applicable, and shall credit account 64, Accumulated deferred income tax credits with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credit so deferred shall be amortized by credits to account 671, "Provision for deferred taxes".

NOTE A: Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear deferred investment tax credits because of a change from the deferral method to the flow through method shall submit the proposed journal entry to the Commission for consideration and advice.

NOTE B: The carrier shall follow generally accepted accounting principles where an interpretation of the accounting rules for income taxes is needed or obtain an interpretation from its public accountant or the Commission.

Balance Sheet Accounts

After the text of account "19 Other current assets," the following new account number, title and text are added:

19–5 Deferred income tax charges.

(a) This account shall include the portion of deferred income tax charges and credits relating to current assets and liabilities, when the balance is a net debit.

(b) A net credit balance shall be included in account 59, Deferred income tax credits.

After the text of account 44, "Other deferred charges," the following new account number, title and text are added:

45 Accumulated deferred income tax charges.

This account shall include the amount of deferred taxes (see definition 30(h)) determined in accordance with instruction 1–12 and the text of account 64, Accumulated deferred income tax credits, when the balance is a net debit.

After the text of account 58, "Other current liabilities," the following new account number, title and text are added:

59 Deferred income tax credits.

(a) This account shall include the portion of deferred income tax charges and credits relating to current assets and liabilities, when the balance is a net credit.

(b) A net debit balance shall be included in account 19–5, Deferred income tax charges.

63 [Amended]

The text of account "63 Other noncurrent liabilities" is amended by deleting paragraph (b).

After the text of account "63 Other noncurrent liabilities" the following new account number, title and text are added:

64 Accumulated deferred income tax credits.

(a) This account shall be credited (charged) with amounts concurrently charged (credited) to account 671, Provision for deferred taxes and account 696, Provision for deferred taxes—extraordinary and prior period items, representing the net tax effect of material timing differences (see definitions 30 (g) and (e)) originating and reversing in the current accounting period.

(b) This account shall be credited with the amount of investment tax credit utilized in the current year for income tax purposes but deferred for accounting purposes (see instruction 1–12).

(c) This account shall be concurrently debited with amounts credited to account 671, Provision for deferred taxes representing amortization of amounts for investment tax credits deferred in prior accounting periods.

(d) This account shall be maintained in such a manner as to show separately: (1) the unamortized balance of deferred income taxes and deferred investment tax credit separately as of the beginning and as of the end of each year entries are made affecting the account balance, (2) the current years net credit or charges applicable to timing differences and deferred investment tax credits.

NOTE A: The portion of deferred charges and credits relating to current assets and liabilities should likewise be classified as current and included in account 19–5, Deferred income tax charges, or account 59, Deferred income tax credits, as appropriate.

NOTE B: This account shall include a net credit balance only. A net debit balance shall be recorded in account 45, Accumulated deferred income tax charges.

OPERATING EXPENSES

The text of account "580 Pipeline taxes," paragraph (a), is amended by deleting the reference to Federal income taxes. As amended the text reads:

580 Pipeline taxes.

(a) This account shall include accruals for taxes of all kinds, excepting income taxes (see definition 30(a)), relating to carrier property, operations, privileges and licenses.

* * * * *

INCOME ACCOUNTS

The title of account "670 Federal income taxes on ordinary income" is amended by deleting the reference to Federal. Also, the text of this account is amended by revising paragraph (a) and deleting paragraph (c). As amended, the text reads:

670 Income taxes on ordinary income.

(a) This account shall be debited with the monthly accurals for all income taxes which are estimated to be payable and which are applicable to ordinary income (see instruction 1–12). See the texts of account 695, Income Taxes on Extraordinary and Prior Period Items, account 710, Other Credits to Retained Income, and account 720, Other Debits to Retained Income, for recording other income tax consequences.

* * * * *

After the text of account "670 Income taxes on ordinary income" the following new account number, title and text are added:

671 Provision for deferred taxes.

(a) This account shall include the net tax effect of all material timing differences (see definitions 30 (g) and (e)) originating and reversing in the current accounting period, and the future tax benefits of loss carryforwards recognized in accordance with instruction 1–12(c).

(b) This account shall include credits for the amortization of the investment tax credit if the carrier elected to use the deferred method of accounting for the investment tax credit. (See instruction 1–12(d)).

The text of account "680 Extraordinary items (net)" is amended by revising paragraph (c) to read:

680 Extraordinary items (net).

* * * * *

(c) Income tax consequences of charges and credits to this account shall be recorded in account 695, Income Taxes on Extraordinary and Prior Period Items, or account 696, Provision for Deferred Taxes—Extraordinary and Prior Period Items, as applicable.

The text of account "690 Prior period items (net)" is amended by revising paragraph (c) to read:

690 Prior period items (net).

* * * * *

(c) Income tax consequences of charges and credits to this account shall be recorded in account 695, Income Taxes on Extraordinary and Prior Period Items, or account 696, Provision for Deferred Taxes—Extraordinary and Prior Period Items, as applicable.

The title and text of account "695 Federal income taxes on extraordinary and prior period items" is revised to read:

695 Income taxes on extraordinary and prior period items.

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which for accounting purposes are classified as unusual and extraordinary, and are recorded in accounts 680, Extraordinary items (net) and 690, Prior period items (net). The tax effect of any timing differences caused by recognizing an item in the accounts provided for extraordinary and prior period items in different periods in determining accounting income and taxable income shall be included in account 696, Provision for deferred taxes—extraordinary and prior period items.

After the text of account "695 Income taxes on extraordinary and prior period items" the following new account number, title and text are added:

696 Provision for deferred taxes—extraordinary and prior period items.

This account shall include debits or credits for the current accounting period for income taxes deferred currently, or for amortization of income taxes deferred in prior accounting periods applicable to items of revenue or expense included in accounts 680, Extraordinary items (net) and 690, Prior period items (net). (See instruction 1–12).

Account "797 Form of Balance Sheet Statement" is amended by adding the the following:

797 Form of Balance Sheet Statement.

* * * * *

19–5 Deferred Income Tax Charges.

* * * * *

45 Accumulated deferred income tax charges.

* * * * *

59 Deferred income tax credits.

* * * * *

64 Accumulated deferred income tax credits.

Account "798 Form of Income Statement" is revised as follows:

Amend line item "670 Federal income taxes on ordinary income" to read:

670 Income taxes on ordinary income.

After line item "670 Income taxes on ordinary income" add:

671 Provision for deferred taxes.

Amend line item "695 Federal income taxes on extraordinary and prior period items" to read:

695 Income taxes on extraordinary and prior period items.

After line item "695 Income taxes on extraordinary and prior period items" add:

696 Provision for deferred taxes—extraordinary and prior period items.

PART 1205—UNIFORM SYSTEM OF ACCOUNTS FOR REFRIGERATOR CAR LINES

LIST OF INSTRUCTIONS AND ACCOUNTS

Under "Income and Balance Sheet Accounts Instructions" amend instruction "42 Accounting for the Investment Tax Credit" to read:

42 Accounting for income taxes.

Under "Income Accounts Texts" the following revisions are made:

After line item "532 Car line tax accruals" add:

532–5 Provision for deferred taxes.

Amend line item "590 Federal income taxes on extraordinary and prior period items" to read:

590 Income taxes on extraordinary and prior period items.

After line item "590 Income taxes on extraordinary and prior period items" add:

591 Provision for deferred taxes—extraordinary and prior period items.

Under "General Balance Sheet Accounts Texts" the following are added:

* * * * *

714 Deferred income tax charges.

* * * * *

744 Accumulated deferred income tax charges.

* * * * *

762 Deferred income tax credits.

* * * * *

785 Accumulated deferred income tax credits.

* * * * *

GENERAL INSTRUCTIONS

Instruction "2 Definitions" is amended by adding the following definitions after the text of definition (v) "Value of salvage":

2 Definitions.

* * * * *

(z)(1) "Income taxes" means taxes based on income determined under provisions of the United States Internal Revenue Code and foreign, state and other taxes (including franchise taxes) based on income.

(2) "Income tax expense" means the amount of income taxes (whether or not currently payable or refundable) allocable to a period in the determination of net income.

(3) "Pretax accounting income" means income or loss for a period, exclusive of related income tax expense.

(4) "Taxable income" means the excess of revenues over deductions or the excess of deductions over revenues to be reported for income tax purposes for a period.

(5) "Timing differences" means differences between the periods in which transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income. Timing differences originate in one period and reverse or "turn around" in one or more subsequent periods. Some timing differences reduce income taxes that would otherwise be payable currently; others increase income taxes that would otherwise be payable currently.

(6) "Permanent differences" means differences between taxable income and pretax accounting income arising from transactions that, under applicable tax laws and regulations, will not be offset by corresponding differences or "turn around" in other periods.

(7) "Tax effects" means differentials in income taxes of a period attributable to (1) revenue or expense transactions which enter into the determination of pretax accounting income in one period and into the determination of taxable income in another period, (2) deductions or credits that may be carried backward or forward for income tax purposes and (3) adjustments of prior periods and direct entries to other stockholders' equity accounts which enter into the determination of taxable income in a period but which do not enter into the determination of pretax accounting income of that period. A permanent difference does not result in a "tax effect" as that term is used in this definition.

(8) "Deferred taxes" means tax effects which are deferred for allocation to income tax expense of future periods.

(9) "Interperiod tax allocation" means the process of apportioning income taxes among periods.

(10) "Tax allocation within a period" means the process of apportioning income tax expense applicable to a given period between income before extraordinary items and extraordinary items, and of associating the income tax effects of adjustments of prior periods and direct entries to other stockholders' equity accounts with these items.

INCOME AND BALANCE SHEET ACCOUNTS INSTRUCTIONS

The title and text of instruction "42 Accounting for the investment tax credit" is amended to read:

42 Accounting for income taxes.

(a) The interperiod tax allocation method of accounting shall be applied where material timing differences (see definition (z)(5)) occur between pretax accounting income and taxable income. Carriers may elect, as provided by the Revenue Act of 1971, to account for the investment tax credit by either the flow through method or the deferred method of accounting. See paragraphs (d) and (e) below. All income taxes (Federal, state and other) currently accruable for income tax return purposes shall be charged to account 532 "Car line tax accruals" and account 590 "Income taxes on extraordinary and prior period items", as applicable.

(b) Under the interperiod tax allocation method of accounting the tax effect of timing differences (see definitions (z)(7) and (5)) originating in the current accounting period are allocated to income tax expense of future periods when the timing differences reverse. Similar timing differences originating and reversing in the current accounting period should be combined into groups and the current tax rates applied to determine the tax effect of each group. A carrier shall not apply other than current tax rates in determining the tax effect of reversing differences except upon approval of the Commission. When determining the amount of deferred taxes, rather than computing state and other taxes individually by jurisdiction, the Federal income tax rate may be increased by a percent equivalent to the effect of taxes imposed by the jurisdictions.

(c) The future tax benefits of loss carryforwards shall normally be recognized in the year in which such loss is applied to reduce taxes. Only in those unusual instances when realization is assured beyond any reasonable doubt should the future tax benefits of loss carryforwards be recognized in the year of loss. The tax effects of any realizable loss carrybacks shall be recognized in the determination of net income (loss) of the loss periods; appropriate adjustments of existing net deferred tax credits may also be necessary in the loss period.

(d) Carriers electing to account for the investment tax credit by the flow through method shall credit account 532 "Car line tax accruals" or account 590 "Income taxes on extraordinary and prior period items", as applicable, and charge account 760 "Federal income taxes accrued" with the amount of investment tax credit utilized in the current accounting period. When the flow through method is followed for the investment tax credit, account 532–5 "Provision for deferred taxes" shall reflect the difference between the tax payable (after recognition of allowable investment tax credit) based on taxable income and tax expense (with full recognition of investment tax credit that would be allowable based on accounting income) based on accounting income.

(e) Carriers electing to account for the investment tax credit by the deferred method shall concurrently with making the entries prescribed in (d) above charge account 532–5 "Provision for deferred taxes" or account 591 "Provision for deferred taxes—extraordinary and prior period items", as applicable, and shall credit account 785 "Accumulated deferred income tax credits" with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credit so deferred shall be amortized by credits to account 532–5 "Provision for deferred taxes".

NOTE A: Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear deferred investment tax credits because of a change from the deferral method to the flow through method shall submit the proposed journal entry to the Commission for consideration and advice.

NOTE B: The carrier shall follow generally accepted accounting principles where an interpretation of the accounting rules for income taxes is needed or obtain an interpretation from its public accountant or the Commission.

INCOME ACCOUNTS TEXTS

The third paragraph of the text of account "532 Car line tax accruals" is revised to read:

* * * * * *

532 Car line tax accruals.

This account shall be debited with the monthly accruals for all income taxes which are estimated to be payable and which are applicable to ordinary income (see instruction 42). See texts of account 590 "Income taxes on extraordinary and prior period items", account 606, "Other credits to retained income", and account 616, "Other debits to retained income", for recording other income tax consequences. Details pertaining to the tax consequences of other unusual and significant items shall be submitted to the Commission for consideration and decision as to proper accounting.

* * * * * *

After the text of account "532 Car line tax accruals" the following new account number, title and text are added:

532–5 Provision for deferred taxes.

(a) This account shall include the net tax effect of all material timing differences (see definitions (z) (7) and (5)) originating and reversing in the current accounting period, and the future tax benefits of loss carryforwards recognized in accordance with instruction 42(c).

(b) This account shall include credits for the amortization of the investment tax credit if the carrier elected to use the deferred method of accounting for the investment tax credit. (See instruction 42(d)).

The text of account "570 Extraordinary items (net)" is amended by revising paragraph (b) to read:

570 Extraordinary items (net).

* * * * * *

(b) Income tax consequences of charges and credits to this account shall

be included in account 590, "Income taxes on extraordinary and prior period items," and account 591, "Provision for deferred taxes—extraordinary and prior period items," as applicable.

* * * * *

The text of account 580, "Prior period items (net)" is amended by revising paragraph (b) to read:

580 Prior period items (net).

* * * * *

(b) Income tax consequences of charges and credits to this account shall be included in account 590, "Income taxes on extraordinary and prior period items," and account 591, "Provision for deferred taxes—extraordinary and prior period items," as applicable.

* * * * *

The title and text of account 590, "Federal income taxes on extraordinary and prior period items" are revised to read:

590 Income taxes on extraordinary and prior period items.

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which for accounting purposes are classified as unusual and extraordinary and are recorded in accounts 570, "Extraordinary items (net)", and 580, "Prior period items (net)". The tax effect of any timing differences caused by recognizing an item in the accounts provided for extraordinary and prior period items in different periods in determining accounting income and taxable income shall be included in account 591, "Provision for deferred taxes—extraordinary and prior period items."

After the text of account "590 Income taxes on extraordinary and prior period items" the following new account number, title and text are added:

591 Provision for deferred taxes—extraordinary and prior period items.

This account shall include debits or credits for the current accounting period for income taxes deferred currently, or for amortization of income taxes deferred in prior accounting periods applicable to items of revenue or expense included in accounts 570 "Extraordinary items (net)" and 580 "Prior period items (net)". (See instruction 42.)

Account "599 Form of income statement" is amended as follows:

After line item "532 Car line tax accruals" add:

532–5 Provision of deferred taxes.

Amend line item "590 Federal income taxes on extraordinary and prior period items" to read:

590 Income taxes on extraordinary and prior period items.

After line item "590 Income taxes on extraordinary and prior period items" add:

591 Provision for deferred taxes—extraordinary and prior period items.

GENERAL BALANCE SHEET ACCOUNTS

After the text of account "713 Other current assets," the following new account number, title and text are added:

714 Defered income tax charges.

(a) This account shall include the portion of deferred income tax charges and credits relating to current assets and liabilities, when the balance is a net debit.

(b) A net credit balance shall be included in account 762, "Deferred income tax credits."

After the text of account "743 Other deferred charges," the following new account number, title and text are added:

744 Accumulated deferred income tax charges.

This account shall include the amount of deferred taxes (see definition (z)(8)) determined in accordance with instruction 42 and the text of account 785, "Accumulated deferred income tax credits," when the balance is a net debit.

After the text of account "761 Other taxes accrued," the following new account number, title and text are added:

762 Deferred income tax credits.

(a) This account shall include the portion of deferred income tax charges and credits relating to current assets and liabilities, when the balance is a net credit.

(b) A net debit balance shall be included in account 714, "Deferred income tax charges."

784 [Amended]

The text of account "784 Other deferred credits" is amended by deleting paragraph (b).

After the text of account "784 Other deferred credits" the following new account number, title and text are added:

785 Accumulated deferred income tax credits.

(a) This account shall be credited (charged) with amounts concurrently charged (credited) to account "532–5 Provision for deferred taxes" and account "591 Provision for deferred taxes—extraordinary and prior period items", representing the net tax effect of material timing differences (see definitions (z)(7) and (5) originating and reversing in the current accounting period.

(b) This account shall be credited with the amount of investment tax credit utilized in the current year for income tax purposes but deferred for accounting purposes (see instruction 42).

(c) This account shall be concurrently debited with amounts credited to account "532–5 Provision for deferred taxes" representing amortization of amounts for investment tax credits deferred in prior accounting periods.

(d) This account shall be maintained in such a manner as to show separately: (1) the unamortized balance of deferred income taxes and deferred investment tax credit separately as of the beginning and as of the end of each year entries are made affecting the account balance, (2) the current years net credit or charges applicable to timing differences and deferred investment tax credits.

NOTE A: The portion of deferred charges and credits relating to current assets and liabilities should likewise be classified as current and included in account 714, "Deferred income tax charges," or account 762, "Deferred income tax credits," as appropriate.

NOTE B: This account shall include a net credit balance only. A net debit balance shall be recorded in account 744, "Accumulated deferred income tax charges."

Account "799 Form of general balance sheet statement" is amended by adding the following:

799 Form of general balance sheet statement.

* * * * *

714 Deferred income tax charges.

* * * * *

744 Accumulated deferred income tax charges.

* * * * *

762 Deferred income tax credits.

* * * * *

785 Accumulated deferred income tax credits.

* * * * *

PART 1206—UNIFORM SYSTEM OF ACCOUNTS FOR COMMON AND CONTRACT MOTOR CARRIERS OF PASSENGERS

LIST OF DEFINITIONS, INSTRUCTIONS AND ACCOUNTS

Under "Definitions," after a line item "1–40 Used" add:

1–41 Terminology relative to accounting for income taxes.

Under "Instructions" amend line item "2–32 Accounting for the investment tax credit" to read:

2–32 Accounting for income taxes.

Under "Balance Sheet Accounts," the following are added:

* * * * *

1195 Deferred income tax charges.

* * * * *

1895 Accumulated deferred income tax charges.

* * * * *

2185 Deferred income tax credits.

* * * * *

2460 Accumulated deferred income tax credits.

* * * * *

Under "Income Accounts" the following revisions are made:

After line item "8000 Income taxes on ordinary income" add:

8040 Provision for deferred taxes.

After line item "9050 Income taxes on extraordinary and prior period items" add:

9060 Provision for deferred taxes—extraordinary and prior period items.

DEFINITIONS

After the text of definitions "1–40 Used" add the following new definitions:

1–41 Terminology relative to accounting for income taxes.

(a) "Income taxes" means taxes based on income determined under provisions of the United States Internal Revenue Code and foreign, state and other taxes (including franchise taxes) based on income.

(b) "Income tax expense" means the amount of income taxes (whether or not currently payable or refundable) allocable to a period in the determination of net income.

(c) "Pretax accounting income" means income or loss for a period, exclusive of related income tax expense.

(d) "Taxable income" means the excess of revenues over deductions or the excess of deductions over revenues to be reported for income tax purposes for a period.

(e) "Timing differences" means differences between the periods in which transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income. Timing differences originate in one period and reverse or "turn around" in one or more subsequent periods. Some timing differences reduce income taxes that would otherwise be payable currently; others increase income taxes that would otherwise be payable currently.

(f) "Permanent differences" means differences between taxable income and pretax accounting income arising from transactions that, under applicable tax laws and regulations, will not be offset by corresponding differences or "turn around" in other periods.

(g) "Tax effects" means differentials in income taxes of a period attributable to (1) revenue or expense transactions which enter into the determination of pretax accounting income in one period and into the determination of taxable income in another period, (2) deductions or credits that may be carried backward or forward for income tax purposes and (3) adjustments of prior periods and direct entries to other stockholders' equity accounts which enter into the determination of taxable income in a period but which do not enter into the determination of pretax accounting income of that period. A permanent difference does not result in a "tax effect" as that term is used in this definition.

(h) "Deferred taxes" means tax effects which are deferred for allocation to income tax expense of future periods.

(i) "Interperiod tax allocation" means the process of apportioning income taxes among periods.

(j) "Tax allocation within a period" means the process of apportioning income tax expense applicable to a given period between income before extraordinary items and extraordinary items, and of associating the income tax effects of adjustments of prior periods and direct entries to other stockholders' equity accounts with these items.

INSTRUCTIONS

The title and text of instruction "2–32 Accounting for the investment tax credit" is amended to read:

2–32 Accounting for income taxes.

(a) The interperiod tax allocation method of accounting shall be applied where material timing differences (see definition 1–41(e)) occur between pretax accounting income and taxable income. Carriers may elect, as provided by the Revenue Act of 1971, to account for the investment tax credit by either the flow through method or the deferred method of accounting. See paragraphs (d) and (e) below. All income taxes (Federal, state and other) currently accruable for income tax return purposes shall be charged to account 8000, Income taxes on ordinary income, and account 9050, Income taxes on extraordinary and prior period items, as applicable.

(b) Under the interperiod tax allocation method of accounting the tax effect of timing differences (see definitions 1–41 (g) and (e)) originating in the current accounting period are allocated to income tax expense of future periods when the timing differences reverse. Similar timing differences originating and reversing in the current accounting period should be combined into groups and the current tax rates applied to determine the tax effect of each group. A carrier shall not apply other than current tax rates in determining the tax effect of reversing differences except upon approval of the Commission. When determining the amount of deferred taxes, rather than computing state and other taxes individually by jurisdiction, the Federal income tax rate may be increased by a percent equivalent to the effect of taxes imposed by the jurisdictions.

(c) The future tax benefits of loss carryforwards shall normally be recognized in the year in which such loss is applied to reduce taxes. Only in those unusual instances when realization is assured beyond any reasonable doubt should the future tax benefits of loss carryforwards be recognized in the year of loss. The tax effects of any realizable loss carrybacks shall be recognized in the determination of net income (loss) of the loss periods; appropriate adjustments of existing net deferred tax credits may also be necessary in the loss period.

(d) Carriers electing to account for the investment tax credit by the flow through method shall credit account 8000, Income taxes on ordinary income, or account 9050, Income taxes on extraordinary and prior period items, as applicable, and charge account 2120, Taxes accrued, with the amount of investment tax credit utilized in the current accounting period. When the flow through method is followed for the investment tax credit, account 8040, Provision for deferred taxes, shall reflect the difference between the tax payable (after recognition of allowable investment tax credit) based on taxable income and tax expense (with full recognition of investment tax credit that would be allowable based on accounting income) based on accounting income.

(e) Carriers electing to account for the investment tax credit by the deferred method shall concurrently with making the entries prescribed in (d) above charge account 8040, Provision for deferred taxes or account 9060, Provision for deferred taxes—extraordinary and prior period items, as applicable, and shall credit account 2460. Accumulated deferred income tax credits with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credit so deferred shall be amortized by credits to account 8040, Provision for deferred taxes.

NOTE A: Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear deferred investment tax credits because of a change from the deferral method to the flow through method shall submit the proposed journal entry to the Commission for consideration and advice.

NOTE B: The carrier shall follow generally accepted accounting principles where an interpretation of the accounting rules for income taxes is needed or obtain an interpretation from its public accountant or the Commission.

BALANCE SHEET ACCOUNTS

After the text of account 1190, Other current assets, the following new account number, title and text are added:

1195 Deferred income tax charges.

(a) This account shall include the portion of deferred income tax charges and credits relating to current assets and liabilities, when the balance is a net debit.

(b) A net credit balance shall be included in account 2185, Deferred income tax credits.

After the text of account 1890, Other deferred debits, the following new account number, title and text are added:

1895 Accumulated deferred income tax charges.

This account shall include the amount of deferred taxes (see definition 1–41 (h)) determined in accordance with instruction and the text of account 2460, Accumulated Deferred Income Tax Credits, when the balance is a net debit.

After the text of account 2180, Other current liabilities, the following new account number, title and text are added:

2185 Deferred income tax credits.

(a) This account shall include the portion of deferred income tax charges and credits relating to current assets and liabilities, when the balance is a net credit.

(b) A net debit balance shall be included in account 1195, Deferred Income Tax Charges.

2450 [Amended]

The text of account "2450 Other deferred credits" is revised by deleting paragraph (b).

After the text of account "2450 Other deferred credits," the following new account number, title and text are added:

2460 Accumulated deferred income tax credits.

(a) This account shall be credited (charged) with amounts concurrently charged (credited) to account 8040, Pro-

vision for deferred taxes and account 9060, Provision for deferred taxes—extraordinary and prior period items, representing the net tax effect of material timing differences (see definitions 1–41 (g) and (e)) originating and reversing in the current accounting period.

(b) This account shall be credited with the amount of investment tax credit utilized in the current year for income tax purposes but deferred for accounting purposes (see instruction 2–32).

(c) This account shall be concurrently debited with amounts credited to account 3040, Provision for deferred taxes representing amortization of amounts for investment tax credits deferred in prior accounting periods.

(d) This account shall be maintained in such a manner as to show separately: (1) the unamortized balance of deferred income taxes and deferred investment tax credit separately as of the beginning and as of the end of each year entries are made affecting the account balance, (2) the current years net credit or charges applicable to timing differences and deferred investment tax credits.

NOTE A: The portion of deferred charges and credits relating to current assets and liabilities should likewise be classified as current and included in account 1195, Deferred income tax changes, or 2185, Deferred income tax credits, as appropriate.

NOTE B: This account shall include a net credit balance only. A net debit balance shall be recorded in account 1895, Accumulated deferred income tax charges.

Account "2999 Form of balance sheet statement" is amended by adding the following:

2999 Form for balance sheet statement.

* * * * *

1195 Deferred income tax charges.

* * * * *

1895 Accumulated deferred income tax charges.

* * * * *

2185 Deferred income credits.

* * * * *

2460 Accumulated deferred income tax credits.

* * * * *

INCOME ACCOUNTS

The text of account "8000 Income taxes on ordinary income" is revised by amending paragraph (a) (1) and deleting paragraph (a) (3). As amended the text reads:

8000 Income taxes on ordinary income.

(a) (1) This account shall be debited with the monthly accruals for all income taxes which are estimated to be payable and which are applicable to ordinary income (see instruction 2–32). See text of account 9060, Income taxes on extraordinary and prior period items.

* * * * *

After the text of account "8000 Income taxes on ordinary income" the following new account number, title and text are added:

8040 Provision for deferred taxes.

(a) This account shall include the tax effect of all timing differences (see definitions 1–41 (g) and (e)) originating and reversing in the current accounting period, and the future tax benefits of loss carryforwards recognized in accordance with instruction 2–32 (c).

(b) This account shall include credits for the amortization of the investment tax credit if the carrier elected to use the deferred method of accounting for the investment tax credit. (See instruction 2–32(d)).

The text of account "9010 Extraordinary items (net)" is amended by revising paragraph (b) to read:

9010 Extraordinary items (net).

* * * * *

(b) Income tax consequences of charges and credits to this account shall be included in account 9050, Income taxes on extraordinary and prior period items and 9060, Provision for deferred taxes—extraordinary and prior period items, as applicable.

* * * * *

The text of account "9030 Prior period items (net)" is amended by revising paragraph (b) to read:

9030 Prior period items (net).

* * * * *

(b) Income tax consequences of charges and credits to this account shall be included in account 9050, Income taxes on extraordinary and prior period items, and 9060, Provision for deferred taxes—extraordinary and prior period items, as applicable.

The text of account "9050 Income taxes on extraordinary and prior period items" is amended to read:

9050 Income taxes on extraordinary and prior period items.

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which for accounting purposes are classified as unusual and extraordinary, and are recorded in accounts 9010, Extraordinary items (net) and 9030, Prior period items (net). The tax effect of any timing differences caused by recognizing an item in the accounts provided for extraordinary and prior period items in different periods in determining accounting income and taxable income shall be included in account 9060, Provision for deferred taxes—extraordinary and prior period items.

After the text of account "9050 Income taxes on extraordinary and prior period items" the following new account number, title and text are added:

9060 Provision for deferred taxes—extraordinary and prior period items.

This account shall include debits or credits for the current accounting period for income taxes deferred currently, or for amortization of income taxes deferred in prior accounting periods applicable to items of revenue or expense included in account 9010, Extraordinary items (net) and 9030, Prior period items (net). (See instruction 2–32).

Account "9999 Form of income statement" is amended as follows:

After line item "8000. Income taxes on ordinary income" add:

8040 Provision for deferred taxes.

After line item "9050. Income taxes on extraordinary and prior period items" add:

9060 Provision for deferred taxes—extraordinary and prior period items.

PART 1207—UNIFORM SYSTEM OF ACCOUNTS FOR CLASS I AND CLASS II COMMON AND CONTRACT MOTOR CARRIERS OF PROPERTY

DEFINITIONS

After the text of definition "38 Used" the following are added:

39. (a) "Income taxes" means taxes based on income determined under provisions of the United States Internal Revenue Code and foreign, state and other taxes (including franchise taxes) based on income.

(b) "Income tax expense" means the amount of income taxes (whether or not currently payable or refundable) allocable to a period in the determination of net income.

(c) "Pretax accounting income" means income or loss for a period, exclusive of related income tax expense.

(d) "Taxable income" means the excess of revenues over deductions or the excess of deductions over revenues to be reported for income tax purposes for a period.

(e) "Timing differences" means differences between the periods in which transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income. Timing differences originate in one period and reverse or "turn around" in one or more subsequent periods. Some timing differences reduce income taxes that would otherwise be payable currently; others increase income taxes that would otherwise be payable currently.

(f) "Permanent differences" means differences between taxable income and pretax accounting income arising from transactions that, under applicable tax laws and regulations, will not be offset by corresponding differences or "turn around" in other periods.

(g) "Tax effects" means differentials in income taxes of a period attributable to (1) revenue or expense transactions which enter into the determination of pretax accounting income in one period and into the determination of taxable income in another period. (2) deductions or credits that may be carried backward or forward for income tax purposes and (3) adjustments of prior periods and direct entries to other stockholders' equity accounts which enter into the determination of taxable income in a period but which do not enter into the determination of pretax accounting income of that period. A permanent difference does not result in a "tax effect" as that term is used in this definition.

(h) "Deferred taxes" means tax effects which are deferred for allocation to income tax expense of future periods.

(i) "Interperiod tax allocation" means the process of apportioning income taxes among periods.

(j) "Tax allocation within a period" means the process of apportioning income tax expense applicable to a given period between income before extraordinary items and extraordinary items, and of associating the income tax effects of adjustments of prior periods and direct entries to other stockholders' equity accounts with these items.

INSTRUCTIONS

The text of instruction "31 Income taxes" is amended to read as follows:

31 Income taxes.

(a) The interperiod tax allocation method of accounting shall be applied where material timing differences (see definition 39(e)) occur between pretax accounting income and taxable income. Carriers may elect, as provided by the Revenue Act of 1971, to account for the investment tax credit by either the flow through method or the deferred method of accounting. See paragraphs (d) and (e) below. All income taxes (Federal, state and other) currently accruable for income tax return purposes shall be charged to account 8700—Income taxes on ordinary income, and account 8850—Income taxes on extraordinary and prior period items, as applicable.

(b) Under the interperiod tax allocation method of accounting the tax effect of timing differences (see definitions 39 (g) and (e)) originating in the current accounting period are allocated to income tax expense of future periods when the timing differences reverse. Similar timing differences originating and reversing in the current accounting period should be combined into groups and the current tax rates applied to determine the tax effect of each group. A carrier shall not apply other than current tax rates in determining the tax effect of reversing differences except upon approval of the Commission. When determining the amount of deferred taxes, rather than computing state and other taxes individually by jurisdiction, the Federal income tax rate may be increased by a percent equivalent to the effect of taxes imposed by the jurisdictions.

(c) The future tax benefits of loss carryforwards shall normally be recognized in the year in which such loss is applied to reduce taxes. Only in those unusual instances when realization is assured beyond any reasonable doubt should the future tax benefits of loss carryforwards be recognized in the year of loss. The tax effects of any realizable loss carrybacks shall be recognized in the determination of net income (loss) of the loss periods; appropriate adjustments of existing net deferred tax credits may also be necessary in the loss period.

(d) Carriers electing to account for the investment tax credit by the flow through method shall credit account 8700—Income taxes on ordinary income, or account 8850—Income taxes on extraordinary and prior period items, as applicable, and charge account 2121—Accrued Federal income taxes, with the amount of investment tax credit utilized in the current accounting period. When the flow through method is followed for the investment tax credit, account 8740—Provision for deferred taxes, shall reflect the difference between the tax payable (after recognition of allowable investment tax credit) based on taxable income and tax expense (with full recognition of investment tax credit that would be allowable based on accounting income) based on accounting income.

(e) Carriers electing to account for the investment tax credit by the deferred method shall concurrently with making the entries prescribed in (d) above charge account 8740—Provision for deferred taxes, or account 8851—Provision for deferred taxes—extraordinary and prior period items, as applicable, and shall credit account 2420—Accumulated deferred income tax credits, with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credit so deferred shall be amortized by credits to account 8740—Provision for deferred taxes.

NOTE A: Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear deferred investment tax credits because of a change from the deferral method to the flow through method shall submit the proposed journal entry to the Commission for consideration and advice.

NOTE B: The carrier shall follow generally accepted accounting principles where an interpretation of the accounting rules for income taxes is needed or obtain an interpretation from its public accountant or the Commission.

CLASS I AND CLASS II MOTOR CARRIERS, CHART OF ACCOUNTS

Under the heading "Class II Accounts" the following are added:

* * * * *

1170 Deferred Income Tax Charges.

* * * * *

1520 Accumulated Deferred Income Charges.

* * * * *

2190 Deferred Income Tax Credits.

* * * * *

2420 Accumulated Deferred Income Tax Credits.

* * * * *

8740 Provision for Deferred Taxes.

* * * * *

Under the heading "Class I Accounts" the following are added:

* * * * *

1170 Deferred Income Tax Charges.

* * * * *

1520 Accumulated Deferred Income Tax Charges.

* * * * *

2190 Deferred Income Tax Credits.

* * * * *

2420 Accumulated deferral income tax credits.

* * * * *

8740 Provision for Deferred Taxes

* * * * *

8851 Provision for Deferred Taxes—Extraordinary and Prior Period Items.

* * * * *

CLASS I AND CLASS II MOTOR CARRIERS BALANCE SHEET ACCOUNT EXPLANATIONS

After the text of account "1163—Other Current Assets; Other," the following new account number, title and text are added:

1170 Deferred Income Tax Charges (classes I and II).

(a) This account shall include the portion of deferred income tax charges and credits relating to current assets and liabilities, when the balance is a net debit.

(b) A net credit balance shall be included in account 2190—Deferred Income Tax Credits.

After the text of account "1512—Other Deferred Debits," the following new account number, title and text are added:

1520 Accumulated Deferred Income Tax Charges (classes I and II).

This account shall include the amount of deferred taxes (see definition 39(h)) determined in accordance with instruction and the text of account 2420—Accumulated Deferred Income Tax Credits, when the balance is a net debit.

After the text of account "2181—Other Current Liabilities," the following new account number, title and text are added:

2190 Deferred Income Tax Credits (classes I and II).

(a) This account shall include the portion of deferred income tax charges and credits relating to current assets and liabilities, when the balance is a net credit.

(b) A net debit balance shall be included in account 1170—Deferred Income Tax Charges.

2412 [Amended]

The text of account "2412 Other deferred credits" is revised by deleting paragraph (b).

After the text of account "2412 Other deferred credits," the following new account number, title and text are added:

2420 Accumulated deferred income tax credits (classes I and II).

(a) This account shall be credited (charged) with amounts concurrently charged (credited) to account 8740—Provision for deferred taxes, and account 8851—Provision for deferred taxes—extraordinary and prior period items, representing the net tax effect of material timing differences (see definitions 39 (g) and (e)) originating and reversing in the current accounting period.

(b) This account shall be credited with the amount of investment tax credit utilized in the current year for income tax purposes but deferred for accounting purposes (see instruction 31(e)).

(c) This account shall be concurrently debited with amounts credited to account

8740—Provision for deferred taxes, representing amortization of amounts for investment tax credits deferred in prior accounting periods.

(d) This account shall be maintained in such a manner as to show separately: (1) the unamortized balance of deferred income taxes and deferred investment tax credit separately as of the beginning and as of the end of each year entries are made affecting the account balance, (2) the current years net credit or charges applicable to timing differences and deferred investment tax credits.

NOTE: The portion of deferred charges and credits relating to current assets and liabilities should likewise be classified as current and included in account 1170—Deferred Income Tax Charges, or account 2190—Deferred Income Tax Credits, as appropriate.

NOTE B: This account shall include a net credit balance only. A net debit balance shall be recorded in account 1520—Accumulated Deferred Income Tax Charges.

OTHER INCOME AND EXPENSE ACCOUNT EXPLANATIONS

8700 [Amended]

The text of account "8700 Income taxes on ordinary income" is amended by delegating paragraph (e).

After the text of account "8730—Other income taxes," the following new account number, title and text are added:

8740 Provision for deferred taxes (Classes I and II).

(a) This account shall include the net tax effect of all material timing differences (see definitions 39 (g) and (e)) originating and reversing in the current accounting period, and the future tax benefits of loss carryforwards recognized in accordance with instruction 31(c).

(b) This account shall include credits for the amortization of the investment tax credit if the carrier elected to use the deferred method of accounting for the investment tax credit. (See instruction 31(d.)

The text of account "8800—Extraordinary items" is revised by amending paragraph (a). As revised the text reads:

8800 Extraordinary Items (Classes I and II).

(a) Class I carriers may use this account as a control account for accounts 8810, 8820, 8850 and 8851.

* * * * *

The text of account "8810—Extraordinary items (net)" is amended by revising paragraph (b) to read:

8810 Extraordinary items (net).

* * * * *

(b) Income tax consequences of charges and credits to this account shall be included in account 8850—Income taxes on extraordinary and prior period items, and account 8851—Provision for deferred taxes—extraordinary and prior period items, as applicable.

* * * * *

The text of account "8820—Prior period items (net)" is amended by revising paragraph (b) to read:

8820 Prior period items (net).

* * * * *

(b) Income tax consequences of charges and credits to this account shall be included in account 8850—Income taxes on extraordinary and prior period items, and account 8851—Provision for deferred taxes—extraordinary and prior period items, as applicable.

* * * * *

The text of account "8850—Income taxes on extraordinary and prior period items" is revised to read:

8850 Income taxes on extraordinary and prior period items (Class I).

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which for accounting purposes are classified as unusual and extraordinary, and are recorded in accounts 8810—Extraordinary items (net), and 8820—Prior period items (net). The tax effect of any timing differences caused by recognizing an item in the accounts provided for extraordinary and prior period items in different periods in determining accounting income and taxable income shall be included in account 8851—Provision for deferred taxes—extraordinary and prior period items.

After the text of account "8850 Income taxes on extraordinary and prior period items" the following new account number, title and text are added:

8851 Provision for deferred taxes—extraordinary and prior period items (Class I).

This account shall include debits or credits for the current accounting period for income taxes deferred currently, or for amortization of income taxes deferred in prior accounting periods applicable to items of revenue or expense included in accounts 8810—Extraordinary items (net), and 8820—Prior period items (net). (See instruction 31).

PART 1208—UNIFORM SYSTEM OF ACCOUNTS FOR MARITIME CARRIERS

LIST OF INSTRUCTIONS AND ACCOUNTS

Under "General Instructions" amend line item "12 Accounting for the investment tax credit" to read:

12 Accounting for income taxes.

Under "Balance sheet accounts" the following are added:

* * * * *

198 Deferred income tax charges.

* * * * *

383 Accumulated deferred income tax charges.

* * * * *

480 Deferred income tax credits.

* * * * *

563 Accumulated deferred income tax credits.

* * * * *

Under "Income accounts" the following revisions and additions are made:

989 Income taxes on ordinary income.

* * * * *

989–5 Provision for deferred taxes.

* * * * *

998 Income taxes on extraordinary and prior period items.

999 Provision for deferred taxes—extraordinary and prior period items.

* * * * *

GENERAL INSTRUCTIONS

Instruction "1 Definitions" is amended by adding the following after the text of definition (i) "Shipping property":

1 Definitions.

(j) "Income taxes" means taxes based on income determined under provisions of the United States Internal Revenue Code and foreign, state and other taxes (including franchise taxes) based on income.

(k) "Income tax expense" means the amount of income taxes (whether or not currently payable or refundable) allocable to a period in the determination of net income.

(l) "Pretax accounting income" means income or loss for a period, exclusive of related income tax expense.

(m) "Taxable income" means the excess of revenues over deductions or the excess of deductions over revenues to be reported for income tax purposes for a period.

(n) "Timing differences" means differences between the periods in which transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income. Timing differences originate in one period and reverse of "turn around" in one or more subsequent periods. Some timing differences reduce income taxes that would otherwise be payable currently, others increase income taxes that would otherwise be payable currently.

(o) "Permanent differences" means differences between taxable income and pretax accounting income arising from transactions that, under applicable tax laws and regulations, will not be offset by corresponding differences or "turn around" in other periods.

(p) "Tax effects" means differentials in income taxes of a period attributable to (1) revenue or expense transactions which enter into the determination of pretax accounting income in one period and into the determination of taxable income in another period, (2) deductions or credits that may be carried backward or forward for income tax purposes and (3) adjustments of prior periods and direct entries to other stockholders' equity accounts which enter into the determination of taxable income in a period but which do not enter into the determination of pretax accounting income of that period. A permanent difference does not result in a "tax effect" as that term is used in this definition.

(q) "Deferred taxes" means tax effects which are deferred for allocation to income tax expense of future periods.

(r) "Interperiod tax allocation" means the process of apportioning income taxes among periods.

(s) "Tax allocation within a period" means the process of apportioning income tax expense applicable to a given period between income before extraordinary items and extraordinary items, and of associating the income tax effects of adjustments of prior periods and direct entries to other stockholders' equity accounts with these items.

The title and text of instruction "12 Accounting for the investment tax credit" are revised to read:

12. Accounting for income taxes.

(a) The interperiod tax allocation method of accounting shall be applied where material timing differences (see definition (n)) occur between pretax accounting income and taxable income. Carriers may elect, as provided by the Revenue Act of 1971, to account for the investment tax credit by either the flow through method or the deferred method of accounting. See paragraphs (d) and (e) below. All income taxes (Federal, state and other) currently accruable for income tax return purposes shall be charged to account 989, "Income taxes on ordinary income", and account 998, "Income taxes on extraordinary and prior period items," as applicable.

(b) Under the interperiod tax allocation method of accounting the tax effect of timing differences (see definitions (p) and (n)) originating in the current accounting period are allocated to income tax expense of future periods when the timing differences reverse. Similar timing differences originating and reversing in the current accounting period should be combined into groups and the current tax rates applied to determine the tax effect of each group. A carrier shall not apply other than current tax rates in determining the tax effect of reversing differences except upon approval of the Commission. When determining the amount of deferred taxes, rather than computing state and other taxes individually by jurisdiction, the Federal income tax rate may be increased by a percent equivalent to the taxes imposed by the jurisdictions.

(c) The future tax benefits of loss carryforwards shall normally be recognized in the year in which such loss is applied to reduce taxes. Only in those unusual instances when realization is assured beyond any reasonable doubt should the future tax benefits of loss carryforwards be recognized in the year of loss. The tax effects of any realizable loss carrybacks shall be recognized in the determination of net income (loss) of the loss periods; appropriate adjustments of existing net deferred tax credits may also be necessary in the loss period.

(d) Carriers electing to account for the investment tax credit by the flow through method shall credit account 989, "Income taxes on ordinary income," or account 998, "Income taxes on extraordinary and prior period items," as applicable, and charge account 440, "Accrued taxes payable" with the amount of investment tax credit utilized in the current accounting period. When the flow through method is followed for the investment tax credit, account 989–5, "Provision for deferred taxes," shall reflect the difference between the tax payable (after recognition of allowable investment tax credit) based on taxable income and tax expense (with full recognition of investment tax credit that would be allowable based on accounting income) based on accounting income.

(e) Carriers electing to account for the investment tax credit by the deferred method shall concurrently with making the entries prescribed in (d) above charge account 989–5, "Provision for deferred taxes" or account 999, "Provision for deferred taxes—extraordinary and prior period items," as applicable, and shall credit account 563, "Accumulated deferred income tax credits" with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credit so deferred shall be amortized by credits to account 989–5, "Provision for deferred taxes".

NOTE A: Any change in practice of accounting for the investment tax cerdit shall be reported promptly to the Commission. Carriers desiring to clear deferred investment tax credits because of a change from the deferral method to the flow through method shall submit the proposed journal entry to the Commission for consideration and advice.

NOTE B: A carrier shall follow generally accepted accounting principles where an interpretation of the accounting rules for income taxes is needed obtain an interpretation from its public account or the Commission.

BALANCE SHEET ACCOUNTS

After the text of account "192 Other prepaid current expenses," the following new account number, title and text are added:

198 Deferred income tax charges.

(a) This account shall include the portion of deferred income tax charges and credit relating to current assets and liabilities, when the balance is a net debit.

(b) A net credit balance shall be included in account 480, "Deferred income tax credits."

After the text of account 380, "Advances to employees for expenses," the following new account number, title and text are added:

383 Accumulated deferred income tax charges.

This account shall include the amount of deferred taxes (see definition (q)) determined in accordance with instruction and the text of account 563, "Accumulated Deferred Income Tax Credits," when the balance is a net debit.

After the text of account 479, "Other current liabilities," the following new account number, title and text are added:

480 Deferred income tax credits.

(a) This account shall include the portion of deferred income tax charges and credits relating to current assets and liabilities, when the balance is a net credit.

(b) A net debit balance shall be included in account 198, "Deferred income tax charges."

After the text of account "556 Premium on funded debt" the following new account number, title and text are added:

563 Accumulated deferred income tax credits.

(a) This account shall be credited (charged) with amounts concurrently charged (credited) to account 989–5, "Provision for deferred taxes" and account 999, "Provision for deferred taxes—extraordinary and prior period items," representing the net tax effect of material timing differences (see definitions (p) and (n)) originating and reversing in the current accounting period.

(b) This account shall be credited with the amount of investment tax credit utilized in the current year for income tax purposes but deferred for accounting purposes (see instruction 12).

(c) This account shall be concurrently debited with amounts credited to account 989–5, "Provisions for deferred taxes" representing amortization of amounts for investment tax credits deferred in prior accounting periods.

(d) This account shall be maintained in such a manner as to show separately: (1) the unamortized balance of deferred income taxes and deferred investment tax credit separately as of the beginning and as of the end of each year entries are made affecting the account balance, (2) the current years net credit or charges applicable to timing differences and deferred investment tax credits.

NOTE: The portion of deferred charges and credits relating to current assets and liabilities should likewise be classified as current and included in account 198, "Deferred income tax charges," or account 480, "Deferred income tax credits," as appropriate.

564 [Amended]

The text of account "564 Miscellaneous deferred credits" is amended by deleting paragraph (b).

INCOME ACCOUNTS

The text of account "955 Taxes; miscellaneous", paragraph (a), is amended by deleting the reference to Federal income taxes. As amended the text reads:

955 Taxes; miscellaneous.

(a) This account shall include all taxes other than income taxes, sales taxes, and taxes computed on basis of payrolls such as old age benefits, unemployment compensation, and similar social security taxes.

* * * * *

The title and text of account "989 Federal income taxes on ordinary income" is revised to read:

989 Income taxes on ordinary income.

(a) This account shall be debited with the monthly accruals for all income taxes which are estimated to be payable and which are applicable to ordinary income (see instruction 12). See text of account 599. "Earned surplus; unappropriated"

and 998, "Income taxes on extraordinary and prior period items," for recording other income tax consequences.

(b) Details pertaining to the tax consequences of other unusual and significant items and also cases where the tax consequences are disproportionate to the related amounts included in the income accounts, shall be submitted to the Commission for consideration and decision as to proper accounting.

After the text of account "989 Income taxes on ordinary income" the following new account number, title and text are added:

989–5 Provision for deferred taxes.

(a) This account shall include the net tax effect of all material timing differences (see definitions (p) and (n)) originating and reversing in the current accounting period, and the future tax benefits of loss carryforwards recognized in accordance with instruction 12(c).

(b) This account shall include credits for the amortization of the investment tax credit if the carrier elected to use the deferred method of accounting for the investment tax credit. (See instruction 12(d)).

The text of account "990 Extraordinary items (net)" is amended by revising paragraph (c) to read:

990 Extraordinary items (net).

* * * * *

(c) Income tax consequences of charges and credits to this account shall be recorded in account 998, "Income taxes on extraordinary and prior period items" and account 999, "Provision for deferred taxes—extraordinary and prior period items", as applicable.

The text of account "994 Prior period items (net)" is amended by revising paragraph (c) to read:

994 Prior period items (net).

* * * * *

(c) Income tax consequences of charges and credits to this account shall be recorded in account 998, "Income taxes on extraordinary and prior period items" and account 999, "Provision for deferred taxes—extraordinary and prior period items", as applicable.

The title and text of account "998 Federal income taxes on extraordinary and prior period items" are revised to read:

998 Income taxes on extraordinary and prior period items.

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which for accounting purposes are classified as unusual and extraordinary, and are recorded in accounts 990, "Extraordinary items (net)" and 994, "Prior period items (net)". The tax effect of any timing differences caused by recognizing an item in the accounts provided for extraordinary and prior period items in different periods in determining accounting income and taxable income shall be included in account 999, "Provision for deferred taxes—extraordinary and prior period items".

After the text of account "998 Income taxes on extraordinary and prior period items" the following new account number, title and text are added:

999 Provision for deferred taxes—extraordinary and prior period items.

This account shall include debits or credits for the current accounting period for income taxes deferred currently, or for amortization of income taxes deferred in prior accounting periods applicable to items of revenue or expense included in accounts 990, "Extraordinary items (net)" and 994, "Prior period items (net)". (See instruction 12.)

FINANCIAL STATEMENTS

Section "2000 Balance sheet statement" is amended by adding the following:

2000 Balance sheet statement.

* * * * *

198 Deferred income tax charges.

* * * * *

383 Accumulated deferred income tax charges.

* * * * *

480 Deferred income tax credits.

* * * * *

563 Accumulated deferred income tax credits.

* * * * *

Section "2001 Income statement" is amended by adding the following:

* * * * *

989 Income taxes on ordinary income.
989–5 Provision for deferred taxes.

* * * * *

998 Income taxes on extraordinary and prior period items.
999 Provision for deferred taxes—extraordinary and prior period items.

PART 1209—UNIFORM SYSTEM OF ACCOUNTS FOR INLAND AND COASTAL WATERWAYS CARRIERS

LIST OF INSTRUCTIONS AND ACCOUNTS

Under "General Instructions" amend line item "13 Accounting for the Investment Tax Credit" to read:

13 Accounting for income taxes.

Under "Balance Sheet Accounts" the following additions are made:

* * * * *

117 Deferred income tax charges.

* * * * *

176 Accumulated deferred income tax charges.

* * * * *

207 Deferred income tax credits.

* * * * *

233 Accumulated deferred income tax credits.

* * * * *

Under "Income Accounts" the following revisions are made:

After line item "532 Income taxes on ordinary income" add:

533 Provision for deferred taxes.

After line item "590 Income taxes on extraordinary and prior period items" add:

591 Provision for deferred taxes—extraordinary and prior period items.

GENERAL INSTRUCTIONS

Instruction "2 Definitions" is amended by adding the following after the text of definition "(hh) Value of salvage":

2 Definitions.

* * * * *

(ii) "Income taxes" means taxes based on income determined under provisions of the United States Internal Revenue Code and foreign, state and other taxes (including franchise taxes) based on income.

(jj) "Income tax expense" means the amount of income taxes (whether or not currently payable or refundable) allocable to a period in the determination of net income.

(kk) "Pretax accounting income" means income or loss for a period, exclusive of related income tax expense.

(ll) "Taxable income" means the excess of revenues over deductions or the excess of deductions over revenues to be reported for income tax purposes for a period.

(mm) "Timing differences" means differences between the periods in which transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income. Timing differences originate in one period and reverse or "turn around" in one or more subsequent periods. Some timing differences reduce income taxes that would otherwise be payable currently; others increase income taxes that would otherwise be payable currently.

(nn) "Permanent differences" means differences between taxable income and pretax accounting income arising from transactions that, under applicable tax laws and regulations, will not be offset by corresponding differences or "turn around" in other periods.

(oo) "Tax effects" means differentials in income taxes of a period attributable to (1) revenue or expense transactions which enter into the determination of pretax accounting income in one period and into the determination of taxable income in another period, (2) deductions or credits that may be carried backward or forward for income tax purposes, and (3) adjustments of prior periods and direct entries to other stockholders' equity accounts which enter into the determination of taxable income in a period but which do not enter into the determination of pretax accounting income of that period. A permanent difference does not result in a "tax effect" as that term is used in this definition.

(pp) "Deferred taxes" means tax effects which are deferred for allocation to income tax expense of future periods.

(qq) "Interperiod tax allocation" means the process of apportioning income taxes among periods.

(rr) "Tax allocation within a period" means the process of apportioning income tax expense applicable to a given period between income before extraordinary items and extraordinary items, and of associating the income tax effects of adjustments of prior periods and direct entries to other stockholders' equity accounts with these items.

The title and text of instruction "13 Accounting for the Investment Tax Credit" are amended to read:

13 Accounting for income taxes.

(a) The interperiod tax allocation method or accounting shall be applied where material timing differences (see definition (mm)) occur between pretax accounting income and taxable income. Carriers may elect, as provided by the Revenue Act of 1971, to account for the investment tax credit by either the flow through method or the deferred method of accounting. See paragraph (d) and (e) below. All income taxes (Federal, state and other) currently accruable for income tax return purposes shall be charged to account 532, "Income taxes on ordinary income", and account 590, "Income taxes on extraordinary and prior period items," as applicable.

(b) Under the interperiod tax allocation method of accounting the tax effect of timing differences (see definition (oo) and (mm)) originating in the current accounting period are allocated to income tax expense of future periods when the timing differences reverse. Similar timing differences originating and reversing in the current accounting period should be combined into groups and the current tax rates applied to determine the tax effect of each group. A carrier shall not apply other than current tax rates in determining the tax effect of reversing differences except upon approval of the Commission. When determining the amount of deferred taxes, rather than computing state and other taxes individually by jurisdiction, the Federal income tax rate may be increased by a percent equivalent to the taxes imposed by the jurisdictions.

(c) The future tax benefits of loss carryforwards shall normally be recognized in the year in which such loss is applied to reduce taxes. Only in those unusual instances when realization is assured beyond any reasonable doubt should the future tax benefits of loss carryforwards be recognized in the year of loss. The tax effects of any realizable loss carrybacks shall be recoginzed in the determination of net income (loss) of the loss periods; appropriate adjustments of existing net deferred tax credits may also be necessary in the loss period.

(d) Carriers electing to account for the investment tax credit by the flow through method shall credit account 532, "Income taxes on ordinary income", or account 590, "Income taxes on extraordinary and prior period items", as applicable, and charge account 206, "Accrued taxes", with the amount of investment tax credit utilized in the current accounting period. When the flow through method is followed for the investment tax credit, account 533, "Provision for deferred taxes," shall reflect the difference between the tax payable (after recognition of allowable investment tax credit) based on taxable income and tax expense (with full recognition of investment tax credit that would be allowable based on accounting income) based on accounting income.

(e) Carriers electing to account for the investment tax credit by the deferred method shall concurrently with making the entries prescribed in (d) above charge account 533, "Provision for deferred taxes" or account 591, "Provision for deferred taxes—extraordinary and prior period items", as applicable, and shall credit account 233, "Accumulated deferred income tax credits" with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credit so deferred shall be amortized by credits to account 533, "Provision for deferred taxes".

NOTE A: Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear deferred investment tax credits because of a change from the deferral method to the flow through method shall submit the proposed journal entry to the Commission for consideration and advice.

NOTE B: The carrier shall follow generally accepted accounting principles where an interpretation of the accounting rules for income taxes is needed or obtain an interpretation from its public accountant or the Commission.

BALANCE SHEET ACCOUNTS

After the text of account "116 Other current assets," the following new account number, title and text are added:

117 Deferred income tax charges.

(a) This account shall include the portion of deferred income tax charges and credits relating to current assets and liabilities, when the balance is a net debit.

(b) A net credit balance shall be included in account 207, "Deferred income tax credits."

After the text of account "175 Other deferred debits," the following new account number, title and text are added:

176 Accumulated deferred income tax charges.

This account shall include the amount of deferred taxes (see definition (pp)) determined in accordance with instruction 13 and the text of account 233 "Accumulated deferred income tax credits," when the balance is a net debit.

After the text of account "206 Accrued taxes," the following new account number, title and text are added:

207 Deferred income tax credits.

(a) This account shall include the portion of deferred income tax charges and credits relating to current assets and liabilities, when the balance is a net credit.

(b) A net debit balance shall be included in account 117, "Deferred income tax charges."

232 [Amended]

The text of account 232, "Other deferred credits" is revised by deleting paragraph (d).

After the text of account 232, "Other deferred credits" the following new account number, title and text are added:

233 Accumulated deferred income tax credits.

(a) This account shall be credited (charged) with amounts concurrently charged (credited) to account 533, "Provision for deferred taxes—extraordinary and prior period items", representing the net tax effect of material timing differences (see definitions (oo) and (mm)) originating and reversing in the current accounting period.

(b) This account shall be credited with the amount of investment tax credit utilized in the current year for income tax purposes but deferred for accounting purposes (see instruction 13).

(c) This account shall be concurrently debited with amounts credited to account 533, "Provision for deferred taxes" representing amortization of amounts for investment tax credits deferred in prior accounting periods.

(d) This account shall be maintained in such a manner as to show separately: (1) the unamortized balance of deferred income taxes and deferred investment tax credit separately as of the beginning and as of the end of each year entries are made affecting the account balance, (2) the current years net credit or charges applicable to timing differences and deferred investment tax credits.

NOTE A: The portion of deferred charges and credits relating to current assets and liabilities should likewise be classified as current and included in account 117, "Deferred income tax charges," or account 207, "Deferred income tax credits," as appropriate.

NOTE B: This account shall include a net credit balance only. A net debit balance shall be recorded in account 176, "Accumulated deferred income tax charges."

BALANCE SHEET STATEMENT

Account 299, "Form of balance sheet statement" is amended by adding the following:

299 Form of balance sheet statement.

* * * * *

117 Deferred income tax charges.

* * * * *

176 Accumulated deferred income tax charges.

* * * * *

207 Deferred income tax credits.

* * * * *

233 Accumulated deferred income tax credits.

* * * * *

INCOME ACCOUNTS

532 [Amended]

The text of account 532, "Income taxes on ordinary income" is amended by deleting paragraph (b).

After the text of account 532, "Income taxes on ordinary income" the following new account number, title and text are added:

533 Provision for deferred taxes.

(a) This account shall include the net tax effect of all material timing differences (see definitions (oo) and (mm)) originating and reversing in the current accounting period, and the future tax benefits of loss carryforwards recognized in accordance with instruction 13(c).

(b) This account shall include credits for the amortization of the investment tax credit if the carrier elected to use the deferred method of accounting for the investment tax credit. (See instruction 13(d)).

The text of account 570, "Extraordinary items (net)" is amended by revising paragraph (b) to read:

570 Extraordinary items (net).

* * * * *

(b) Income tax consequences of charges and credits to this account shall be recorded in account 590, "Income taxes on extraordinary and prior period items", and account 591, "Provision for deferred taxes—extraordinary and prior period items", as applicable.

* * * * *

The text of account 580, "Prior period items (net)" is amended by revising paragraph (b) to read:

580 Prior period items (net).

* * * * *

(b) Income tax consequences of charges and credits to this account shall be recorded in account 590, "Income taxes on extraordinary and prior period items", and account 591, "Provision for deferred taxes—extraordinary and prior period items", as applicable.

* * * * *

The text of account 590, "Income taxes on extraordinary and prior period items" is amended to read:

590 Income taxes on extraordinary and prior period items.

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which for accounting purposes are classified as unusual and extraordinary, and are reported in accounts 570, "Extraordinary items (net)" and 580, "Prior period items (net)." The tax effect of any timing differences caused by recognizing an item in the accounts provided for extraordinary and prior period items in different periods in determining accounting income and taxable income shall be included in account 591, "Provision for deferred taxes—extraordinary and prior period items."

After the text of account 590, "Income taxes on extraordinary and prior period items," the following new account number, title and text are added:

591 Provision for deferred taxes—extraordinary and prior period items.

This account shall include debits or credits for current accounting period for income taxes deferred currently or for amortization of income taxes deferred in prior accounting periods applicable to items of revenue or expense included in accounts 570, "Extraordinary items (net)" and 580 "Prior period items (net)." (See instruction 13.)

Account 599, "Form of income statement" is revised as follows:

After line item 532, "Income taxes on ordinary income" add:

533 Provision for deferred taxes.

After line item 590, "Income taxes on extraordinary and prior period items" add:

591 Provision for deferred taxes—extraordinary and prior period items.

PART 1210—UNIFORM SYSTEM OF ACCOUNTS FOR FREIGHT FORWARDERS

List of Instructions and Accounts

Under "General Instructions" amend line item "8 Accounting for the Investment Tax Credit" to read:

8 Accounting for income taxes.

Under "General Balance Sheet Accounts" the following are added:

* * * * *

110 Deferred income tax charges.

* * * * *

173 Accumulated deferred income tax charges.

* * * * *

208 Deferred income tax credits.

* * * * *

232 Accumulated deferred income tax credits.

* * * * *

Under "Income Accounts" the following revisions are made:

After line item "431 Income taxes on ordinary income" add:

432 Provision for deferred taxes.

After line item "450 Income taxes on extraordinary and prior period items" add:

451 Provision for deferred taxes—extraordinary and prior period items.

General Instructions

Instruction "2 Definitions" is amended by adding the following after the text of definition "(n) Premium":

2 Definitions.

* * * * *

(o) "Income taxes" means taxes based on income determined under provisions of the United States Internal Revenue Code and foreign, state and other taxes (including franchise taxes) based on income.

(p) "Income tax expense" means the amount of income taxes (whether or not currently payable or refundable) allocable to a period in the determination of net income.

(q) "Pretax accounting income" means income or loss for a period, exclusive of related income tax expense.

(r) "Taxable income" means the excess of revenues over deductions or the excess of deductions over revenues to be reported for income tax purposes for a period.

(s) "Timing differences" means differences between the periods in which transactions affect taxable income and the periods in which they enter into the determination of pretax accounting income. Timing differences originate in one period and reverse or "turn around" in one or more subsequent periods. Some timing differences reduce income taxes that would otherwise be payable currently; others increase income taxes that would otherwise be payable currently.

(t) "Permanent differences" means differences between taxable income and pretax accounting income arising from transactions that, under applicable tax laws and regulations, will not be offset by corresponding differences or "turn around" in other periods.

(u) "Tax effects" means differentials in income taxes of a period attributable to (1) revenue or expense transactions which enter into the determination of pretax accounting income in one period and into the determination of taxable income in another periods (2) deductions or credits that may be carried backward or forward for income tax purposes and (3) adjustments of prior periods and direct entries to other stockholders' equity accounts which enter into the determination of taxable income in a period but which do not enter into the determination of pretax accounting income of that period. A permanent difference does not result in a "tax effect" as that term is used in this definition.

(v) "Deferred taxes" means tax effects which are deferred for allocation to income tax expense of future periods.

(w) "Interperiod tax allocation" means the process of apportioning income taxes among periods.

(x) "Tax allocation within a period" means the process of apportioning income tax expense applicable to a given period between income before extraordinary items and extraordinary items, and of associating the income tax effects of adjustments of prior periods and direct entries to other stockholders' equity accounts with these items.

The title and text of instruction "8 Accounting for the investment tax credit" is amended to read:

8 Accounting for income taxes.

(a) The interperiod tax allocation method of accounting shall be applied where material timing differences (see definition (s)) occur between pretax accounting income and taxable income. Carriers may elect, as provided by the Revenue Act of 1971, to account for the investment tax credit by either the flow through method or the deferred method of accounting. See paragraphs (d) and (e) below. All income taxes (Federal, state and other) currently accruable for income tax return purposes shall be charged to account 431, "Income taxes on ordinary income", and account 450, "Income taxes on extraordinary and prior period items," as applicable.

(b) Under the interperiod tax allocation method of accounting the tax effect of timing differences (see definitions (u) and (s)) originating in the current accounting period are allocated to income tax expense of future periods when the timing differences reverse.

Similar timing differences originating and reversing in the current accounting period should be combined into groups and the current tax rates applied to determine the tax effect of each group. A carrier shall not apply other than current tax rates in determining the tax effect of reversing differences except upon approval of the Commission. When determining the amount of deferred taxes, rather than computing state and other taxes individually by jurisdiction, the Federal income tax rate may be increased by a percent equivalent to the effect of taxes imposed by the jurisdictions.

(c) The future tax benefits of loss carryforwards shall normally be recognized in the year in which such loss is applied to reduce taxes. Only in those unusual instances when realization is assured beyond any reasonable doubt should the future tax benefits of loss carryforwards be recognized in the year of loss. The tax effects of any realizable loss carrybacks shall be recognized in the determination of net income (loss) of the loss periods; appropriate adjustments of existing net deferred tax credits may also be necessary in the loss period.

(d) Carriers electing to account for the investment tax credit by the flow through method shall credit account 431, "Income taxes on ordinary income," or account 450, "Income taxes on extraordinary and prior period items," as applicable, and charge account 204, "Accrued taxes," with the amount of investment tax credit utilized in the current accounting period. When the flow through method is followed for the investment tax credit, account 432, "Provision for deferred taxes," shall reflect the difference between the tax payable (after recognition of allowable investment tax credit) based on taxable income and the tax expense (with full recognition of investment tax credit that would be allowable based on accounting income) based on accounting income.

(e) Carriers electing to account for the investment tax credit by the deferred method shall concurrently with making the entries prescribed in (d) above charge account 432, "Provision for deferred taxes" or account 451, "Provision for deferred taxes—extraordinary and prior period items," as applicable, and shall credit account 232, "Accumulated deferred income tax credits" with the investment tax credit utilized as a reduction of the current year's tax liability but deferred for accounting purposes. The investment tax credit so deferred shall be amortized by credits to account 432, "Provision for deferred taxes."

NOTE A: Any change in practice of accounting for the investment tax credit shall be reported promptly to the Commission. Carriers desiring to clear deferred investment tax credits because of a change from the deferral method to the flow through method shall submit the proposed journal entry to the Commission for consideration and advice.

NOTE B: The carrier shall follow generally accepted accounting principles where an interpretation of the accounting rules for income taxes is needed or obtain an interpretation from its public accountant or the Commission.

GENERAL BALANCE SHEET INSTRUCTIONS

Instruction "28" is amended by adding the following:

28 Form of general balance sheet statement.

* * * * *

110 Deferred income tax charges.

* * * * *

173 Accumulated deferred income tax charges.

* * * * *

208 Deferred income tax credits.

* * * * *

232 Accumulated deferred income tax credits.

* * * * *

GENERAL BALANCE SHEET ACCOUNTS

After the text of account "109 Other current assets," the following new account number, title and text are added:

110 Deferred income tax charges.

(a) This account shall include the portion of deferred income tax charges and credits relating to current assets and liabilities, when the balance is a net debit.

(b) A net credit balance shall be included in account 208, "Deferred income tax credits."

After the text of account "172 Other deferred debits," the following new account number, title and text are added:

173 Accumulated deferred income tax charges.

This account shall include the amount of deferred taxes (see definition (b)) determined in accordance with instruction 8 and the text of account 232 "Accumulated deferred income tax credits," when the balance is a net debit.

After the text of account "205 Accrued accounts payable," the following new account number, title and text are added:

208 Deferred income tax credits.

(a) This account shall include the portion of deferred income tax charges and credits relating to current assets and liabilities, when the balance is a net credit.

(b) A net debit balance shall be included in account 110, "Deferred income tax charges."

231 [Amended]

The text of account "231 Other deferred credits" is amended by deleting paragraph (d).

After the text of account "231 Other deferred credits" the following new account number, title and text are added:

232 Accumulated deferred income tax credits.

(a) This account shall be credited (charged) with amounts concurrently charged (credited) to account 432, "Provision for deferred taxes" and account 451, "Provision for deferred taxes—extraordinary and prior period items", representing the net tax effect of material timing differences (see definitions (u) and (s)) originating and reversing in the current accounting period.

(b) This account shall be credited with the amount of investment tax credit utilized in the current year for income tax purposes but deferred for accounting purposes (see instruction 8).

(c) This account shall be concurrently debited with amounts credited to account 432, "Provision for deferred taxes" representing amortization of amounts for investment tax credits deferred in prior accounting periods.

(d) This account shall be maintained in such a manner as to show separately: (1) the unamortized balance of deferred income taxes and deferred investment tax credit separately as of the beginning and as of the end of each year entries are made affecting the account balance, (2) the current years net credit or charges applicable to timing differences and deferred investment tax credits.

NOTE A: The portion of deferred charges and credits relating to current assets and liabilities should likewise be classified as current and included in account 110, "Deferred income tax charges," or 208, "Deferred income tax credits," as appropriate.

NOTE B: This account shall include a net credit balance only. A net debit balance shall be recorded in account 173, "Accumulated deferred income tax charges."

INCOME INSTRUCTIONS

Instruction "63 Form of income statement" is revised as follows:

After line item "431 Income taxes on ordinary income" add:

432 Provision for deferred taxes.

After line item "450 Income taxes on extraordinary and prior period items" add:

451 Provision for deferred taxes—extraordinary and prior period items.

INCOME ACCOUNTS

431 [Amended]

The text of account "431 Income taxes on ordinary income" is revised by deleting paragraph (b).

After the text of account "431 Income taxes on ordinary income" the following new account number, title and text are added:

432 Provision for deferred taxes.

(a) This account shall include the tax effect of all timing differences (see definitions (u) and (s)) originating and reversing in the current accounting period, and the future tax benefits of loss carryforwards recognized in accordance with instruction 8(C).

(b) This account shall include credits for the amortization of the investment tax credit if the carrier elected to use the deferred method of accounting for the investment tax credit. (See instruction 8(d).)

The text of account "435 Extraordinary items (net)" is revised by amending paragraph (b) to read:

435 Extraordinary items (net).

* * * * *

(b) Income tax consequences of charges and credits to this account shall be recorded in account 450, "Income taxes on extraordinary and prior period items," and account 451, "Provision for

deferred taxes extraordinary and prior period items," as applicable.

* * * * *

The text of account "440 Prior period items (net)" is revised by amending paragraph (b) to read:

440 Prior period items (net).

* * * * *

(b) Income tax consequences of charges and credits to this account shall be recorded in account 450, "Income taxes on extraordinary and prior period items," and account 451, "Provision for deferred taxes—extraordinary and prior period items," as applicable.

The text of account "450 Income taxes on extraordinary and prior period items" is revised to read:

450 Income taxes on extraordinary and prior period items.

This account shall include the estimated income tax consequences (debit or credit) assignable to the aggregate of items of both taxable income and deductions from taxable income which for accounting purposes are classified as unusual and extraordinary, and are recorded in accounts 435, "Extraordinary items (net)" and 440, "Prior period items (net)". The tax effect of any timing differences caused by recognizing an item in the accounts provided for extraordinary and prior period items in different periods in determing accounting income and taxable income shall be included in account 451, "Provision for deferred taxes—extraordinary and prior period items".

After the text of account "450 Income taxes on extraordinary and prior period items" the following new account number, title and text are added:

451 Provision for deferred taxes—extraordinary and prior period items.

This account shall include debits or credits for the current accounting period for income taxes deferred currently, or for amortization of income taxes deferred in prior accounting periods applicable to items of revenue or expense included in accounts 435, "Extraordinary items (net)" and 440, "Prior period items (net)." (See instruction 8.)

[FR Doc.74-21116 Filed 9-16-74;8:45 am]

Title 50—Wildlife and Fisheries

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

PART 32—HUNTING

Missisquoi National Wildlife Refuge, Vt.

The following special regulation is issued and is effective October 12, 1974 through December 31, 1974.

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

VERMONT

MISSISQUOI NATIONAL WILDLIFE REFUGE

The public hunting of deer on the Missisquoi National Wildlife Refuge, Vermont is permitted only on the areas delineated on maps available at refuge headquarters, RD 2, Swanton, Vermont 05488, and from the Regional Director, Fish and Wildlife Service, U.S. Post Office and Courthouse, Boston, Massachusetts 02109. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer, subject to the following special condition: 1. During the regular season, shotguns only may be used on that part of the refuge lying east of the Missisquoi River.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1974.

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

SEPTEMBER 5, 1974.

[FR Doc.74-21378 Filed 9-16-74;8:45 am]

PART 32—HUNTING

Bear River Migratory Bird Refuge, Utah

The following special regulation is issued and is effective September 17, 1974.

§ 32.22 Special regulation; upland game; for individual wildlife refuge areas.

UTAH

BEAR RIVER MIGRATORY BIRD REFUGE

Public hunting of pheasants on the Bear River Migratory Bird Refuge, Utah, is permitted from November 2 through December 1, 1974, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 9,495 acres, is delineated on maps and shown as "Area A" which are available at refuge headquarters, Brigham City, Utah, and from the Area Office, Fish and Wildlife Service, Federal Building, Salt Lake City, Utah, 84111. Hunting shall be in accordance with all applicable State regulations governing the hunting of pheasants subject to the following special conditions:

(1) *Iron shot.* The exclusive use of 12 gage iron shot in Area A will be required on even numbered days beginning November 2, 1974 and continue through the balance of the hunting season.

(2) *Roads.* No hunting is permitted from roadways or within 100 yards of roadways.

(3) *Hunter check station.* Each hunter who enters Area A is required to register at the checking station and check out before leaving the refuge.

(4) *Parking.* Hunters may park cars only at designated areas within the refuge.

(5) *Routes of travel.* To reach open hunting area, travel is permitted on foot or bicycle from refuge checking station over roads between Units 1 and 2 and Units 2 and 3.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 1, 1974.

SEPTEMBER 9, 1974.

LLOYD F. GUNTHER,
Refuge Manager, Bear River Migratory Bird Refuge, Brigham City, Utah.

[FR Doc.74-21474 Filed 9-16-74;8:45 am]

Title 29—Labor

CHAPTER XXVI—PENSION BENEFIT GUARANTY CORPORATION

PART 2602—PREMIUM RATE AND PAYMENT OF PREMIUMS

Title IV of the Employee Retirement Income Security Act of 1974 establishes the Pension Benefit Guaranty Corporation and provides for the establishment of pension benefit guaranty funds, and a system of insurance for pension funds heretofore or hereafter established. Section 4006 of the Act authorizes the Corporation to prescribe uniform insurance rates and separate coverage schedules for the application of those rates. The Corporation is required to maintain separate coverage schedules for basic benefits guaranteed under section 4022 (a) or (b) of the Act, for nonbasic benefits guaranteed under section 4022(c) of the Act, and for employer's contingent liability insurance provided by section 4023 of the Act. Section 4007 of the Act provides for the payment of premiums by the plan administrator for each plan and further provides that "Premiums imposed by this title on the date of enactment (September 2, 1974) (applicable to that portion of any plan year during which said date occurs) are due within 30 days after such date". Accordingly, an estimated premium payment is due by October 2, 1974, to cover the period between the date of enactment and the commencement of the first plan year. The initial rates for basic benefits are 50 employer plan and $1.00 for each participant in each other plan, fractionalized for the number of months remaining in the plan year (i.e., the number of months ending between September 2, 1974, and the beginning of the new plan year). Each plan administrator is required to file the form prescribed by this part in accordance with the instructions relating thereto together with the appropriate payment by October 2, 1974.

The regulations in this part are interim. They are intended to provide only those provisions necessary to begin the insurance coverage under the Act i.e., the portion of the current plan year from September 2, 1974, to the end of the current plan year and the first plan year beginning after September 2, 1974. It is contemplated that they will be amended and expanded from time to time to cover those elements of the premium system

that do not relate exclusively to initial premium payments and rates.

Pursuant to the authority vested in the Pension Benefit Guaranty Corporation by Title IV of the Employee Retirement Income Security Act of 1974 (Pub. L. 93-406, 88 Stat. 829), a new "Chapter XXVI—Pension Benefit Guaranty Corporation" is hereby established in "Title 29—Labor" of the Code of Federal Regulations and a new "Part 2602—Premium Rates and Payment of Premiums" is added thereto, effective September 17, 1974, as set forth below.

Since premium payments must be paid, according to title IV of the Act, by October 2, 1974, time is of the essence in the proceeding to provide timely notice to plan administrators. Therefore notice and public procedure thereon under 5 U.S.C. 552(a)(1)(D) would be impracticable and this part is made effective immediately as permitted by 5 U.S.C. 553.

1. Chapter XXVI is hereby established in Title 29 and Part 2602 thereof shall read as follows:

Sec.
2602.1 Initial filings.

AUTHORITY. Pub. L. 93-406, 88 Stat. 829.

§ 2602.1 Initial filings.

(a) *Filing requirement.* The plan administrator for each covered plan, as provided by section 4021 of the Act, shall file the form prescribed by this part, in accordance with the instructions relating thereto, as well as any estimated premium payments due for any plan year in progress on September 2, 1974, by October 2, 1974. The plan administrator shall also file the form prescribed by this part, in accordance with the instructions relating thereto, as well as any estimated premium payments due for the first full plan year beginning after September 2, 1974, within 30 days after the date that plan year begins.

(b) *Form.* The form prescribed by this part is PBGC-1, generally relating to plan information and declaration of estimated premium.

(c) *Where to obtain forms.* Forms and instructions may be obtained through the following offices of the Labor-Management Services Administration of the U.S. Department of Labor:

CALIFORNIA

Los Angeles 90012
300 North Los Angeles St.

San Francisco 94102
100 McAllister St.

COLORADO

Denver 80202
1961 Stout St.

DISTRICT OF COLUMBIA

Washington 20036
1111 20th St. NW.

FLORIDA

Miami 33169
16350 NW. 2nd Ave.

GEORGIA

Atlanta 30309
1371 Peachtree St. NE.

HAWAII

Honolulu 96815
1833 Kalakaua Ave.

ILLINOIS

Chicago 60604
219 South Dearborn St.

LOUISIANA

New Orleans 70130
600 South St.

MARYLAND

Baltimore 21202
111 North Calvert St.

MASSACHUSETTS

Boston 02108
110 Tremont St.

MICHIGAN

Detroit 48226
234 State St.

MINNESOTA

Minneapolis 55401
110 South 4th St.

MISSOURI

Kansas City 64106
911 Walnut St.

St. Louis 63101
210 North 12th Blvd.

NEW JERSEY

Newark 07102
9 Clinton St.

NEW YORK

Buffalo 14202
111 West Huron St.

New York 10007
26 Federal Plaza

OHIO

Cleveland 44199
1240 East 9th St.

PENNSYLVANIA

Philadelphia 19106
600 Arch St.

Pittsburgh 15222
1000 Liberty Ave.

PUERTO RICO

Santurce 00907
605 Condado Ave.

TENNESSEE

Nashville 37203
1808 West End Bldg.

TEXAS

Dallas 75221
Bryan and Ervay Sts.

WASHINGTON

Seattle 98104
506 2nd Ave.

In addition, forms and instructions may be obtained by writing directly to the Corporation.

(d) *Interest and late payment charges.* If any estimated premium payment due under this part, is not paid by the last date prescribed for payment in paragraph (a) of this section, an interest charge will be imposed on the unpaid amount at the rate of 6 percent per annum, for the period from such last date to the date the payment is made. However, as long as the payment is made before December 2, 1974, no interest charge will be imposed. The Corporation will also assess a late payment charge for any premium not paid by the due date. The charge shall be assessed as provided in the following table:

Number of days late:	*Late payment charge (percentage of amount overdue)*
1 through 60	0
61 through 90	25
91 through 120	50
121 through 180	75
More than 180	100

For this purpose, an underpayment of a premium, resulting from an estimate of participation which is less than 80 percent of actual plan participation, will be presumptively treated as a nonpayment subject to appropriate interest and late payment charges.

(e) *Mailing address.* The mailing address of the Pension Benefit Guaranty Corporation is P.O. Box 7119, Washington, D.C. 20044.

Signed at Washington, D.C. this 13th day of September 1974.

Issued this 13th day of September 1974 pursuant to a resolution of the Board of Directors approving these regulations and authorizing its Chairman to issue same.

PETER J. BRENNAN,
Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

HENRY ROSE,
Secretary, Pension Benefit Guranty Corportion.

[FR Doc.74-21626 Filed 9-16-74;8:45 am]

proposed rules

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

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[27 CFR Part 6]

INDUCEMENTS FURNISHED TO RETAILERS

Proposed Advertising Limitation for Wine at the Retail Level

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Director, Bureau of Alcohol, Tobacco and Firearms, with the approval of the Secretary of the Treasury or his delegate. Prior to final adoption of such regulations, consideration will be given to any data, views or arguments pertaining thereto which are submitted in writing, in duplicate, to the Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226, on or before October 17, 1974. Any written comments or suggestions not specifically designated as confidential in accordance with 27 CFR 71.22(d)(7) may be inspected by any person upon written request. The provisions of 27 CFR 71.31(b) shall apply with respect to designation of portions of comments or suggestions as exempt from disclosure. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Director within the 30-day period. In such a case, a public hearing will be held and notice of the time, place, and date will be published in a subsequent issues of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended (27 U.S.C. 205)).

Dated: September 6, 1974.

[SEAL] WILLIAM R. THOMPSON,
Acting Director, Bureau of Alcohol, Tobacco and Firearms.

The Bureau of Alcohol, Tobacco and Firearms has been petitioned by the Wine Institute, a trade association representing numerous wine producers in California, to amend the regulations relating to inducements furnished to retailers (27 CFR Part 6) issued under the provisions of the Federal Alcohol Administration Act (27 U.S.C. 205).

The "Tied House" provisions of the Federal Alcohol Administration Act (27 U.S.C. 205(b)(3)), among other things, make it unlawful for an importer, producer, or wholesaler of alcoholic beverages, directly or indirectly or through an affiliate, to induce a retailer to purchase distilled spirits, wine, or malt beverages from such person to the exclusion in whole or in part of distilled spirits, wine, or malt beverages sold or offered for sale by other persons in interstate commerce, under the conditions set forth therein, by furnishing, giving, renting, lending, or selling to the retailer any equipment, fixtures, signs, supplies, services, or other things of value. The Act, however, authorizes the Secretary to prescribe by regulations certain exceptions to this rule. As guidelines in considering whether or not a particular trade practice should be excepted, section 5(b) of the Act provides that consideration is to be given to the "public health, the quantity and value of articles involved, established trade customs not contrary to the public interest and the purposes of this subsection", which is, of course, designed to outlaw unfair competition and unlawful trade practices.

An exception to the Act's general prohibitions, as set forth in 27 CFR 6.23b, for wine, provides, in part, that a person engaged in business as a rectifier, blender, producer, or bottler of wine, or as an importer or wholesaler of wine, may regardless of inducement effect, give, rent, lend, or sell to a retailer, signs, posters, placards designs, devices decorations or graphic displays for use in windows, or elsewhere within a retailer's establishment, if they have no value to the retailer except as advertisements, and if the total value of all such materials furnished by any individual industry member in use at any one time at any one retail establishment does not exceed $15, excluding expenses incurred by the industry member in connection with the transportation, assembly, and installation of such materials.

The Wine Institute's petition proposes to amend 27 CFR 6.23b, so as to increase the limitation for advertising materials furnished to retailers from $15 to $90.

The advertising limitation for wine at the retail level was established at $10, in 1936. Subsequent to public hearings held in 1969, the limitation was increased to $15, due primarily to the increase in the cost of advertising materials. Based on wholesale price index figures, it would appear that costs have increased approximately 50% since 1969, which is considerably less than the increase petitioned for by the Wine Institute. Since our cost estimates were based on related commodity increases rather than actual cost figures for retail advertising materials, actual costs may have increased more rapidly than our original estimate. In addition, there may be other valid justifications for the increase (e.g., a substantial increase in the number of wine brands among which the retail advertising allowance must be distributed). Further, "quantity" and "value" are only two of the factors the Bureau must consider in reaching a decision as to the proposed regulatory change. With respect to two of the other factors that must be considered, "public health" and "trade customs", the Bureau has limited information.

For these reasons, the Bureau has decided to propose the regulatory change petitioned for, but at the same time to strongly encourage the submission of relevant data, comments, or suggestions by members of the alcoholic beverage industry, consumers, or other government agencies.

In order to correct an error in 27 CFR Part 6, it is also proposed that § 6.21 be amended to include reference to § 6.23b, in the case of wine. This proposal was not advanced by the Wine Institute.

It is therefore proposed to amend 27 CFR Part 6 as follows:

1. Amend § 6.21 by adding reference to § 6.23b, in the case of wine. As amended, § 6.21 reads as follows:

§ 6.21 General.

An industry member may furnish to a retailer, under the conditions and within the limitations prescribed, the equipment, signs, supplies, services, or other things of value specified in §§ 6.22-6.31: *Provided*, That, except for such alcoholic beverages as may reasonably be required to complete a window or other interior display furnished pursuant to § 6.23, § 6.23a, or § 6.23b, such furnishing is not conditioned directly or indirectly on the purchase of distilled spirits, wine, or malt beverages.

2. Amend § 6.23b to increase the advertising allotment. As amended § 6.23b reads as follows:

§ 6.23b Inside signs: Wine.

Signs, posters, placards, designs, devices decorations, or graphic displays, bearing advertising matter and for use in the windows or elsewhere in the interior of a retail establishment, may be given, rented, loaned, or sold to a retailer by an industry member engaged in business as a rectifier, blender, producer, bottler, importer, or wholesaler, of wine, if they have no value to the retailer except as advertisments and if the total value of all such materials furnished by any industry member and in use at any one time in any retail establishment does not

exceed $90, exclusive of all expenses incurred directly or indirectly by any industry member in connection with the transportation and installation of such materials if such costs do not exceed those which are usual and customary in the particular locality: *Provided*, That the industry member shall not directly or indirectly pay or credit the retailer for displaying such materials or for any expense incidental to their operation.

[FR Doc.74-21482 Filed 9-16-74;8:45 am]

Customs Service

[19 CFR Part 1]

CUSTOMS FIELD ORGANIZATION

Proposed Change in Region VI, Amarillo, Tex.

In order to provide better and more efficient Customs service in the Houston, Texas, Customs district (Region VI), it is proposed to designate Amarillo, Texas, a Customs port of entry.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 9 (38 FR 17517), it is hereby proposed to designate Amarillo, Texas, a Customs port of entry in the Houston, Texas, Customs district (Region VI).

The geographical limits of the proposed port of entry will include all of the territory within the corporate limits of the City of Amarillo, Texas.

Data, views, or arguments with respect to the foregoing proposal may be addressed to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229. To insure consideration, communications must be received not later than September 26, 1974.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.8(b) of the Customs regulations (19 CFR 103.8(b)), at the Regulations Division, Headquarters, United States Customs Service, Washington, D.C., during regular business hours.

[SEAL] DAVID R. MACDONALD,
Assistant Secretary of the Treasury.

SEPTEMBER 11, 1974.

[FR Doc.74-21555 Filed 9-16-74;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 12]

JOINT USE LAW AND ORDER

Proposed Establishment of Protective Regulations

JULY 1, 1974.

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

Notice is hereby given that it is proposed to add a new Part 12 to Subchapter B, Chapter I, of Title 25 of the Code of Federal Regulations. This addition is proposed pursuant to the authority contained in 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

The purpose of the new Part 12 is to establish regulations to provide protection, both civil and criminal, for those Indian people residing within the boundaries of the Hopi-Navajo Joint Use Area.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments to the Special Project Officer, Bureau of Indian Affairs, Joint Use Administrative Office, Flagstaff, Arizona 86001, on or before October 17, 1974.

It is proposed to add a new Part 12 to Subchapter B, Chapter I, of Title 25 of the Code of Federal Regulations to read as follows:

PART 12—JOINT USE LAW AND ORDER

AUTHORITY: The provisions of this Part 12 issued under 5 U.S.C. 301; R.S. 463 and 465; 25 U.S.C. 2 and 9.

Subpart A—Title, Purpose and Definitions

§ 12.1 Title.

The provisions contained in Part 12 shall be known as the "Joint Use Law and Order Code."

§ 12.2 Purpose.

(a) It is the purpose of the regulations in this Code to provide protection through adequate law enforcement machinery, both civil and criminal, for those Indian people residing within the boundaries of the Hopi-Navajo Joint Use Area as defined by the United States District Court for the District of Arizona in the Order of Compliance October 14, 1972.

(b) The regulations in this Code shall continue to apply until such time as a duly constituted joint governing body with full delegated authority from their respective tribes prescribes and adopts a new Code in accordance with a constitution and bylaws developed specifically for this area and the people who reside therein.

(c) Nothing in this Code shall prevent adoption by the governing body of ordinances applicable to the needs of the people residing in this area. After Secretarial approval, such ordinances shall be controlling and the regulations of this part which may be inconsistent therewith shall no longer be applicable.

(d) The regulations in this Code shall be enforced by the Court of Indian Offenses known as the Joint Use Court as prescribed in 25 CFR Part 12 et seq.

§ 12.3 Definitions.

In this Code, unless the context otherwise requires:

(a) "Adult" shall mean a person who is 18 years of age or older.

(b) "Code" and "Law and Order Code" shall mean the Law and Order Code of the Joint Use Area.

(c) "Indian" shall mean any person of Indian descent who is a member of any recognized Indian tribe under federal jurisdiction.

(d) "Non-Indian" shall mean a person who is not an Indian.

(e) "Person" shall mean a natural person, Indian or non-Indian, and where relevant, a corporation or unincorporated association.

(f) "Property" shall mean both real and personal property.

(g) "Joint Use Courts" shall mean the Trial Court and Court of Appeals for the Joint Use Area.

(h) "Project Officer" means the Special Project Officer of the Bureau of Indian Affairs Joint Use Administrative Office, Flagstaff, Arizona 86001, to whom has been delegated the authority of the Commissioner to act in all matters respecting the Joint Use Area.

Subpart B—Judicial Power

§ 12.4 Judicial power.

The judicial powers within the Joint Use Area shall be vested in a Court of Appeals and a Trial Court.

Subpart C—The Court of Appeals

§ 12.5 Jurisdiction.

The Court of Appeals shall have jurisdiction to hear appeals from final orders and final judgments of the Trial Court as provided in the Appeal provisions contained herein.

§ 12.6 Composition.

The Court of Appeals shall consist of a single Judge, other than the presiding Judge of the Court which rendered the order or judgment from which appeal is taken. Where the Chief Judge is the Judge of the rendering Court, an Associate Judge shall sit as the Appeal Court Judge.

§ 12.7 Sessions.

The Court of Appeals shall meet within twenty working days after notice of an appeal or application for other relief has been filed with the Clerk of the Court, or as soon thereafter as possible.

Subpart D—Joint Use Trial Court

§ 12.8 Composition.

The Joint Use Trial Courts shall consist of a Judge appointed by the Commissioner of Indian Affairs or his duly appointed representative. There shall be a Chief Judge whose duties shall be full time; and there may be one or more Associate Judges who may be called to serve when occasion arises. The Associate Judges may be hired on contract and compensated on a per diem basis.

§ 12.9 Court sessions.

(a) Regular sessions of the Trial Courts may be held on regular workdays at times and places designated by the Chief Judge.

(b) Special sessions of the Trial Courts may be held as necessary upon call of the Chief Judge: *Provided*, That such sessions are held at reasonable times and places.

§ 12.10 Qualifications of judges.

Any person over the age of 21 years shall be eligible to serve as a Judge of the Joint Use Court if he has never been convicted of a felony or, within one year then last past, been convicted of a misdemeanor other than a minor traffic violation. Such person shall have completed a course of training in judicial procedures.

§ 12.11 Disqualification.

No Judge shall hear or determine any case wherein he has any direct interest or wherein any relative, by marriage or blood in the first or second degree, is a party. Any party to a proceeding may raise the issue of the qualification of the Judge to hear the case.

§ 12.12 Removal.

(a) Any Judge of a Joint Use Court may be suspended, dismissed, or removed by the Commissioner of Indian Affairs or his representative for any of the following reasons:

(1) Conviction of a felony in any court;

(2) Conviction of any offense involving moral turpitude in any court;

(3) Conviction of the offense of disorderly conduct;

(4) Being under the influence of alcoholic beverages while presiding over a Joint Use Court;

(5) Any other conduct unbecoming to a Judge of the Joint Use Court.

(b) A Judge shall be given full and fair opportunity to reply to any and all charges for which he may be removed from his judicial office.

Subpart E—Jurisdiction of Joint Use Court

§ 12.13 Criminal jurisdiction.

(a) The Trial Court of the Joint Use Area shall have jurisdiction over all offenses enumerated in the Joint Use Law and Order Code when committed by any Indian within the Joint Use Area.

(1) All Indians employed by the Bureau of Indian Affairs shall be subject to jurisdiction of the Joint Use Courts.

(b) The jurisdiction of the Joint Use Courts shall be exclusive of any other tribal court. With respect to any offense enumerated herein over which a federal court may assert jurisdiction, the jurisdiction of the Joint Use Courts shall be concurrent and not exclusive.

§ 12.14 Civil jurisdiction.

A Trial Court of the Joint Use Area shall exercise the civil jurisdiction provided in Subpart J, section 12.45 of this Law and Order Code.

Subpart F—Rules and Court Powers

§ 12.15 Court rules.

The Chief Judge of the Joint Use Trial Court shall promulgate rules to govern the proceedings in the Joint Use Trial Courts, subject to the approval of the Project Officer of the Joint Use Area, *Provided,* That such rules shall not abridge, enlarge, or modify any substantive rights and shall preserve the right of trial by jury as provided in Subpart H, § 12.28 of this chapter.

§ 12.16 Powers of the courts.

The Court of Appeals and the Trial Courts shall have, but not be limited to, the following powers:

(a) To punish for contempt any of its officers or other persons present at judicial proceedings;

(b) To compel witnesses to attend and testify and to produce documents or other tangible objects to be used as evidence: *Provided,* That a defendant in a criminal trial may not be compelled to be a witness against himself.

Subpart G—Court Officials

§ 12.17 Officers of the courts.

Officers of the Joint Use Courts shall include:

(a) Court clerks and court interpreters;

(b) Police officers and other persons when carrying out orders of the Courts;

(c) Professional and lay counsel representing parties before the Courts; and

(d) Bailiffs.

§ 12.18 Court clerks.

(a) A person shall be employed to serve the Courts of the Joint Use Area and shall be known as the Clerk of the Court. Additional clerks may be employed as necessary.

(b) The Clerk of the Court is charged with the duty of assisting the lawful functioning of the Courts. Such duties shall include, but not be limited to, the following:

(1) Drafting complaints, subpoenas, warrants, writs, or other orders of the Court;

(2) Maintaining records of court proceedings;

(3) Administering oaths;

(4) Collecting and accounting for fines and other property taken into the custody of the Courts; and

(5) Filing notices of appeal and petitions.

§ 12.19 Representation before the joint use courts.

A person before the Courts of the Joint Use Area may represent himself or have another person or a professional attorney serve as his counsel: *Provided,* That such lay or professional counsel demonstrates a familiarity with the Joint Use Law and Order Code to the presiding Trial Court Judge.

Subpart H—General Provisions

§ 12.20 Public records.

Except as otherwise provided in this Code, the Joint Use Courts shall keep open for inspection by duly qualified officials a record of all proceedings of each Court. Such record shall reflect the title of the case, the names and addresses of parties and witnesses, the substance of the complaint, the date of the hearing or trial, by whom conducted, the findings of the Court or jury, and the judgment or order entered, together with any other facts or circumstances deemed of importance to the case.

§ 12.21 Copies of laws.

The Courts of the Joint Use Area shall be provided with, or have access to, all tribal, Federal and state laws and regulations of the Bureau of Indian Affairs applicable to the conduct of persons within the boundaries of the Joint Use Area.

§ 12.22 Complaints.

No complaint filed in a Joint Use Trial Court shall be valid unless it bears the signature of the complainant or the complaining witness and is witnessed by a duly qualified Judge, police officer, or court clerk.

§ 12.23 Warrants to apprehend.

Each Judge of the Joint Use Courts shall have authority to issue warrants to apprehend. Such warrants shall be issued at the discretion of the Court and only after a written complaint has been filed with the Court and bears the signature of the complainant or complaining witness.

§ 12.24 Search warrants.

(a) Each Judge of the Joint Use Courts shall have authority to issue warrants for search and seizure of the premises and property of any person subject to the jurisdiction of the Courts. No warrant for search and seizure shall be issued unless there be a duly signed and witnessed complaint filed with the Court charging the commission of an offense defined under the Joint Use Law and Order Code, Subpart M.

(b) No warrant for search and seizure shall be valid unless:

(1) It contains the name or description of the person or property to be searched;

(2) It describes the articles or property to be seized; and

(3) It bears the signature of a duly qualified Judge of a Joint Use Court. Warrants for search and seizure shall be served only by police officers.

(c) No police officer shall search and seize any property without a warrant unless he knows or shall have probable cause to believe that the person in possession of such property is engaged in the commission of an offense defined under this Law and Order Code. Any unlawful search and seizure shall be deemed a trespass. Such trespasser may be prosecuted under the provisions contained in this Law and Order Code and may be subject to civil suit in a court of competent jurisdiction.

§ 12.25 Arrests.

(a) No police officer acting pursuant to this Law and Order Code shall arrest any person for a criminal offense except:

(1) When such offense was committed in the presence of the arresting officer; or

(2) When the arresting officer shall have probable cause to believe that an offense has been committed and that the person to be arrested has committed the offense; or

(3) When the officer shall have a duly executed warrant commanding him to apprehend such person.

(b) No person shall be arrested in a dwelling, house, or other privately-owned structure unless a valid warrant for his arrest has been issued or where the consent, of the person in rightful possession of the premises to enter for the purpose of arrest, has been obtained: *Provided,* That a police officer may forcefully enten such premises when he has reasonable cause to believe that there exists danger of imminent harm or damage to persons or property.

§ 12.26 Witnesses.

(a) All Judges of the Joint Use Courts shall have the power to issue subpoenas for the attendance of witnesses, either on their own motion or on motion of any party to a proceeding. Each subpoena shall bear the signature of the Judge ordering its issuance. Each witness answering a subpoena shall be entitled to a fee for each day of services as required by Court. Such fee shall be determined by the Court and approved by the Project Officer of the Joint Use Administrative Office. Failure to answer a subpoena shall be deemed an offense. Subpoenas may be served by a police officer or by a person appointed by the Court for that purpose.

(b) Witnesses who testify voluntarily shall be paid by the party calling them, if the Court so directs.

§ 12.27 Hot pursuit.

A police officer may arrest a person beyond the territorial boundaries of the Joint Use Area when such officer has

probable cause to believe that the person has committed an offense and the officer intends to arrest such person for the offense.

§ 12.28 Juries.

(a) A jury trial shall be held if:

(1) Requested by either party in a civil case; or

(2) Requested by the defendant in a criminal case where imprisonment is a possible penalty for the offense charged.

(b) A list of eligible jurors shall be prepared and maintained by the Project Officer of the Joint Use Administrative Office or his representative. Any (Indian) person over the age of 21 years, not subject to judicial restraint by any court, and who resides within the Joint Use Area may be listed as an eligible juror. Jurors shall be compensated at a rate recommended by the Judge and approved by the Project Officer of the Joint Use Administrative Office.

(c) A jury shall consist of seven persons chosen at random by the presiding Judge from the persons listed as eligible to serve as jurors.

(d) Challenges to individual jurors may be exercised as follows:

(1) Either party to the case may challenge an individual juror, or the Judge, on his own motion, may remove an individual juror, upon the ground that the juror:

(i) Has been convicted of a felony in a state or federal court;

(ii) Is of unsound mind, or has such a defect in the faculties of the mind or body as to render him incapable of performing the duties of a juror;

(iii) Is related, by consanguinity or affinity within the second degree, to the person alleged to be injured, to the complainant in a criminal action, or to the defendant;

(iv) Stands in the relationship of guardian, ward, attorney, client, master, servant, landlord, tenant, or member of the family of the defendant or of the person alleged to be injured by the offense charged, or on whose complaint the prosecution was instituted or is in the defendant's employment for wages;

(v) Is a party adverse to the defendant's action, or has complained against or been accused by him in a criminal prosecution;

(vi) Has served on the Trial Jury which has tried another person for the offense charged in the complaint;

(vii) Has served as a juror in a civil action brought against the defendant for the act charged as an offense;

(viii) Is on the bond of the defendant, or engaged in business with the defendant or with the person alleged to be injured by the offense, or on whose complaint the prosecution was instituted;

(ix) Is a witness on the part of the prosecution or the defendant, or has been served with process, or bound by an undertaking as such:

(x) Has a state of mind in reference to the action or to the defendant or to the person alleged to have been injured by the offense charged or on whose complaint the prosecution was instituted which will prevent him from acting with entire impartiality and without prejudice to the substantial rights of either party.

(e) The Judge shall instruct the jury on the law governing the case, and the jury shall bring a verdict for one of the parties in civil cases, or in criminal cases, a verdict of guilty or not guilty. The Judge shall thereafter render judgment in accordance with the verdict and the law.

(f) A jury may render a verdict by majority vote in civil cases and find the defendant guilty by a vote of 6 to 1 in criminal cases.

§ 12.29 Contempt of court.

(a) The Judges of the Joint Use Courts may rule a person in contempt of court if he willfully and unjustifiably disrupts, obstructs, or otherwise interferes with the due and orderly course of proceeding in the courtroom, after being advised by the Court to cease.

(b) All rulings of, and sentences for, contempt shall be announced immediately after the acts of contempt occur.

(c) A person found in contempt of court may be sentenced to imprisonment for a period not to exceed 30 days or to pay a fine not to exceed $150, or both.

§ 12.30 Commitments.

(a) No person shall be detained, jailed, or imprisoned for more than 36 hours pursuant to an arrest unless there be issued an express or conditional commitment order signed by a duly qualified Judge of a Trial Court. Any person arrested on a Friday, Saturday, or a day before a legal holiday who does not provide bail may be held in sustody pending arraignment until noon of the next regular business day of the Trial Court.

(b) There shall be issued for each person held for trial a temporary commitment order and, for each person held after sentencing, a final commitment order.

§ 12.31 Bail.

(a) Except as otherwise provided in paragraph (c) of this section, any person, who is charged with an offense or who has been found guilty of an offense and has appealed, may be admitted to bail.

(b) A defendant may be admitted to bail by:

(1) Posting a cash or surety bond which, in the opinion of the Court, will insure his appearance in Court at the time required; or

(2) Promising in writing to appear before the Court at any time lawfully required.

(c) A defendant may not be admitted to bail or released upon his written promise to appear if such defendant is in an intoxicated condition.

(d) If a defendant, who was released upon his written promise to appear, willfully fails to appear before the Court as required, a warrant may be issued for his arrest. If a defendant released on bail willfully fails to appear before the Court as required, the Court shall order the cash or surety bond to be forfeited to the Joint Use Court and may issue a warrant for his arrest.

(e) Any cash or surety bond not forfeited shall be returned upon the required appearance by the principal.

(f) Bail may be accepted and receipted for by designated officers of the Court or any other person who may be authorized by the Chief Judge to take and issue receipts for bail.

§ 12.32 Right of appeal.

(a) Any party to a case, other than the prosecution in a criminal case, who is aggrieved by a final order or final judgment of a Trial Court, shall have the right to appeal to the Joint Use Court of Appeals.

(b) The appealing party shall file with the Clerk of the Court a notice of appeal along with a filing fee of $5 within ten (10) days after the entry of the final order or final judgment from which appeal is taken. The filing fee may be waived in the appeal of a criminal conviction if the defendant files an affidavit swearing that he is without funds to pay the filing fee. If the Court of Appeals finds that the appellant is without funds to pay the filing fee, it shall order that the fee be permanently waived.

(c) If the Court of Appeals finds that any or a combination of the following has occurred, it shall order the judgment or order reversed or may remand the case for retrial:

(1) Irregularities in the proceedings or conduct by the jury, adverse party, or his counsel prejudicial to the appellant;

(2) Any ruling, order, or abuse of discretion which may have prevented a fair trial;

(3) Newly discovered evidence which could not, with reasonable diligence, have been produced at trial;

(4) Insufficient evidence to support the verdict;

(5) Any error of law occurring at the trial prejudicial to the appellant; or

(6) Any other reason which would warrant reversal by a court when reviewing a similar appeal.

(d) If the Court of Appeals finds that reversal under paragraph (c) of this section is unwarranted, it shall affirm that judgment or order appealed from; no further appeal shall thereafter be permitted.

§ 12.33 Contraband, confiscated, and abandoned property.

(a) The disposition of all property, confiscated as contraband, seized as evidence, or otherwise taken into the custody of the Court, shall be determined at a hearing before a Trial Court.

(b) The Trial Court shall, upon satisfactory proof of ownership, order such property to be delivered to the rightful owner, unless such property is required as evidence. Where the property is required as evidence, it shall not be returned until final judgment in the case is entered. In no case shall property be returned where possession of such property is unlawful; such property may be declared property of the United States.

(c) The Trial Court shall not return any property confiscated pursuant to an arrest for the violation of:

(1) Carrying a Concealed Weapon under Subpart M of this Code;

(2) An offense involving the use of any weapon or instrument in the commission of such offense, if the holder or possessor is found guilty of the offense. Any property not returned shall become the property of the United States.

(d) Any property not claimed by the owner when delivered or any property for which an owner has not been determined within six months after the court hearing shall become the property of the United States. However, property delivered to the custody of the Court by a private person shall become the property of such person if it is not claimed within 30 days after the hearing.

(e) Any property declared to be the property of the United States may be dealt with as authorized by federal law.

(f) The Clerk of the Court shall keep written records of all transfers and dispositions of property taken into the custody of the Court.

(g) Contraband shall mean:

(1) Any narcotic drug or substance, the possession, sale, transportation, or use of which has been deemed an offense under Subpart M of this Law and Order Code;

(2) Any firearm seized pursuant to an arrest for violation of the section 12.132, Game Violations, of Subpart N of this Code.

§ 12.34 Taking children into custody.

(a) A child may be taken into custody:

(1) Pursuant to an order of the Court in a juvenile proceeding;

(2) For an act of delinquency pursuant to the laws of arrest;

(3) By a police officer when he has reasonable grounds to believe that the child is suffering from illness or that the child's surroundings are such as to endanger his health, morals, and welfare and that his removal is necessary; or

(4) By a police officer when he has reasonable grounds to believe that the child is a runaway from his parents, guardian, or other custodian.

(b) Any police officer who takes a child into custody without court order shall immediately notify or attempt to notify the child's parents, guardian, or custodian.

(c) In all cases if the parents, guardian, or custodian, of a child taken into custody without a court order, can be located and are willing and able to take the child under their care, the child shall be surrendered to their care pending any juvenile proceedings or other court orders.

§ 12.35 Cooperation by federal employees.

(a) No field employee of the Bureau of Indian Affairs shall obstruct, interfere with, or control the functions of the Joint Use Courts or influence such functions in any manner except as permitted by the regulations or in response to a request for advice or information from the Court.

(b) Employees of the Bureau of Indian Affairs, particularly those engaged in social, health, or education services, shall assist the Courts upon their request in the preparation and presentation of the facts in the case and in the proper treatment of individual offenders.

Subpart I—Sentencing

§ 12.36 Nature of sentences.

Except as otherwise provided hereunder, a person found guilty of violating a provision of the Joint Use Criminal Code, Subpart M, may be sentenced to the penalty provided in such offense. Sentences shall be imposed without unreasonable delay and shall not exceed the maximum penalty provided. The penalties provided in the offenses are maximum penalties and should be imposed only in extreme cases.

§ 12.37 Sentences of imprisonment.

(a) A person sentenced to imprisonment may work for the benefit of the Hopi or Navajo Tribes or for the benefit of the Joint Use Area. Any work performed shall reduce the sentence at the rate of two days of incarceration for each day of work performed. "Day of work" shall mean at least four hours of work performed in any 24-hour period. Any work performed shall be under the supervision of any person authorized by the Court.

(b) Any sentence of imprisonment shall be reduced by any time spent in jail before judgment was entered.

§ 12.38 Payment of fines.

(a) Any person sentenced to pay a fine shall pay such fine in cash or money order to the Clerk of the Court who shall issue a receipt therefor.

(b) If the full amount of the fine cannot immediately be paid, the Court may provide for the payment of such fine in installments.

§ 12.39 Failure or inability to pay fines.

(a) A sentence of imprisonment shall not be imposed upon any indigent person in the form of an alternative to a fine, i.e. "dollars or days."

(b) Any person sentenced to pay a fine shall not be imprisoned to work off such fine if, by reason of indigency, he is unable to pay the fine imposed.

(c) Any person who is presently able to pay a fine or an installment of a fine and who willfully refuses to do so may be ordered imprisoned for, or allowed to work off, the unpaid amount of the fine at the rate of $5 per day for each day in jail or day of work performed.

§ 12.40 Commutation of sentence.

The Judge of the sentencing Court may, at any time that one-half or more of an original sentence of imprisonment has been served, commute such sentence to a lesser period upon proof that the person sentenced served without misconduct.

§ 12.41 Suspension of sentence; probation.

(a) The Judge of the sentencing Court may suspend any sentence upon condition that the defendant comply with such reasonable terms and conditions as the Court deems necessary.

(b) When considering suspending any sentence, the Court shall consider the prior record of the defendant, his background, character, financial condition, family and work obligations, the circumstances of the offense, and attempts at restitution.

§ 12.42 Violation of suspended sentence.

(a) Any person accused of violating the terms or conditions of his suspended sentence shall be afforded a hearing before the sentencing Court to determine the truth of the accusations.

(b) Where, by a preponderance of testimony, a person is found to have violated the terms or conditions of his suspended sentence, such person may be ordered to serve his original sentence or any portion thereof.

§ 12.43 Disposition of fines.

All money fines imposed for the commission of an offense shall be in the nature of an assessment of the payment of designated Court expenses. Such expenses may include the payment of fees to jurors and witnesses answering a subpoena. All fines assessed and collected shall be paid over to the Project Officer of the Joint Use Administrative Office or his disbursing agent to be deposited in a special account labeled "Special Deposit, Court Funds" to the disbursing agent's credit in the Treasury of the United States. The disbursing agent shall withdraw such funds in accordance with existing federal regulations upon the order of the Clerk of the Court signed by a Judge of the Court for payment of specific fees to jurors and witnesses. The disbursing agent and the Clerk of the Court shall keep an accounting of all such deposits and withdrawals for the inspection of any interested person. Whenever such funds shall exceed the amount necessary for the payment of court expenses hereinbefore mentioned, the Project Officer of the Joint Use Administrative Office shall designate further expenses of the Court which shall be paid by these funds.

§ 12.44 Civil remedies not precluded.

The imposition or suspension of any penalty, on condition of restitution to one whose person or property has been injured, for the commission of any offense under this Code shall not preclude an application for any civil remedy for such injuries.

Subpart J—Civil Actions

§ 12.45 Jurisdiction.

(a) Except as otherwise provided, the Joint Use Courts shall have jurisdiction over all suits wherein:

(1) An Indian is a defendant, and a resident in the Joint Use Area, and of all other suits between Indians and non-

Indians which are brought before the courts by stipulation of both parties; or

(2) The cause of action arose within the Joint Use Area, and the defendant is an Indian, or in such instance where the defendant is a non-Indian, by consent of both parties.

(b) With respect to any civil suit over which the Hopi or Navajo Tribal Courts may have jurisdiction, the jurisdiction of the Joint Use Courts shall be concurrent and not exclusive.

§ 12.46 Judgments—nótice.

No judgment shall be entered on any suit unless the defendant has received actual notice of such suit and had a reasonable opportunity to appear in Court and defend himself. Evidence of receipt of notice shall be kept as part of the record in the case. In all civil suits, the complainant may be required to deposit with the Clerk of the Court a fee or other security in a reasonable amount to cover costs and disbursements in the case.

§ 12.47 Laws applicable in civil suits.

(a) In all civil suits, the Court shall apply any laws of the United States that may be applicable; any authorized regulations of the Interior Department; or any ordinances or customs of the defendant's tribe not prohibited by such federal laws.

(b) Where doubt arises as to customs and usages of a tribe, the Court may request the advice of counselors familiar with such customs and usages. Any matters that are not covered by customs and usages by tribal ordinances or by applicable federal laws and regulations shall be decided by the Court according to the laws of the State of Arizona.

§ 12.48 Judgments in civil actions.

(a) In all civil cases, judgment shall consist of an order of the Court awarding money damages to be paid to the injured party, or an order directing the surrender of certain property to the injured party or the performance of some other act for the benefit of the injured party.

(b) Where the injury inflicted was the result of carelessness of the defendant, the judgment shall fairly compensate the injured party for the loss suffered.

(c) Where the injury was deliberately inflicted, the judgment shall impose an additional penalty upon the defendant.

(d) Where the injury was inflicted as a result of accident and where both the complainant and the defendant were at fault, the judgment shall compensate the injured party for a reasonable part of the damage he has suffered.

§ 12.49 Costs in civil actions.

The Court may assess the accruing cost of the case against the party or parties against whom judgment was rendered. Such costs shall consist of the expenses of voluntary witnesses for which either party may be responsible and the fees of jurors in those cases where a jury trial is had and any further expenses connected with the proceeding before the Court as the Court may direct.

§ 12.50 Payment of judgments from individual monies.

(a) Whenever the Court shall have ordered payment of money damages to an injured party and the losing party refuses to make such payment within time set for payment by the Court and when the losing party has sufficient funds in his Individual Indian Monies account to pay all or part of the judgment, the disbursing agent in control of the losing party's IIM account shall pay over to the injured party the amount of the judgment or such lesser amount as may be specified by the Secretary from the account of the delinquent party.

(b) A judgment shall be considered a lawful debt in all proceedings to distribute an Indian decedent's estate.

§ 12.51 Full faith and credit to other tribal court judgments.

Full faith and credit shall be given by the Joint Use Court to the judgments of the Navajo and Hopi civil courts.

§ 12.52 Appeal.

In all civil cases, any party aggrieved by a judgment may appeal from a decision of the rendering Court in the same manner and under the same conditions as provided in 25 CFR 2 upon giving notice of such appeal at the time of judgment or within five (5) days thereafter and upon giving proper assurance to the Trial Judge through the posting of a bond or assurance that he will satisfy the judgment if it is affirmed. In any case where a party has perfected his right to appeal as established herein, the judgment of the Trial Court shall not be executed until after final disposition of the case by the Court of Appeals.

Subpart K—Domestic Relations

§ 12.53 No jurisdiction in domestic matters.

(a) The Joint Use Courts shall have no jurisdiction over suits to dissolve marriages, to adopt children, to terminate parental rights, or to determine paternity and support. Suits involving these matters are to be referred to the Hopi and Navajo Tribal Courts as the circumstances require.

(b) The Joint Use Courts shall have no power to issue marriage certificates. Where a valid marriage certificate has been procured in accordance with Hopi and Navajo tribal ordinances, the Joint Use Courts may validly solemnize a marriage where solemnization is required by tribal ordinance. All Indian marriages shall be recorded within three months at the agency in which either or both of the parties reside.

§ 12.54 Determination of heirs.

If an Indian shall die leaving property, other than an allotment or other trust property subject to the jurisdiction of the United States, any person claiming to be an heir of the decedent shall bring suit in the appropriate tribal court to have that court determine the heirs of the decedent and distribute the property.

§ 12.55 Probate of wills.

If an Indian shall die leaving a will disposing of property, other than an allotment or other trust property subject to the jurisdiction of the United States, the appropriate tribal court shall determine the validity of the will.

§ 12.56 Recognition of marriages and divorces.

(a) The Joint Use Courts shall not recognize any tribal custom marriage or divorce unless such marriage or divorce was consummated or procured in accordance with the laws of the jurisdiction where such marriage or divorce was consummated or procured.

(b) All marriages and divorces, if recognized as valid in the jurisdiction where consummated or procured, shall be recognized as valid in the Joint Use Courts.

Subpart L—The Juvenile Court

§ 12.57 Definitions.

In this chapter, unless the context otherwise requires:

(a) "Minor" or "child" means a person under the age of 18 years.

(b) "Adult" means a person aged 18 years or more.

(c) "Act of delinquency" means an act which if committed by an adult would be punishable as an offense defined under Subpart M of this Code or against the State of Arizona.

(d) "Delinquent child" or "delinquent" means a child who has committed an act of delinquency and is in need of care or rehabilitation.

(e) "Neglected child" means a child:

(1) Who has been abandoned by his parents, guardian, or other custodian;

(2) Who is without proper parental care and control, or subsistence, education, medical or other care or control necessary for his well-being because of the faults or habits of his parents, guardian or other custodian, or their neglect or refusal, when able to do so, to provide them; or

(3) Whose parents, guardian, or other custodian are unable to discharge their responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity.

(f) "Child" or "person in need of supervision" means a child who:

(1) Being subject to compulsory school attendance, is habitually truant from school; or

(2) Habitually disobeys the reasonable and lawful demands of his parents, guardian, or other custodian, and is ungovernable and beyond their control.

(g) "Legal custody" means a legal status created by court order which vests in a custodian the right to have temporary physical custody of the child or minor.

(h) "Probation" shall mean a legal status created by court order following an adjudication of delinquency, whereby

a minor is permitted to remain in his home subject to supervision and return to the Court for violation of probation at any time during the period of probation.

(i) "Protective supervision" means a legal status created by court order in neglect cases whereby the minor is permitted to remain in his home under supervision, subject to return to the Court during the period of supervision.

(j) "Custodian" means a person other than a parent or guardian to whom legal custody of the child has been given by court order or who is acting in loco parentis.

§ 12.58 Composition.

The Judges of the Trial Court shall act as the Juvenile Court in proceedings in which a child is to be adjudicated neglected, in need of supervision, or de-delinquent.

§ 12.59 Juvenile matters.

(a) Where a child is accused of committing an offense under the Joint Use Criminal Code, a Judge of the Joint Use Court may either:

(1) If the child is over sixteen years old, proceed with the case as a regular criminal matter, when the interests of justice require; or

(2) Declare the proceeding a juvenile matter and proceed as provided in paragraph (b) of this section.

(b) In any case where a child is accused of committing an act of delinquency, charged with being a child in need of supervision; or deemed as a neglected child, the Court shall order the proceedings to be adjudicated in a confidential manner.

§ 12.60 Preliminary hearing.

Upon the filing of a criminal complaint or a petition alleging the need for supervision or court intervention, the Court shall order a preliminary hearing to determine the sufficiency of the complaint and to determine whether a full hearing should be ordered.

§ 12.61 Notification of hearing.

(a) The Court shall order delivery of the summons along with a copy of the complaint or petition alleging delinquency, need of supervision, or neglect:

(1) To the child, if he is over the age of 14 years or is alleged to be delinquent or in need of supervision;

(2) To the parents, guardian, or custodian of the child;

(3) To the spouse of a married child;

(4) To any other person the Court deems necessary and proper to the proceedings.

(b) The summons shall order the appearance of the persons before the Court at the preliminary hearing. The summons shall be served personally on the party named in the summons within three (3) days after the filing of the complaint or petition and not less than two (2) days before the date set for the preliminary hearing.

§ 12.62 Right to representation.

In delinquency and in need of supervision cases, a child and his parents, guardian, or custodian shall be advised by the Court or its representatives that the child may be represented by counsel. In neglect cases, the parents, guardian, or custodian shall be advised of their right to retain counsel. In any juvenile proceeding, the Court may appoint counsel where it appears counsel will not or cannot be retained.

§ 12.63 Proceedings.

(a) At the preliminary hearing the specific allegations in the complaint or petition shall be presented to the parties named in such complaint or petition. The named parties shall either admit or deny the allegations in the complaint or petition.

(b) If the allegations are admitted, the Court may proceed with the disposition of the case.

(c) If the allegations are denied, the Court shall set a date for a full hearing at which the parties may present evidence.

§ 12.64 Consent decrees.

(a) At any time after the filing of the complaint or petition, the Court, on its own motion or on motion by the child or the child's parents, guardian, or custodian, may suspend the proceedings and continue the child under the supervision of the Court in the child's own home, subject to such terms and conditions as the Court deems necessary and as agreed upon by the parties affected. The Court, on its own motion and at any time, may dismiss the complaint or petition if it feels that court adjudication is unnecessary or unwarranted under the circumstances.

(b) Consent decrees shall remain in effect for six (6) months unless the child is sooner discharged by the Court.

§ 12.65 Full hearings; proceedings.

(a) If, at the full hearing, the Court finds on the basis of a valid admission or a finding based on proof beyond a reasonable doubt that a child committed the acts of which he is alleged to be delinquent or is in need of supervision, it may proceed with the disposition of the case.

(b) If the Court finds from clear and convincing proof that a child is neglected, it may proceed with the disposition of the case.

(c) After any findings in paragraph (a) or (b) of this section, the Court may immediately, or at a later date, hold a disposition hearing wherein any information relevant to the proper disposition of the child may be received. Such information may be received by the Court to the extent of its probative value despite the fact that it would not have been admissible in the hearing on the complaint or petition. The parties shall be afforded an opportunity to examine and controvert such information and to cross-examine any persons responsible for such information when they are reasonably available.

§ 12.66 Rights and privileges.

(a) Any child charged with being delinquent or in need of supervision shall be accorded the privilege against self-incrimination. Additionally, illegally seized or obtained evidence shall not be received by the Court to establish any allegations against the child.

(b) A valid extra-judicial admission or confession made by a child is insufficient to support a finding that the child committed the acts alleged unless such admission or confession is corroborated by other admissible evidence.

(c) In all cases, procedural due process shall be afforded at all stages of any juvenile proceeding.

§ 12.67 Disposition.

(a) If a child is found by the Court to be neglected, the Court may make any of the following orders of disposition to protect the welfare of the child:

(1) Permit the child to remain with his parents, guardian, or other custodian subject to such conditions and limitations as the Court may prescribe;

(2) Place the child under protective supervision;

(3) Transfer legal custody to a Hopi or Navajo tribal agency or other public agency subject to the orders of the Court until Hopi or Navajo Tribal Court jurisdiction is exercised; or

(4) Transfer custody to a responsible relative or other adult person who is found by the Court to be qualified to receive, care for, and supervise the child.

(b) If a child is found to be delinquent or in need of supervision, the Court may make any of the following orders of disposition for his supervision, care, and rehabilitation:

(1) Any order authorized by paragraph (a) of this section for the disposition of a neglected child; or

(2) An order placing the child on probation under such terms and conditions as the Court may prescribe.

§ 12.68 Order of adjudication, non-criminal.

An order of disposition or other adjudication in juvenile proceedings shall not be deemed a conviction for a crime. The disposition of a child and evidence given in any juvenile proceeding shall not be admissible against the child in any case or proceeding in any other court, whether before or after he has reached majority except where the matter has been referred to another juvenile court of the Navajo or Hopi Tribes.

§ 12.69 Limitation on dispositional orders.

(a) An order of probation or protective supervision shall remain in force no longer than 6 months unless the child is sooner released by the Court.

(b) When a child reaches the age of 18 years, all orders affecting him pronounced by the Juvenile Court shall terminate, and he shall be released from

probation or protective supervision under such orders.

§ 12.70 Petition to revoke probation.

(a) A child, subject to court supervision or orders, incident to an adjudication as a delinquent child or a child in need of supervision, who violates any terms imposed by the Court may be proceeded against in a hearing to revoke probation.

(b) Probation shall not be revoked except upon a showing by clear and convincing proof that a term or condition of the child's probation was violated. Probation revocation proceedings shall be governed by the rights and duties applicable to delinquency and in need of supervision cases contained in this subpart.

(c) If a child is found to have violated a term or condition of his probation, the Court may extend the period of probation or make any other disposition allowed under § 12.67.

§ 12.71 Appointment of guardian ad litem.

At any stage of a juvenile proceeding, the Court may appoint a guardian *ad litem* for a child who is a party to the proceeding, if the child has no parents, guardian, or custodian or if his natural or adoptive parents are not in a position to exercise effective guardianship.

§ 12.72 Protective orders.

In any juvenile proceeding, upon application of a party, or on motion by the Court, the Court may enter an order restraining the conduct of any party over whom the Court has obtained jurisdiction if:

(a) An order of disposition of a delinquent or neglected child or a child in need of supervision has been entered; and

(b) The Court finds that the person's conduct is or may be detrimental or harmful to the child, and will tend to defeat the execution of the order or disposition; and

(c) Due notice of the application or court motion and the grounds therefor has been given to the persons against whom the order is directed: *Provided,* That such person has been given an opportunity to be heard.

§ 12.73 Records; publication prohibited.

(a) The records of proceedings in juvenile matters shall be kept separate from other court records and shall not be open to anyone other than the parties to the proceeding, the Court, or other persons authorized by court order.

(b) No part of the record shall be published by a newspaper or other agency disseminating news or information, nor shall a newspaper or agency publish the name of a child charged with being delinquent, in need of supervision, or neglected.

§ 12.74 Destruction of records.

When a child, who has been in a delinquent or a need of supervision proceeding, attains the age of 18 years, the Court shall order the Clerk of the Court to completely destroy all records of such proceedings involving such child.

Subpart M—Criminal Code

§ 12.75 Definitions.

In this chapter, unless the context otherwise requires:

(a) "Adult" shall mean a person who is 18 years of age or older.

(b) "Bodily injury" shall mean impairment of physical condition or substantial pain.

(c) "Deadly weapon" shall mean any instrument used in such a manner as to render it capable of causing death or serious bodily injury.

(d) "Dangerous weapon" shall mean an instrument of the type described in § 12.89 of this subpart.

(e) "Serious bodily injury" shall mean physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ.

(f) "Sexual contact" shall mean any contact of the sexual or other private parts of another for the purpose of arousing or gratifying sexual desire of either party.

(g) "Person" shall mean an Indian.

(h) "Range management personnel" shall mean the Project Officer of the Joint Use Area or his representatives.

§ 12.76 Abduction.

(a) A person who willfully takes or entices away:

(1) Any child under the age of 18 years from his parents, guardian, or custodian; or

(2) Any person from his lawful custodian, knowing he has no lawful right to do so, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed One Hundred and Eighty ($180) Dollars, or both.

§ 12.77 Adultery.

(a) A person who has sexual intercourse with another person, either of such persons being married to a third person, is guilty of an offense.

(b) No prosecution for adultery shall commence except upon the complaint of an aggrieved wife or husband.

(c) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed Ninety ($90) Dollars, or both.

§ 12.78 Assault.

(a) A person who unlawfully attempts or threatens to cause bodily injury to another is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed twenty (20) days or to pay a fine not to exceed Twenty ($20) Dollars, or both.

§ 12.79 Assault with a deadly weapon.

(a) A person who willfully causes, attempts to cause, or threatens to cause bodily injury to another by means of a deadly or dangerous weapon is guilty of an offense.

(b) A dangerous weapon for the purposes of this section is an instrument of the type described under § 12.89 of Subpart M, Carrying a Concealed Weapon.

(c) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) Dollars, or both.

§ 12.80 Assault with intent to commit rape.

(a) A person who:

(1) Unlawfully attempts or threatens to cause bodily injury to a female person; or

(2) Willfully and unlawfully uses force or violence upon the person of a female,

with intent to induce, coerce, or force such female person to submit to sexual intercourse with a person not her spouse, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) Dollars, or both.

§ 12.81 Assault with intent to cause serious bodily injury.

(a) A person who willfully and unlawfully causes or attempts to cause serious bodily injury to another is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) Dollars, or both.

§ 12.82 Assault with intent to kill.

(a) A person who willfully and unlawfully causes or attempts to cause bodily injury to another with intent to kill is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) Dollars, or both.

§ 12.83 Battery.

(a) A person who:

(1) Willfully and unlawfully uses force or violence upon the person of another; or

(2) By threatening force or violence, causes another to harm himself; or

(3) Recklessly causes physical injury to another is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) Dollars, or both.

§ 12.84 Begging or soliciting.

(a) A person who begs or solicits gifts of money, property, or other thing of value on the streets, sidewalks, or other public places is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed five (5) days or to pay fine not to exceed Thirty ($30) Dollars, or both.

(c) This section shall not apply to any person acting in behalf of any civic, charitable, religious, or social organization which is authorized by the Hopi or Navajo Tribes to solicit gifts of money, property, or other thing of value within their respective jurisdictions.

§ 12.85 Bigamy.

(a) A person who marries another person while having a husband or wife living is guilty of an offense.

(b) Paragraph (a) of this section shall not apply to any person whose husband or wife has been absent for five years, without being known to such person within that time to be living, nor to any person whose former marriage has been dissolved by any court of competent jurisdiction.

(c) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed Ninety ($90) Dollars, or both.

§ 12.86 Bribery—giving.

(a) A person who gives or offers to give to another person money, property, or other thing of value with intent to influence a public servant in the discharge of his public duties is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) Dollars, or both.

§ 12.87 Bribery—receiving.

(a) A public servant who asks, receives, or offers to receive from another, money, property, or other thing of value, with intent or upon a promise to be influenced in the discharge of his public duties, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) Dollars, or both.

§ 12.88 Bribery—soliciting.

(a) A person who obtains or seeks to obtain money, property, or other thing of value, upon a claim or representation that he can or will improperly influence the action of a public servant in the discharge of his public duties is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) Dollars, or both.

§ 12.89 Carrying a concealed weapon.

(a) A person who has concealed on or about his person a dangerous weapon is guilty of an offense.

(b) A dangerous weapon as used in paragraph (a) of this section shall include any:

(1) Airgun, blowgun, explosive device, pistol, or other firearm;

(2) Bayonet, dagger, switchblade, bowie knife, or other kind of knife;

(3) Sling shot, club, blackjack, or chain;

(4) Sword, sword cane, or spear;

(5) Metal knuckles; or

(6) Any other instrument capable of lethal use, possessed under circumstances not appropriate for lawful use.

(c) A folded pocket knife shall not be considered a dangerous weapon.

(d) Paragraph (a) shall not apply to any person authorized by the tribal, state, Federal governments, or subdivisions thereof to carry such weapons.

(e) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed Sixty ($60) Dollars, or both.

(f) Any weapons concealed in violation of this section shall be subject to seizure and forfeiture as provided in § 12.33 of Subpart H.

§ 12.90 Child molesting.

(a) A person who:

(1) Engages in sexual intercourse with a person under the age of 16 years, not his spouse; or

(2) Subjects a person under the age of 16 years, not his spouse, to any sexual contact is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) Dollars, or both.

§ 12.91 Contributing to the delinquency of a minor.

(a) An adult person who:

(1) Knowingly causes, encourages, or advises a minor to commit an offense as defined under the provisions of Subpart M of this Law and Order Code; or

(2) Knowingly causes, encourages, or assists a minor to be delinquent as defined under the provisions of Subpart L of this Law and Order Code is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) Dollars, or both.

§ 12.92 Criminal negligence.

(a) A person who:

(1) Recklessly endangers the safety of another; or

(2) Acts with careless disregard for the safety of another

is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed Sixty ($60) Dollars, or both.

§ 12.93 Criminal trespass.

(a) A person who:

(1) Enters or remains upon any public property for an unlawful purpose; or

(2) Without good cause enters, remains upon, or traverses private lands or other property not his own, where notice against trespassing has been reasonably communicated by the owner or occupant is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed thirty (30) days or to pay a fine not to exceed Thirty ($30) Dollars, or both.

§ 12.94 Cruelty to animals.

(a) A person who wantonly or maliciously inflicts pain, suffering, or death upon any animal is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed thirty (30) days or to pay a fine not to exceed Thirty ($30) Dollars, or both.

§ 12.95 Disobedience to a lawful order of the court.

(a) A person who willfully disobeys any order, subpoena, warrant, or command duly issued by a Joint Use Court or any officer thereof is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed fifty (50) days or to pay a fine not to exceed Fifty ($50) Dollars, or both.

§ 12.96 Disorderly conduct.

(a) A person who:

(1) Engages in fighting or provokes a fight;

(2) Disrupts any lawful public or religious meeting;

(3) Causes unreasonable noise; or

(4) Uses language or gestures knowing them to be obscene or likely to provoke a fight

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed Sixty ($60) Dollars, or both.

§ 12.97 Disposing of property of an estate.

(a) A person who, without proper authority, uses, sells, transfers, or otherwise disposes of any property of an estate before the determination of devisees, heirs, or other distributees is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed Ninety ($90) Dollars, or both.

§ 12.98 Escape.

(a) A person who willfully escapes, attempts to escape, or assists in an escape, from lawful custody, is guilty of an offense.

(b) "Lawful custody" shall mean confinement by court order or actual or constructive restraint by a police officer pursuant to an arrest.

(c) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed One Hundred and Eighty ($180) Dollars, or both.

§ 12.99 Extortion.

(a) A person who compels or induces another person to deliver property to himself or to a third person by threatening that if the property is not delivered, the actor or another will:

(1) Cause physcial injury to some person; or

(2) Cause damage to property; or

(3) Accuse some person of a crime or cause criminal charges to be instituted against some person; or

(4) Expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt, or ridicule; or

(5) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

(6) Use or abuse his position as a public servant by performing some act within or related to his official duties, or by failing or refusing to perform an official duty in such manner as to affect some person adversely is guilty of an offense.

(b) A person guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed five hundred ($500) dollars, or both.

§ 12.100 Failing to submit to treatment for a contagious disease.

(a) A person who knows or has reason to know that he is infected with a venereal disease, active tuberculosis, or other contagious disease and who willfully exposes another to the disease, in a place other than a medical facility, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and twenty (120) days, *provided*, That such sentence shall be suspended if the offender agrees to medical treatment.

(c) The Court upon finding reasonable cause to believe that a person has any of the above diseases may order the person examined. If, upon examination, the person is found to be infected with any of the diseases, the Court may order the person to submit to medical treatment as prescribed by competent medical authority.

§ 12.101 Failure to send children to school.

(a) A person who, without good cause, fails or refuses to send his children or any children under his care to school, while such children are between the ages of 6 and 16, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed Sixty ($60) Dollars, or both.

§ 12.102 Failure to support.

(a) A person who knowingly and without justification fails to support, care for, or protect a spouse, child, or other person for whose support he is responsible is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed Ninety ($90) Dollars, or both.

§ 12.103 Forgery.

(a) A person who, with intent to defraud,

(1) Falsely signs, completes, or alters any written instrument; or

(2) Passes as genuine that which he knows to be a forged instrument is guilty of an offense.

(b) "Forged instrument" shall mean a written instrument which has been falsely signed, completed, or altered.

(c) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed One Hundred and Eighty ($180) Dollars, or both.

§ 12.104 Fraud.

(a) A person who obtains property:

(1) By willfull misrepresentation of act; or

(2) By falsely interpreting; or

(3) By failure to reveal facts which he knows should be revealed, with intent to defraud another of such property, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed One Hundred and Eighty ($180) Dollars, or both.

§ 12.105 Gambling.

(a) A person who knowingly stakes or risks a thing of value in a game of chance upon an agreement or understanding that he or some other person may receive something of value depending on the outcome is guilty of an offense.

(b) Under paragraph (a) of this section, "bingo," raffles, and lotteries shall not be considered games of chance when conducted by religious or charitable organizations authorized by the Tribal Councils of either the Hopi or Navajo Tribes to conduct such games.

(c) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed twenty (20) days or to pay a fine not to exceed Twenty ($20) Dollars, or both.

§ 12.106 Illicit cohabitation.

(a) A person who lives or cohabits as man and wife with another person, while not being married to such person, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed Sixty ($60) Dollars, or both.

§ 12.107 Incest.

(a) A person who has sexual intercourse with another person knowing that he and such person are related as either:

(1) Parent and child, natural or adopted;

(2) Grandparent and grandchild (any degree);

(3) Brother and sister;

(4) Uncle and niece;

(5) Aunt and nephew; or

(6) First cousins

is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed One Hundred and Eighty ($180) Dollars, or both.

§ 12.108 Indecent exposure.

(a) A person who willfully exposes his sexual organs to public view under circumstances in which he knows or should know such conduct is likely to offend others is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed thirty (30) days or to pay a fine not to exceed Thirty ($30) Dollars, or both.

§ 12.109 Inhaling toxic vapors.

(a) A person who inhales the vapors or fumes of paint, gas, glue, or any other toxic product for the purpose of becoming intoxicated is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed Sixty ($60) Dollars, or both.

§ 12.110 Interfering with an officer.

(a) A person who willfully prevents or attempts to prevent a police officer from effecting an arrest or from otherwise discharging his official duty by:

(1) Creating a substantial risk of bodily harm to the officer or any other person; or

(2) Employing means of resistance which justify or require substantial force to overcome

is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed Sixty ($60) Dollars, or both.

§ 12.111 Joyriding.

(a) A person who, without proper authority, drives, operates, or otherwise uses any vehicle, not his own, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed thirty (30) days or to pay a fine not to exceed Thirty ($30) Dollars, or both.

§ 12.112 Liquor violation.

(a) A person who possesses, sells, trades, transports, or manufactures any beer, ale, wine, whiskey, or any other beverage which produces alcoholic intoxication is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed One Hundred ($100) Dollars, or both.

§ 12.113 Littering.

(a) A person who intentionally:

(1) Discards or deposits any trash, garbage, debris, or other refuse upon any highway, road, or public place, or upon any land, not his own; or

(2) Permits any trash, garbage, debris, or other refuse to be thrown from a vehicle which he is operating is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed thirty (30) days or to pay a fine not to exceed Thirty ($30) Dollars, or both.

§ 12.114 Maintaining a public nuisance.

(a) A person who:

(1) Endangers the health or safety of another; or

(2) Interferes with the enjoyment of property by another, by willfully or negligently permitting a hazardous, unsightly, or unhealthy condition to exist on property under his possession or control, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ten (10) days or to pay a fine not to exceed Ten ($10) Dollars, or both.

(c) In addition to any penalty imposed under paragraph (b) of this section the Court shall order that the nuisance be abated with a reasonable time.

§ 12.115 Misusing property.

(a) A person who, without proper authority, knowingly uses or damages any property not his own is guilty of an offense.

(c) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed twenty (20) days or to pay a fine not to exceed Twenty ($20) Dollars, or both.

§ 12.116 Narcotics and dangerous drugs.

(a) Any person who knowingly possesses, sells, trades, transports, gives away, uses, or manufactures:

(1) Any opium, cocaine, coca leaves, morphine, codeine, heroin, or any derivative thereof; or

(2) Any drugs known as hallucinogen, psychotomimetics dysleptic, or psychedilics including lysergic acid diethylamide (LSD), mescaline, psilocybin, dimethyltrystamine (DMT), and methydimethoxy methyl-phenyl-ethylamine (STP); or

(3) Any drug scheduled as a "controlled substance" under the provisions of Title 21, Chapter 13 of the United States Code, as amended to the date of arrest, is guilty of an offense.

(b) Paragraph (a) of this section shall not apply to any transaction, possession, production, transportation, or use for medical purposes under the prescription or supervision of a person licensed to administer, prescribe, control, or dispense of the prescribed substance in that subsection.

(c) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) Dollars, or both.

§ 12.117 Perjury.

(a) A person who knowingly makes a false statement while under oath, or who induces another to do so, or who signs an affidavit knowing the same to be false, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed One Hundred and Eighty ($180) Dollars, or both.

§ 12.118 Peyote violation.

(a) A person who for other than religious purposes possesses, sells, trades, transports, gives away the bean, or any form of the bean, known as peyote is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed six (6) months or to pay a fine not to exceed One Hundred ($100) Dollars, or both.

§ 12.119 Possession of marijuana.

(a) A person who plants, cultivates, harvests, sells, trades, gives away, or possesses marijuana is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed Ninety ($90) Dollars, or both.

§ 12.20 Prostitution.

(a) A person who:

(1) Solicits or practices prostitution; or

(2) Knowingly provides, keeps, rents, leases, or otherwise maintains any place or premises for the purpose of prostitution is guilty of an offense.

(b) "Prostitution" shall mean engaging in sexual intercourse or sexual contact for a consideration.

(c) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed seventy (70) days or to pay a fine not to exceed Seventy ($70) Dollars, or both.

§ 12.121 Public intoxication.

(a) A person who appears in a public place while under the influence of alcohol, marijuana, toxic vapors, or substances the use or possession of which is prohibited under § 12.117 of Subpart M, not therapeutically administered, to the degree that he may reasonably endanger himself or other persons or property, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed Sixty ($60) Dollars, or both.

§ 12.122 Receiving stolen property.

(a) A person who buys, receives, conceals, or aids in concealing any property which he knows or should know has been obtained by theft, extortion, fraud or other means constituting an offense under the provisions of this Law and Order Code is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed sixty (60) days or to pay a fine not to exceed Sixty ($60) Dollars, or both.

§ 12.123 Refusing to aid an officer.

(a) A person who willfully refuses to assist a police officer

(1) In the lawful arrest of any person;

(2) In conveying a lawfully arrested person to the nearest place of confinement, when such assistance is reasonably requested,

is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed fifty (50) days or to pay a fine not to exceed Fifty ($50) Dollars, or both.

§ 12.124 Removal or destruction of antiquities.

(a) A person who, without proper authority, removes, excavates, injures, or destroys any historic or prehistoric ruin or monument or any object of antiquity is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed Five Hundred ($500) Dollars, or both.

§ 12.125 Shoplifting.

(a) A person who willfully takes possession of any goods offered for sale by any mercantile establishment, without the consent of the owner or manager, with the intent to convert such goods to his own use without paying for them, is guilty of an offense.

(b) A person who willfully conceals or attempts to conceal any goods offered for sale:

(1) On his person or among his belongings; or

(2) On the person, or among the belongings of another, is presumed to have taken possession of such goods with the intent to convert them to his own use without paying for them.

(c) A police officer, merchant, or merchant's employee who has reasonable cause to believe that a person has willfully taken possession of goods with the intent to convert them without paying for them may detain and interrogate the person in regard thereto in a reasonable manner and for a reasonable time.

(d) If a police officer, merchant, or merchant's employee detains and interrogates a person pursuant to paragraph (c) of this section, and the person there-

after brings a civil or criminal action against the police officer, merchant, or merchant's employee, based upon the detention and interrogation, such reasonable cause shall be a defense to the action if the detention and interrogation were performed in a reasonable manner and for a reasonable time.

(e) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed thirty (30) days or to pay a fine not to exceed Thirty ($30) Dollars, or both.

§ 12.126 Theft.

(a) A person, who unlawfully takes or exercises control over property not his own, whether or not possession was originally obtained with consent of the owner, with the intent of permanently depriving the owner of the value or use of the property for the benefit of himself or another is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed Five Hundred ($500) Dollars, or both.

§ 12.127 Unlawful burning.

(a) A person who:

(1) Willfully and unlawfully causes or attempts to cause damage to any property by fire or explosion; or

(2) Negligently causes damage to any property by fire or explosion; or

(3) Sets fire to any forest, brush, or grasslands, or sets a campfire, with careless disregard for the spread or escape of such fire,

is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and twenty (120) days or to pay a fine not to exceed One Hundred and Twenty ($120) Dollars, or both.

§ 12.128 Unlawful restraint.

(a) A person who unlawfully causes the removal, detention, or confinement of another person so as to interfere with that person's liberty is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or to pay a fine not to exceed One Hundred and Eighty ($180) Dollars, or both.

Subpart N—Land; Livestock and Area Regulation Offenses

§ 12.129 Branding livestock of another.

(a) A person who:

(1) Willfully brands or marks an animal with a brand or mark other than the recorded brand or mark of the owner of the animal; or

(2) Willfully alters or obliterates any brand or mark on any animal not his own with intent to convert the animal to his or some third person's use without the consent of the owner is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed one hundred and eighty (180) days or pay a fine not to exceed Five Hundred ($500) Dollars, or both.

§ 12.130 Cutting green timber without permission.

(a) A person who cuts or removes any green timber from lands within the Joint Use Area without written permission from the Project Officer of the Joint Use Administrative Office or his representative is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed thirty (30) days or to pay a fine not to exceed Thirty ($30) Dollars, or both.

§ 12.131 Failure to control livestock diseases and parasites.

(a) A person, who willfully refuses to dip or treat any livestock under his ownership or control in accordance with orders or directions initiated by authorized range management personnel of the Joint Use Area, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) Dollars, or both.

§ 12.132 Game violation.

(a) A person, who knowingly kills, attempts to kill, or catches any deer or game animal within the Joint Use Area without the written permission from the Project Officer of the Joint Use Administrative Office or his representative is guilty of an offsense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed thirty (30) days or to pay a fine not to exceed One Hundred ($100) Dollars, or both.

(c) "Game animal" shall mean any animal for which the Hopi or Navajo Tribes require a tribal permit to hunt, kill, or catch.

§ 12.133 Grazing, introduction without a permit.

(a) A person who:

(1) Knowingly permits livestock under his ownership or control to graze upon lands within the Joint Use Area; or

(2) Willfully introduces or causes the introduction of any livestock into unallotted or unallocated lands within the Joint Use Area without a valid permit issued by authorized range management personnel is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) Dollars, or both.

§ 12.134 Livestock roundups.

(a) A person, who willfully hinders, harrasses, obstructs, or otherwise interferes with person conducting roundups authorized by range management personnel, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) Dollars, or both.

§ 12.135 Making false reports of stock owned.

(a) A person who:

(1) Knowingly makes a false report as to the total number of stock under his ownership or control; or

(2) Willfully refuses to report the number of stock under his ownership or control, when required or requested by authorized range management personnel, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) Dollars, or both.

§ 12.136 Refusal to brand or mark livestock.

(a) A person, who willfully refuses to brand or mark any livestock under his ownership or control when required or requested by authorized range management personnel, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) Dollars, or both.

§ 12.137 Refusal to dispose of cull or infected animals.

(a) A person, who willfully refuses to dispose of or remove any cull or infected animals designated for disposal or removal by authorized range management personnel, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) Dollars, or both.

§ 12.138 Trespass—inter-district.

(a) A person, who knowingly permits any livestock under his ownership or control to occupy or graze upon land allocated to another or land reserved by range management personnel for demonstration, administration, rehabilitation or agricultural purposes, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or pay a fine not to exceed One Hundred ($100) Dollars, or both.

§ 12.139 Unauthorized use of range.

(a) A person who willfully—

(1) Grazes livestock under his ownership or control in the Joint Use Area in excess of the number allowed under his grazing permit; or

(2) Refuses to graze livestock under his ownership or control in accordance with plans made public by authorized range management personnel

is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) Dollars, or both.

§ 12.140 Unauthorized fencing.

(a) A person, who fences any land knowing such fencing is not authorized by range management personnel, is guilty of an offense.

(b) A person found guilty under this section may be ordered to remove the fence, sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) Dollars, or both.

§ 12.141 Violation of regulations.

(a) A person who willfully—

(1) Violates any provision of 25 CFR Part 153; or

(2) Violates or refuses to comply with lawful orders and directions issued by the Secretary of the Interior or his representatives for the purpose of regulating the use or occupancy of the Joint Use Area is guility of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed ninety (90) days or to pay a fine not to exceed One Hundred ($100) Dollars, or both.

§ 12.142 Other actions not precluded.

The arrest, conviction, or sentencing of any person for violating any provision contained in this part shall not preclude impoundment, seizure, or other authorized action taken by range management personnel for the enforcement of regulations for, or management of, the Joint Use Area.

Subpart O—Traffic Offenses

§ 12.143 Arizona traffic laws incorporated.

(a) A person, who violates any of the provisions under Chapters 4 and 6, Title 28 of the Arizona Revised Statutes pertaining to Traffic on Highways, is guilty of an offense.

(b) A person found guilty under this section may be sentenced to imprisonment for a period not to exceed fifty (50) days or to pay a fine not to exceed One Hundred ($100) Dollars, or both.

Subpart P—Removal of Non-Indians

§ 12.144 Who may be removed.

Any non-Indian person, who commits any act which would be a crime under state or Federal law, or who violates any provisions of this Law and Order Code may be:

(a) Ordered from the Joint Use Area;

(b) Taken into custody for a removal hearing; or

(c) Taken into custody for delivery to state or federal authorities for prosecution under state or Federal law by a duly authorized police officer of the Joint Use Area.

§ 12.145 Hearing; removal; release.

(a) A non-Indian person ordered from the Joint Use Area by a police officer may request a hearing before a Trial Court of the Joint Use Area to determine the validity of the order.

(b) Upon a finding based upon a preponderance of the evidence that the person ordered to leave the Joint Use Area committed a crime under state or Federal law or violated a tribal ordinance, or violated a provision of this Law and Order Code, the Court may:

(1) Order the person to leave the reservation; or

(2) Order the person to comply, under penalty of removal, with the requirements of a court order.

(c) If the Court finds that the person ordered to leave the Joint Use Area did not commit the acts alleged, it shall order the person released.

§ 12.146 Delivery to state or federal authorities.

Any person ordered by the Trial Court to leave the Joint Use Area may:

(a) Be escorted under custody of a policy officer to the exterior boundaries of the reservation; or

(b) Be delivered into the custody of state or federal authorities for prosecution under state or federal law.

Subpart Q—Extradition

§ 12.147 Apprehension in joint use area.

Whenever the Project Officer of the Joint Use Administrative Office is informed and believes that an Indian has committed a crime outside the Joint Use Area and is present in the Joint Use Area, using it as an asylum from prosecution, the Project Officer may order a police officer of the Joint Use Area to apprehend such Indian and deliver him to the authorities seeking his arrest at the boundaries of the Joint Use Area, if sought by the Navajo or Hopi Tribes, or at the exterior boundaries of the Navajo Indian Reservation, if sought by state authorities who have entered a reciprocal agreement with the Project Officer of the Joint Use Administrative Office for the return of persons sought by the Joint Use Courts.

§ 12.148 Hearing and release.

If a person, apprehended pursuant to section 12.147 of this Subpart, so demands, he shall be taken by the arresting police officers to a Court of the Joint Use Area, where a Judge shall hold a hearing. If it appears that there is no probable cause to believe the Indian is guilty of the crime with which he is charged outside the Joint Use Area, or if it appears that the Indian probably will not receive a fair trial in the state court, the Judge shall order the Indian released from custody.

Subpart R—Other Provisions

§ 12.149 Coroners.

(a) The Project Officer of the Joint Use Administrative Office may appoint one or more coroners to serve the Joint Use Area. Such coroners shall serve without pay but may be reimbursed for actual and necessary expenses upon presentation of proper vouchers to the Project Officer of the Joint Use Administrative Office.

(b) Whenever a coroner is informed that an Indian has died within the Joint Use Area, the coroner shall go to the place where the body is located and inquire into the cause of death.

(c) After inspecting the body and conferring with a physician, if the coroner himself is not a physician, the coroner shall make a written report stating the following facts, if known:

(1) The name and census number of the dead person;

(2) When and where he died and the circumstance of his death;

(3) The cause of death;

(4) Who caused the death, if caused by act, whether criminal or not;

(5) What property is found on the body, other than clothing of ordinary value;

(6) Where the coroner is not a physician, the name and address of any physician consulted.

(d) The coroner shall submit copies of the report to the Joint Use police and to the Project Officer of the Joint Use Administrative Office.

§ 12.150 Joint use Indian police.

The Project Officer of the Joint Use Administrative Office shall be recognized as commander of the Indian police of the Joint Use Area and shall be held responsible for the general efficiency and conduct of the members thereof. It shall be the duty of the Project Officer or his duly authorized representative to keep himself informed as to the efficiency of the Indian police in the discharge of their duties, to subject them to a regular inspection, to inform them of their duties, and keep a strict accounting of the equipment issued them in connection with their official duties. It shall be the duty of the Project Officer to detail such Indian policemen as may be necessary to carry out the orders of the Joint Use Court and to preserve order during court sessions. The Project Officer shall investigate all reports and charges of misconduct on the part of Indian policemen and shall exercise such proper disciplinary measures as may be consistent with existing regulations.

§ 12.151 Police commissioners.

The Project Officer of the Joint Use Administrative Office may, with the approval of the Commissioner of Indian Affairs, designate as police commissioner any qualified person. Whenever any special or deputy special officer is regularly employed in the Joint Use Area, he or they shall be the police commissioners for that jurisdiction. Such police commissioner shall obey the orders of the Project Officer and see that the orders of the Joint Use Court are properly carried out. The police commissioner shall be responsible to the Project Officer for the conduct and efficiency of the Indian police under his direction and shall give such instruction and advice to them as may be necessary. The police commissioner shall also report to the Project Officer all violations of law or regulation and any misconduct of any member of the Joint Use Indian police.

§ 12.152 Police training.

It shall be the duty of the Project Officer to maintain from time to time as circumstances require and permit classes of instruction for the Indian policemen.

Such classes shall familiarize the policemen with the manner of making searches and arrests, the proper and humane handling of prisoners, the keeping of records of offenses and the duties of the police in relation thereto, and other subjects of importance for efficient police duty. It shall further be the purpose of the classes to consider methods of preventing crime and of securing cooperation with Indian communities in establishing better social relations.

§ 12.153 Indian policemen.

(a) The Project Officer of the Joint Use Administrative Office may, with the approval of the Commissioner of Indian Affairs, employ and appoint Indians as Indian police whose qualifications shall be as follows:

(1) A candidate must be in sound physical condition and of sufficient size and strength to perform the duties required.

(2) He must be possessed of courage, self-reliance, intelligence, and a high sense of loyalty and duty.

(3) He must never have been convicted of a felony, nor have been convicted of any misdemeanor for a period of one year prior to appointment.

(b) The duties of an Indian policeman shall be:

(1) To obey promptly all orders of the police commissioner or the Joint Use Court when assigned to that duty;

(2) To lend assistance to brother officers;

(3) To report and investigate all violations of any law or regulation coming to his notice or reported for attention;

(4) To arrest all persons observed violating the laws and regulations for which he is held responsible;

(5) To inform himself as to the laws and regulations applicable to the jurisdiction where employed and as to the laws of arrest;

(6) To prevent violations of the laws and regulations;

(7) To report to his superior officers all accidents, births, deaths, or other events or impending events of importance;

(8) To abstain from the use of intoxicants or narcotics and to refrain from engaging in any act which would reflect discredit upon the police department;

(9) To refrain from the use of profane, insolent, or vulgar language;

(10) To use no unnecessary forces or violence in making an arrest, search, or seizure;

(11) To keep all equipment furnished by the government in reasonable repair and order;

(12) To report the loss of any and all property issued by the government in connection with official duties;

(13) To collect and issue receipts for bail.

§ 12.154 Dismissal.

The Project Officer of the Joint Use Administrative Office may remove any Indian policeman for any noncompliance with the duties and requirements as set out in the police duty guidelines or for neglect of duty.

§ 12.155 Return of equipment.

Upon the resignation, death, or discharge of any member of the Indian police, all articles or property issued him in connection with his official duties must be returned to the Project Officer or his representative.

MORRIS THOMPSON,
Commissioner of Indian Affairs.

[FR Doc.74-21381 Filed 9-16-74;8:45 am]

[25 CFR Part 153]

NAVAJO-HOPI JOINT USE AREA

Proposed Grazing Regulations

JULY 1, 1974.

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

Notice is hereby given that it is proposed to add a new Part 153 to Subchapter N, Chapter I, of Title 25 of the Code of Federal Regulations. This addition is proposed pursuant to the authority contained in 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

The purpose of the new Part 153 is to establish regulations to govern grazing on the Navajo-Hopi Joint Use Area. These proposed regulations were first published beginning on page 33402 of the December 4, 1973, FEDERAL REGISTER (38 FR 33402). Interested persons were given 30 days to comment on the proposed regulations. Because these proposed regulations are related to the proposed Navajo-Hopi Joint Use Area Law and Order Code which is being published for comments, the grazing regulations are being republished with minor changes as proposed rulemaking to allow the public to comment.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed regulations to the Project Officer, Joint Use Administrative Office, Bureau of Indian Affairs, Flagstaff, Arizona 86001, on or before October 17, 1974.

It is proposed to add a new Part 153 to Subchapter N, Chapter I, of Title 25 of the Code of Federal Regulations to read as follows:

PART 153—NAVAJO-HOPI JOINT USE AREA GRAZING REGULATIONS

Sec.

AUTHORITY: The provisions of this Part 153 issued under 5 U.S.C. 301; R.S. 463 and 465; and 25 U.S.C. 2 and 9.

§ 153.1 Definitions.

As used in this Part 153, terms shall have the meanings set forth in this section.

(a) "Joint Use Committee" means a committee to be composed of three representatives selected by the Hopi Tribal Council and three representatives selected by the Navajo Tribal Council, to whom have been delegated the authority of each governing body to exercise the powers of each tribe in the Joint Use Area. A representative of the Joint Use Administrative Office, Flagstaff, Arizona 86001, shall be a non-voting representative. Rules of procedures shall be established by the Committee except the chairmanship of each successive meeting of the Committee shall be alternated between each tribal delegation and the individual delegate serving as chairman of any one meeting shall not have a vote.

(b) "Project Officer" means the Special Project Officer of the Bureau of Indian Affairs, Joint Use Administrative Office, Flagstaff, Arizona 86001, to whom has been delegated the authority of the Commissioner to act in all matters respecting the Joint Use Area.

(c) "Joint Use Area" means the area established by the United States District Court for the District of Arizona in the case entitled Healing v. Jones, 210 F. Supp. 125 (1962), which is inside the Executive Order Area (Executive Order of December 16, 1882) but outside Land Management District 6, and held and to be used by both Navajo and Hopi Tribes jointly.

(d) "Range unit" means a tract of range land designated as a management unit for administration of grazing.

(e) "Permit" means a revocable privilege granted in writing limited to entering on and utilizing forage by domestic livestock on a specified tract of land. The term permit as used herein shall include written authorizations issued to enable the crossing or trailing domestic livestock across specified tracts or range units.

(f) "Animal unit" means one adult cow with unweaned calf by her side or the equivalent thereof based on comparative forage consumption. Conversion factors to be accepted are: ewe, doe, buck, ram, 0.25; horse, mule, donkey, burro, 1.25 animal units.

(g) "Tribe" means a tribe, band, community, group, or pueblo of Indians.

(h) "Secretary" means the Secretary of the Interior.

(i) "Commissioner" means the Commissioner of Indian Affairs.

(j) "Allocate" means to apportion grazing privileges including the determination of who may graze livestock, the number and kind of livestock, and the place such livestock will be grazed.

§ 153.2 Authority.

It is within the authority of the Secretary to protect Indian trust lands against waste and to prescribe rules and regulations under which these lands may be leased or permitted for grazing.

§ 153.3 Purpose.

These regulations are issued to carry out the Secretary's trust responsibility of conserving range resources, promoting their proper use and affording equal utilization of these Joint Use Area resources by both tribes according to the judgment in Healing v Jones and subsequent proceeding thereafter. The regulations of this Part 153 apply only to the Navajo-Hopi Joint Use Area of the 1882 Executive Order Area. Parts 151 and 152 do not apply to the Navajo-Hopi Joint Use Area.

§ 153.4 Establishment of range units.

The Project Officer will use Soil and Range Inventory data to establish range units on the Joint Use Area to allow for a program of surface land use aimed at restoring the land to its full potential and maintaining this potential.

§ 153.5 Grazing capacity.

The Project Officer shall prescribe the maximum number and kind of livestock which may be grazed without inducing damage to vegetation or related resources on each range unit and the season, or seasons, of use to achieve the objectives of the land recovery program. The stocking rate upon which the grazing permits are issued shall be reviewed on a continuing basis and adjusted as conditions warrant.

§ 153.6 Grazing on range units authorized by permit.

Grazing use of range units is authorized only by a grazing permit. The Project Officer shall assign grazing privileges to each tribe so that each may have one-half the grazing capacity of the Joint Use Area. The Joint Use Committee will then, within 60 days, allocate use to members of each tribe. Grazing use by tribal enterprises will be permitted and permits may be issued in the name of the tribe. The eligibility requirements for receiving a permit shall be set forth by the Joint Use Committee. The Project Officer shall issue permits based on the determination by the Joint Use Committee.

§ 153.7 Kind of livestock.

The Joint Use Committee may determine, subject to the grazing capacity, the kind of livestock that may be grazed on the range units. In the event the Committee cannot act, the Project Officer shall make the determination.

§ 153.8 Grazing fees.

(a) The respective tribal governing bodies may determine whether grazing fees will be charged and the rate to be charged for the use of their respective shares of the Joint Use Area, and the proceeds therefrom shall inure to the benefit of the respective tribe charging fees.

(b) Annual grazing fees, if any, shall be paid in advance and payment shall be made to the Project Officer for immediate disbursement to the appropriate tribal treasurer.

§ 153.9 Duration of grazing permits.

The Joint Use Committee may determine the maximum duration of grazing permits not to exceed 5 years per permit period and subject to § 153.10(b). In the event the Committee does not act, the Project Officer is authorized to set the duration.

§ 153.10 Assignment, modification and cancellation of permits.

(a) Grazing permits shall not be assigned, subpermitted or transferred without the consent of the delegates to the Joint Use Committee from the tribe involved and the Project Officer.

(b) The Project Officer may revoke or withdraw all or any part of the grazing permit by cancellation or modification on 30 days written notice of violation of permit or special conditions affecting the land or the safety of the livestock thereon, as may result from flood, disaster, drought, contagious diseases, etc. Except in the case of extreme necessity, cancellation or modification shall be effected on the next annual anniversary date of the grazing permit following the date of notice. Revocation or withdrawal of all or any part of a grazing permit by cancellation or modification as provided herein shall be an appealable decision under 25 CFR Part 2, or any regulations which may supersede Part 2. For the purpose of taking an appeal, decisions of the Project Officer shall be considered under 25 CFR 2 in the same manner as taking an appeal of a decision of an Area Director.

§ 153.11 Conservation and land use provisions.

Grazing operations shall be conducted in accordance with recognized principles of good range management. Conservation management plans necessary to accomplish this will be made a part of the grazing permit.

§ 153.12 Range improvements; ownership; new construction.

Improvements placed on the permitted land shall be considered affixed to the land unless specifically excepted therefrom under the permit terms. Written permission to construct or remove improvements must be obtained from the Joint Use Committee and the Project Officer, who will specify the maximum time allowed for removal of improvements so excepted.

§ 153.13 Payment of tribal fees.

Fees and taxes exclusive of annual grazing rental provided for in Section 153.8 which may be assessed by the respective tribes in connection with grazing permits shall be billed for by the respective tribe and paid annually in advance to the designated tribal official. Failure to make payments will subject the grazing permit to cancellation and may disqualify the permittee from receiving future permits so long as he is delinquent.

§ 153.14 Special permit requirements and provisions.

All grazing permits shall contain the following provisions:

(a) Because the lands covered by the permit are in trust status, all of permittee's obligations on the permit and the obligations of his sureties are to the United States as well as to the joint beneficial owners of the land. Annual rent and other obligations under the terms of a valid grazing permit shall constitute a first lien on livestock permitted.

(b) The permittee agrees he will not use, cause, or allow to be used any part of the permitted area for any unlawful conduct or purpose.

(c) The permit authorizes the grazing of livestock only and the permittee shall not utilize the permitted area for hay cutting, hunting, post or timber cutting or any other use without authorization from the Project Officer.

§ 153.15 Violations.

In addition to the penalties provided in this part, violation of the provisions of this part are subject to penalties of the Law and Order Code applicable to the Joint Use Area.

§ 153.16 Fences.

Fencing will be erected by the Government around the perimeter of the Executive Order Area and Land Management District 6. Fencing of any other areas in the Joint Use Area as from time-to-time may be required for a range recovery program shall be constructed after consultation with the tribes. Such fencing shall be erected at Government expense and such ownership shall be clearly identified by appropriate posting on the fencing. International destruction of federal property will be treated as a violation of the Federal Criminal Statutes (18 U.S.C. 1164).

§ 153.17 Livestock trespass.

In addition to any criminal liability, the owner of any livestock grazing in trespass on the Joint Use Area is liable to a civil penalty of $1 per head for each animal thereof for each day of trespass, together with the reasonable value of the forage consumed and damages to property injured or destroyed. The Project Officer shall take action to collect all such penalties and damages and seek injunctive relief when appropriate. All payments for such penalties and damages shall be divided equally be-

tween each tribe and credited to them. The following acts are prohibited:

(a) The grazing upon or driving across any of the Joint Use Area of any livestock without an approved grazing or crossing permit.

(b) Allowing livestock to drift and graze on lands without an approved permit.

(c) The grazing of livestock upon lands within an area closed to grazing of that class of livestock.

(d) The grazing of livestock by permittee upon any land withdrawn from use for grazing purposes to protect it from damage by reason of the improper handling of the livestock, after the receipt of notice from the Project Officer of such withdrawal, or refusal to remove livestock upon instructions from the Project Officer when an injury is being done to the Indian lands by reason of improper handling of livestock.

§ 153.18 Control of livestock diseases and parasites.

Whenever livestock within the Joint Use Area become infected with contagious or infectious diseases or parasites or have been exposed thereto, such livestock must be treated and the movement thereof restricted in accordance with applicable laws.

§ 153.19 Impoundment and disposal of unauthorized livestock.

Unauthorized livestock within any range unit of the Joint Use Area which are not removed therefrom within the periods prescribed by this regulation may be impounded and disposed of by the Project Officer as provided herein.

(a) When the Project Officer determines that unauthorized livestock use is occurring and has definite knowledge of the kind of unauthorized livestock, and knows the name and address of the owners, such livestock may be impounded anytime 5 days after written notice of intent to impound unauthorized livestock is mailed by certified or registered mail or personally delivered to such owners.

(b) When the Project Officer determines that unauthorized livestock use is occurring but does not have complete knowledge of the number and class of livestock or if the name and address of the owner thereof are unknown such livestock may be impounded anytime 15 days after the date of notice of intent to impound unauthorized livestock is first published in the local newspaper, posted at the nearest chapter house and in one or more local trading posts. The notice will identify the area or areas in which it will be effective.

(c) Unauthorized livestock on the Joint Use Area which are owned by persons given notice under paragraph (a) of this section, and any unauthorized livestock in areas for which a notice has been posted and published under paragraph (b) of this section, may be impounded without further notice any time within the twelve-month period immediately following the effective date of the notice or notices given under paragraphs (a) and (b) of this section.

(d) Following the impoundment of unauthorized livestock, a notice of sale of impounded livestock will be published in the local newspaper, posted at the chapter house and in one or more local trading posts. The notice will describe the livestock and specify the date, time and place of sale. The date set shall be at least 5 days after the publication and posting of such notice.

(e) The owner may redeem the livestock any time before the time set for the sale by submitting proof of ownership and paying for all expenses incurred in gathering, impounding and feeding or pasturing the livestock.

(f) If the livestock are not redeemed before the time fixed for their sale, they shall be sold at public sale to the highest bidder, provided his bid is at or above the minimum amount set by the Project Officer. If a bid at or above the minimum is not received, the livestock may be sold at private sale at or above the minimum amount, reoffered at public sale, condemned and destroyed, or otherwise disposed of. When livestock are sold pursuant to this regulation, the Project Officer shall furnish the buyer a bill of sale or other written instrument evidencing the sale.

(g) The proceeds of any sale of livestock as provided herein shall be applied as follows: First, to the payment of all expenses incurred by the United States in gathering, impounding, and feeding or pasturing the livestock. Second, in payment of any penalties or damages assessed pursuant to § 153.17 of this part which penalties or damages shall be divided equally between two tribes as provided in said section. Third, any remaining amount shall be paid over to the owner of said livestock upon his submitting proof of ownership. If any proceeds remaining after payment of the first and second items noted above are not claimed within one year from the date of the sale, such remaining proceeds will be divided equally between the two tribes owning the land.

MORRIS THOMPSON,
Commissioner of Indian Affairs.

[FR Doc.74-21380 Filed 9-16-74; 8:45 am]

National Park Service

[36 CFR Part 7]

CAPE COD NATIONAL SEASHORE, MASSACHUSETTS

Oversand Vehicle Operation

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 USC 3); section 7 of the Act of August 7, 1961 (75 Stat. 291; 16 U.S.C. 459b-6); 245 DM 1 (27 FR 6395); National Park Service Order No. 77 (38 FR 7478, as amended, 39 FR 4597) and North Atlantic Region Order No. 1 (39 FR 3695), it is proposed to revise § 7.67 of Title 36 of the Code of Federal Regulations as set forth below.

The purpose of this amendment is to designate routes and areas outside of established roads and parking areas open to oversand vehicles in accordance with criteria contained in sections 3 and 4 of E.O. 11644 (37 FR 2877) and paragraph 4.19(b) of this chapter, as amended in the FEDERAL REGISTER of April 1, 1974 (39 FR 11883).

It is the policy of the Department of the Interior, wherever practical, to afford the public an opportunity to participate in the rule making process. Accordingly interested persons may submit written comments, suggestions, or objections to the Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts 02663 on or before October 17, 1974. Section 7.67 is amended as follows:

§ 7.67 Cape Cod National Seashore.

(a) The operation of motor vehicles in the park area other than authorized emergency vehicles is prohibited outside of established public roads and parking areas except on beaches and designated oversand routes as posted by appropriate signs and shown on a map available at the office of the Superintendent.

* * * * *

(c) Private oversand vehicle operation:

(1) Operation of privately owned passenger vehicles not-for-hire, including the various forms of vehicles used for travel oversand, such as but not limited to "beach buggies" on beaches or on designated oversand routes in the park area without a permit from the Superintendent is prohibited. Such a permit will be issued following inspection to assure each vehicle contains the following equipment to be carried in the vehicle at all times while on the beaches or on the designated oversand routes:

(i) Shovel;
(ii) Jack;
(iii) Tow rope or chain;
(iv) Board or similar support for jack;
(v) Low pressure tire gauge;

Such a permit will only be issued upon consideration as to whether the nature and extent of use is consistent with the criteria contained in sections 3 and 4 of E.O. 11644 (37 FR 2877) including such factors as other visitor uses, safety, wildlife management, noise, erosion, geography, weather, vegetation, resource management and other management considerations. Also operators must show that all applicable Federal and State regulations having to do with licensing, registering, inspecting, and insuring of such vehicles have been complied with prior to the issuance of such permit. Such permits are to be affixed to the vehicles as instructed at the time of issuance.

* * * * * *

(f) Shellfishing: Shellfishing, by permit from the appropriate town, is permitted in accordance with applicable Federal, State, and local laws.

LAWRENCE C. HADLEY,
Superintendent,
Cape Cod National Seashore.

[FR Doc.74-21362 Filed 9-16-74; 8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 932]

OLIVES GROWN IN CALIFORNIA

Olive Administrative Committee, Proposed Membership Regulation

This notice invites written comment with respect to a proposed amendment to the rules and regulations issued pursuant to Order No. 932, which would provide that not more than two nominees for member and two nominees for alternate member positions on the Olive Administrative Committee may be affiliated with the same handler.

Notice is hereby given that the Department is giving consideration to a proposed amendment of the rules and regulations (7 CFR 932.100 et seq.; Subpart—Rules and Regulations) of the Olive Administrative Committee pursuant to the applicable provisions of the marketing agreements, as amended, and Order No. 932, as amended (7 CFR Part 932) regulating the handling of olives grown in California. This is a regulatory program effective under the Agricultural Marketing Agreements Act of 1937, as amended (7 U.S.C. 601–674).

This amendment of the rules and regulations was unanimously recommended by the Olive Administrative Committee, established under the amended marketing agreement and order as the agency to administer the terms and provisions thereof. The proposed amendment would, pursuant to § 932.25, provide that not more than two nominees for handler member and two nominees for alternate handler member positions on the committee may be affiliated with the same handler. Prior to the amendment of the order, effective September 1, 1968, handler nominees were restricted, pursuant to § 932.160 *Modification of provisions relative to handler nominees*, to not more than two affiliated with any handler. Said § 932.160 was predicated upon § 932.29(b)(7) of the order, and since such provisions are no longer in the order, § 932.160 contains an obsolete reference. The proposed revision is, thus, purely formal. Section 932.25 contains authority for allocation of handler members as proposed.

The proposed amendment is as follows:

Revise § 932.160 *Modification of provisions relative to handler nominees, to* read as follows:

§ 932.160 Modification of provisions relative to handler nominees.

Pursuant to § 932.25 the nomination procedure set forth in § 932.29(b) is modified to provide that not more than two nominees for member and two nominees for alternate member positions on the committee may be affiliated with the same handler.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed amendment shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, until October 15, 1974. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: September 12, 1974.

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

[FR Doc.74–21487 Filed 9–16–74;8:45 am]

Commodity Credit Corporation

[7 CFR Part 1421]

SUPPORT PROGRAM FOR 1974-CROP TUNG NUTS

Notice of Determination

Pursuant to sections 201 and 401 of the Agricultural Act of 1949, as amended (63 Stat. 1051, as amended; 7 U.S.C. 1446 and 1421), the Secretary is preparing to determine and announce the support program for 1974-crop tung nuts.

Section 201 provides that the price of tung nuts shall be supported through loans, purchases, or other operations at a level not in excess of 90 percentum nor less than 60 percentum of the parity price therefor: *Provided*, That in any crop year in which the Secretary determines that the domestic production of tung oil will be less than the anticipated domestic demand for such oil, the price of tung nuts shall be supported at not less than 65 percentum of the parity price therefor.

The program will include:

1. The level of support
2. The method of support
3. Conditions of eligibility
4. Area and period of program
5. Other program operating provisions

Section 401 of the Act requires that, in determining the level of support in excess of the minimum level prescribed by law, consideration be given to the supply of the commodity in relation to the demand therefor, the price levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired through a price-support operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand.

Consideration will be given to data, views, and recommendations pertaining to the proposed determinations covered by this notice which are submitted in writing to the Director, Cotton, Rice and Oilseeds Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250.

All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (8:15 a.m.–4:45 p.m.) (7 CFR 1.27(b)). All submissions must, in order to be sure of consideration, be received by the Director on or before October 17, 1974.

Signed at Washington, D.C. on September 11, 1974.

GLENN A. WEIR,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.74–21442 Filed 9–16–74;8:45 am]

DEPARTMENT OF COMMERCE

Patent Office

[37 CFR Part 1]

ACCESS TO INTERFERENCE FILES

Notice of Proposed Rulemaking

Notice is hereby given that, pursuant to authority contained in section 6 of the Act of July 19, 1952, (66 Stat. 793; 35 U.S.C. 6), as amended October 5, 1971, (85 Stat. 364), the Patent Office proposes to amend Title 37 of the Code of Federal Regulations by revising § 1.11(a).

Interested persons are invited to present their views, objections, recommendations, or suggestions in writing in connection with the proposed change to the Commissioner of Patents, Washington, D.C. 20231 on or before November 29, 1974. No oral hearings will be held. Written comments or suggestions will be available for examination by interested persons at Crystal Plaza Building 3, Room 11C17a, Arlington, Virginia.

The proposed revision of § 1.11(a) would change present practice by permitting earlier access to the file of an interference which involved a patent or an application on which a patent has issued. Under present practice, access is not permitted until judicial review of the decision of the Board of Patent Interferences has been exhausted. The proposed revision would allow access to the file after final decision of the Board of Patent Interferences if that decision is an award of priority as to all parties. Such earlier access could be of benefit to members of the public who need to know the basis for the issuance of the patent prior to final adjudication of the interference decision.

The text of the proposed revised rule is as follows:

§ 1.11 Files open to the public.

(a) After a patent has been issued, the specification, drawings, and all papers relating to the case in the file of the patent are open to inspection by the general public, and copies may be furnished upon paying the fee therefor. After an award of priority by the Board of Patent Interferences as to all parties, the file of any interference which involved a patent, or an application on which a patent has issued, is similarly open to public inspection and procurement of copies. See § 2.27 of this chapter for trademark files.

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Dated: August 30, 1974.

C. MARSHALL DANN,
Commissioner of Patents.

Approved: September 9, 1974.

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

[FR Doc.74-21454 Filed 9-16-74;8:45 am]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 541]

EXECUTIVE, ADMINISTRATIVE AND PROFESSIONAL EXEMPTIONS

Notice of Extension of Time and Hearing

Due to a number of requests for an extension of time relative to submission of views, data, and information on the proposal published in the FEDERAL REGISTER on August 16, 1974 (39 FR 29603), to increase the salary tests required for exemption under 29 CFR Part 541, I hereby announce the date for submission of such data, views, and information is extended to October 29, 1974.

Also, those interested persons desiring to present oral testimony on this matter will have the opportunity to do so in proceedings to begin at 10 a.m. on Tuesday, October 22, 1974, in Room 216 A, B, C, and D, Department of Labor Building at 14th Street and Constitution Avenue NW., Washington, D.C. These proceedings will be open to the public. Interested persons desiring to appear should notify the Administrator, Wage and Hour Division, Washington, D.C. 20210, as soon as possible and furnish the following information:

1. Name, address, and telephone of person appearing;
2. Name of organization the person is representing; and
3. Length of time required for presentation.

If written statements are also to be given, they should be furnished in triplicate.

Signed at Washington, D.C., this 10th day of September 1974.

BETTY SOUTHARD MURPHY,
Administrator, Wage and Hour Division, U.S. Department of Labor.

[FR Doc.74-21435 Filed 9-16-74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 404]

[Reg. No. 4]

FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Procedures, Payment of Benefits, and Representation of Parties; Good Cause for Failure To File a Timely Request

Notice is hereby given, pursuant to the Administrative Procedure Act (5 U.S.C. 553), that the amendment to the regulations set forth in tentative form below is proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. Under present regulations, the Social Security Administration, for good cause shown, may extend the time for filing a request for reconsideration, hearing, or review, or to commence a civil action. The proposed amendment specifies the circumstances to be considered in determining whether good cause exists for failure to file a request or to commence an action timely and gives examples when good cause may be found.

Prior to the final adoption of the proposed amendment 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 October 17, 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 205 and 1102 of the Social Security Act, 53 Stat. 1368, as amended, and 49 Stat. 647, as amended; 42 U.S.C. 405 and 1302.

(Catalog of Federal Domestic Assistance Programs Nos. 13.800-13.805, Social Security Administration Insurance Programs.)

Dated: August 12, 1974.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: September 11, 1974.

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

Subpart J of Regulations No. 4 is amended by adding § 404.954a as follows:

§ 404.954a "Good cause" for extension of time to request reconsideration, hearing, or review, or to begin civil action.

With regard to §§ 404.953 and 404.954, an extension of time to request reconsideration, hearing, or review, or to begin civil action may be granted if the individual establishes to the satisfaction of the Administrative Law Judge, the Appeals Council, or other component of the Social Security Administration, that his failure to file a timely request was due to good cause. In determining whether "good cause" for failure to file a timely request has been established by the individual, consideration is given to whether the failure to file the request within the proper time limit was the result of circumstances which impeded the individual's efforts to pursue his claim, misleading action of the Social Security Administration, or misunderstanding as to the requirements of the Act resulting from amendments to the Act, other legislation, or court decisions. For example, good cause for failure to file a timely request may be found where such failure resulted from the following circumstances:

(a) The individual was seriously ill or had a physical or mental impairment and such illness or impairment prevented him from contacting the Social Security Administration in person, or in writing, or through a friend, relative, or other person;

(b) There was a death or serious illness in the individual's immediate family;

(c) Pertinent records were destroyed or damaged by fire or other accidental cause;

(d) The individual was actively seeking evidence to perfect his claim and his search, though diligent, was not completed before the time period expired;

(e) The individual requested additional explanation concerning the Social Security Administration's decision within the time limit, provided that, within 60 days after receipt of such explanation, he requested reconsideration or hearing, or within 30 days after receipt of such explanation, he requested review or began a civil action;

(f) The individual was furnished incorrect or incomplete information by the Social Security Administration or was otherwise misled by a representative of the Social Security Administration about his right to request reconsideration, hearing, or review, or to begin a civil action.

(g) The individual failed to receive the notice of initial determination, reconsideration, decision of an Administrative Law Judge, or a decision of the Appeals Council; or

(h) The individual transmitted the request to another Government agency in good faith within the time limit and the request did not reach the Social Security Administration until after the time period had expired.

[FR Doc.74-21484 Filed 9-16-74;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 74-WE-18]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a new transition area for Delano Municipal Airport, Delano, California.

The FAA encourages interested persons to participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Comments should be submitted in triplicate to the Chief, Airspace and Proce-

dures Branch, Federal Aviation Administration, 15000 S. Aviation Boulevard, Lawndale, California 90261. All comments received on or before October 17, 1974 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 15000 S. Aviation Boulevard, Lawndale, California 90261.

A new instrument approach procedure (VOR RWY 32L) has been developed for Delano Municipal Airport, Delano, Calif. The procedure turn and final approach course are developed on the Bakersfield, Calif. VORTAC 336° T (320° M) radial. The proposed 700 foot transition area is required to provide airspace protection for aircraft utilizing the new approach procedure.

In consideration of the foregoing, the FAA proposes the following airspace action.

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

DELANO, CALIF.

That airspace extending upward from 700 feet above the surface within a 3-mile radius of Delano Municipal Airport (latitude 35° 44'48" N., longitude 119°14'08" W.) and within 3 miles each side of the Bakersfield VORTAC 336° T radial, extending from the 3-mile radius area to 12 miles NW of the VORTAC.

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

Issued in Los Angeles, California on September 6, 1974.

ROBERT O. BLANCHARD,
Acting Director, Western Region.

[FR Doc.74-21377 Filed 9-16-74;8:45 am]

ATOMIC ENERGY COMMISSION

[10 CFR Part 50]

LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

General Design Criteria for Fuel Reprocessing Plants; Extension of Time

This notice extends the period for comments to the notice, published July 18, 1974 (39 FR 26293), proposing general design criteria for fuel reprocessing plants.

A request for an extension of time to October 15, 1974, was submitted by the Natural Resources Defense Council, Inc. The request argues that additional comment time is necessary due to the press of other work, limited staff resources and vacation schedules.

It has been decided that a reasonable extension of the comment closing date is 2 weeks from the existing (September 16, 1974) date, and the comment period is hereby extended to September 30, 1974.

(Sec. 161, Pub. Law 83-703, 68 Stat. 948 (42 U.S.C. 2201)).

Dated at Washington, D.C. this 12th day of September 1974.

For the Atomic Energy Commission.

GORDON M. GRANT,
Acting Secretary of the Commission.

[FR Doc.74-21525 Filed 9-16-74;8:45 am]

FEDERAL POWER COMMISSION

[18 CFR Parts 2, 157]

[Docket No. RM75-2]

BUDGET-TYPE APPLICATIONS—GAS PURCHASE FACILITIES

Amended Notice of Proposed Rulemaking

SEPTEMBER 10, 1974.

Further notice is hereby given pursuant to section 553 of Title 5 of the U.S. Code and sections 7 and 16 of the Natural Gas Act (56 Stat. 825, 56 Stat. 83, 15 U.S.C. 717f(c); 56 Stat. 84, 15 U.S.C. 717f(d); 56 Stat. 84, 15 U.S.C. 717f(e); and 56 Stat. 830, 15 U.S.C. 717o) that the Commission proposes to amend § 157.7 of Part 157—Applications for Certificates of Public Convenience and Necessity and for Orders Permitting and Approving Abandonment Under section 7 of the Natural Gas Act, Subchapter E—Regulations under the Natural Gas Act, and § 2.58 of Part 2—General Policy and Interpretations, Subchapter A—General Rules, Chapter I, Title 18 of the Code of Federal Regulations by revising the definition of "Gas-purchase facilities" and by increasing the maximum total annual and single project cost limitations for such facilities.

By notice issued August 12, 1974, and published in the FEDERAL REGISTER on August 19, 1974, 39 FR 29938, the Commission proposes to change the definition of gas purchase facilities and to increase limits on authorized expenditures for budget-type gas purchase facilities constructed pursuant to certificates of public convenience and necessity issued under Subsections (c) and (e) of section 7 of the Natural Gas Act as implemented by § 2.58 of the Commission's General Policy and Interpretations and paragraph (b) of § 157.7 of the regulations under the Natural Gas Act. The maximum permissible total budget amount is proposed to be increased from $7,000,000 to $12,000,000, and the maximum single expenditure for any single onshore project is proposed to be increased from 25 percent of the total budget amount or $1,000,000, whichever is the lesser, to 25 percent of the total budget amount or $1,500,000, whichever is the lesser. The total budget amount for small pipeline companies is proposed to be increased from $100,000 to $150,000.

In the notice of August 12, 1974, we propose to amend the regulation and statement of general policy to expand the definition of gas-purchase facilities to include facilities to connect producer facilities with facilities of another natural gas company authorized to transport for the account of or for exchange with the applicant-company, gas purchased by the applicant-company. We noted that in recent years there has been increasing use of transportation and exchange arrangements among pipelines because of the monetary savings involved in having other companies with existing facilities nearer a particular production area transport or exchange gas. We noted further that these types of arrangements should be encouraged and that the proposed revision of the definition of gas-purchase facilities will increase the usefulness of budget-type certificates in expeditiously connecting gas supplies to a pipeline's system.

Accordingly, in the notice of August 12, 1974, it is proposed that we amend § 157.7 of the Commission's regulations under the Natural Gas Act by revising subparagraph (4) of paragraph (b) thereof to read as follows:

§ 157.7 Abbreviated applications.

* * * * *

(b) * * *

(4) "Gas-purchase facilities" means those facilities, subject to the jurisdiction of the Commission, necessary to connect applicant's system with the facilities of an independent producer or other similar seller authorized by this Commission to make a sale to the applicant for resale in interstate commerce or to connect such producer facilities with facilities of another natural gas company authorized to transport for the account of or for exchange with applicant, gas so purchased by applicant.

* * * * *

§ 2.58 [Amended]

Additionally, it is proposed to amend § 2.58 of the Commission's General Policy and Interpretations by revising (d) thereof to read the same.

The notice of August 12, 1974, provides for an increase in the maximum permissible expenditure for any single offshore project. The existing statement of policy and regulation limit the expenditure for any single offshore project only to 25 percent of the total budget amount, which could be as high as $1,750,000 if the total budget amount were the maximum of $7,000,000. The Commission in the notice recognizes the increasingly high cost of offshore facilities and proposes that any single offshore project be limited to an expenditure of $2,500,000; however, the proposed amended statement of policy and regulation, modelled after the existing statement of policy and regulation limits the expenditure for any single offshore project only to 25 percent of the total budget amount. This limits total expenditures for any single

project to $37,500 if the total budget amount is the proposed minimum of $150,000 and permits total expenditures of $3,000,000 if the total budget amount is the proposed maximum of $12,000,000.

The Commission's intent in the notice of August 12, 1974, was to propose an increase in permissible expenditures for any single offshore project to $2,500,000 where that amount would be within the total budget amount. Therefore, in lieu of the amendment proposed in the notice of August 12, 1974, it is proposed to amend § 157.7 of the Commission's Regulations under the Natural Gas Act by revising subparagraphs (1) (i) and (ii) of paragraph (b) thereof to read as follows:

§ 157.7 Abbreviated application.

* * * * *

(b) * * *

(1) (i) The total estimated cost of the gas purchase facilities proposed in the application does not exceed 2 percent of the applicant's gas plant (Account 101, Uniform System of Accounts Prescribed for Natural Gas Companies) or $12 million whichever is the lesser, except that an applicant with less than $5 million in such gas plant account may have a total gas purchase budget amount of $150,000.

(ii) The cost of gas-purchase facilities for any single project to be installed during the authorized construction period does not exceed 25 percent of the total budget amount or $1.5 million, whichever is the lesser, except that a single offshore project, including any in the disputed zone, is limited to $2,500,000, or the total budget amount, whichever is the lesser.

* * * * *

Further, in lieu of the amendment proposed in the notice of August 12, 1974, it is proposed to amend § 2.58 of the Commission's General Policy and Interpretations by revising paragraphs (a) (1) and (2) thereof to read as follows:

§ 2.58 Budget-type certificate applications—gas purchase facilities.

* * * * *

(a) (1) The total estimated cost of the facilities to be installed in a given 12-month period does not exceed 2 percent of the applicant company's plant account or $12 million whichever is the lesser, except that an applicant with less than $5 million in such gas plant account may have a total gas purchase budget amount of $150,000.

(2) The total cost of any single project facilities to be installed during the authorization period does not exceed 25 percent of the total budget amount or $1.5 million, whichever is the lesser, except that a single offshore project, including any in the disputed zone, is limited to $2,500,000 or the total budget amount, whichever is the lesser.

* * * * *

In this amended notice no changes are proposed in previously proposed amended § 2.58(a) (1) and (d) of the Commission's General Policy and Interpretations or § 157.7(b) (1) (i) and (4) of the regulations under the Natural Gas Act. In view of the revised proposals herein, the time for the submission of data, views, comments, and suggestions with respect to all the proposed amendments will be extended.

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than October 21, 1974, data, views, comments or suggestions, in writing, concerning all or part of the proposed amendments. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written submittals will be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Washington, D.C., during regular business hours. Submittals to the Commission should indicate the name, title, mailing address, and telephone number of the person to whom communications concerning the proposals should be addressed, and whether the person filing requests a conference with the Staff of the Federal Power Commission to discuss the proposed amendments. The Staff, in its discretion, may grant or deny requests for conference. The Commission will consider all written submittals before acting on the proposed amendments.

The Secretary shall cause prompt publication of this notice to be made in the FEDERAL REGISTER.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-21401 Filed 9-16-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1307]

[Ex Parte No. MC-77 (Sub-No. 2)]

TARIFFS AND SCHEDULES

Restrictions on Service by Motor Common Carriers

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 9th day of September 1974.

The purpose of this notice is to propose an amendment to existing regulations which will assist the Commission in policing motor carrier route cancellations.

The Commission's report in Ex Parte No. MC-77, *Restrictions on Service by Motor Common Carriers*, 111 M.C.C. 151 (1970), fully considered the matter of restrictions in service of motor common carriers of property effected by the publication of restrictive tariff provisions, and found that remedial regulation was necessary. Accordingly, the following tariff circular regulation was promulgated in 49 CFR 1307.27(k) (1):

> Tariffs must contain only rates, charges, and related provisions that cover services in strict conformity with the carrier's operating authority. No provision may be published in tariffs, supplements, or revised pages which results in restricting service to less than the carrier's full operating authority or which exceed such authority. Tariff publications containing such provisions are subject to rejection or suspension for investigation.

The foregoing regulation was construed in the second report in Ex Parte No. MC-77 (Sub-No. 1), 119 M.C.C. 691 (1974), and several specific types of routing provisions were found to be in conflict with the spirit and letter of our prior report. We further found that all tariff limitations which, by their express terms, tend to discourage the use of joint rates were violative of the regulation. All motor common carrier tariffs were consequently ordered to be brought into compliance by June 1, 1974 (subsequently extended to November 29, 1974) as to present existing tariff provisions. The effectiveness, however, of the regulation adopted in Ex Parte No. MC-77 was not extended, so that new restrictions are not permitted.

Since the service of the second report on April 5, 1974, we have found that several freight carriers may be attempting to effectuate de facto service restrictions of the type prohibited by our order by means of large-scale selective route cancellations. If these cancellations become effective, they will in many instances leave no routing provisions in effect between the publishing carrier and the connecting carrier, and will substantially diminish the quality and quantity of service offered. A motor common carrier of property seeking to cancel joint rates and through routes published in its tariffs has the burden under section 216(g) of the Interstate Commerce Act (49 U.S.C. 316(g)) of establishing that cancellation is just and reasonable. Interchange Between McLean Trucking and Manning, 340 I.C.C. 38 (1971), aff'd sub nom. McLean Trucking Company v. United States, 346 F. Supp. 349 (M.D. N.C. 1972), aff'd per curiam, 409 U.S. 1121 (1973). Therefore, these publications shall be considered for rejection and/or suspension, but it will be impossible to protect against all proposed route cancellations in view of the myriad of such proposals filed with the Commission each month.

Furthermore, it appears that current practices of agents and carriers do not always result in an awareness by carriers party to a route (other than the proponent of the cancellation) of the pending action in time to prepare and file with the Commission a petition seeking suspension, or to advise the members of the shipping public of the necessity to seek other means of transportation and/or to consider filing a petition for suspension or other objection to the proposed cancellation.

Accordingly, we propose that 49 CFR 1307.29 be amended by the addition of a new subparagraph designed to protect the shipping public from the severe diminution of service which will result from such large-scale route cancellations.

It is ordered, That a proceeding be, and it is hereby, instituted under the authority of sections 204, 208, 216, and 217 of the Interstate Commerce Act and pursuant to sections 553 and 559 of the Ad-

ministrative Procedure Act, proposing an amendment to read as follows:

§ 1307.29 Routing.

* * * * *

(e) *Cancellation of joint routes.* Accompanying the tender to the Commission of any tariff publication which provides for the cancellation of an existing joint route (either by canceling all arrangements in the tariff between certain carriers or by canceling an interchange point(s) between certain carriers) there shall be a clear statement by the publishing carrier or agent of the justification relied upon to warrant the closing of such route. The statement must also affirm that the other carrier(s) in the joint route has been informed by letter or telegram of the proposed cancellation.

It is further Ordered, That all motor common carriers of property subject to the jurisdiction of this Commission be, and they are hereby, made respondents in this proceeding.

It is further ordered, That no oral hearing be scheduled for the receiving of testimony, but that the respondents or any other interested parties may participate in this proceeding by submitting 15 copies of written statements of verified facts, views, and arguments regarding the proposed requirements and procedures.

It is further ordered, That the said statements shall be filed on or before October 15, 1974, with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, and that no requests for extension of that date will be entertained.

And it is further ordered, That a copy of this notice and order be served on each party to the proceeding in Ex Parte No. MC–77 (Sub-No. 1), that a copy be deposited in the office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and that statutory notice of the institution of this proceeding be given by delivering a copy thereof to the Director, Office of the Federal Register, for publication therein.

This 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.

By the Commission.

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

[FR Doc.74–21495 Filed 9–16–74;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 211]

ALLOCATION OF UNLEADED GASOLINE FOR WHOLESALE PURCHASER-CONSUMERS

Notice of Proposed Rulemaking

The Federal Energy Administration hereby gives notice of a proposal to amend the Mandatory Petroleum Allocation Regulations to revise the procedures for allocating unleaded gasoline to wholesale purchaser-consumers which have a particularly acute need for unleaded gasoline such as automobile manufactures, new car dealers, and owners or operators of fleets of automobiles. Such wholesale purchaser-consumers would receive up to their allocation entitlements of motor gasoline as unleaded gasoline. FEA believes that this amendment is necessary to assure that wholesale purchaser-consumers which need to receive their entire entitlement of gasoline in unleaded gasoline have access to such supplies.

Section 211.108 would be amended to provide that each supplier's initial distribution of unleaded gasoline would be to these classes of wholesale purchaser-consumers. The calculation of the supplier's allocation ratio would be made after this initial distribution of unleaded gasoline. A supplier's allocation ratio would be the ratio of the supplier's *remaining* unleaded gasoline (its "adjusted supply of unleaded gasoline") to the supplier's leaded gasoline and remaining unleaded gasoline (its "adjusted supply of motor gasoline (leaded and unleaded)"). The supplier's other wholesale purchasers would receive unleaded gasoline in the same relation to their allocation entitlement for motor gasoline as their supplier's allocation ratio.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93–275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. In a letter dated September 13, 1974, the Administrator had the following comments: "We believe that these actions would provide greater flexibility to the distribution of unleaded gasoline and thus warrant the support of this Agency."

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments with respect to the proposed amendments set forth in the notice to Executive Communications, Federal Energy Administration, Box BB, Washington, D.C. 20461.

Comments should be identified on the outside envelope and on the documents submitted to the Federal Energy Administration Executive Communications with the designation "Allocation of Unleaded Gasoline for Wholesale Purchaser-Consumers. "Fifteen copies should be submitted. All comments received by September 27, 1974, and all other relevant information will be considered by the Federal Energy Administration before final action is taken.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159 Federal Energy Administration Act of 1974, Pub. L. 93–275; E.O. 11790 (39 FR 23185))

In consideration of the foregoing, it is proposed to amend Part 211 of Chapter II of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., September 13, 1974.

ROBERT E. MONTGOMERY, Jr., *General Counsel.*

Section 211.108 is revised in paragraphs (b) and (c)(1), and (c)(3)(i) to read as follows:

§ 211.108 Allocation of unleaded gasoline.

* * * * *

(b) *Definitions.*

"Adjusted supply of unleaded gasoline" means a supplier's total supply of unleaded gasoline minus the amount of unleaded gasoline which a supplier allocates pursuant to § 211.108(c)(1)(i).

"Allocation entitlement" means for a wholesale purchaser-reseller, its allocation entitlement as described in § 211.12(b)(1) and for a wholesale purchaser-consumer or an end user, its allocation entitlement as described in § 211.12(b)(2).

"Allocation ratio" means that ratio of a supplier's adjusted supply of unleaded gasoline to the supplier's adjusted supply of motor gasoline (leaded and unleaded).

"Adjusted supply of motor gasoline (leaded and unleaded)" means a supplier's total supply of leaded gasoline plus its adjusted supply of unleaded gasoline.

"Unleaded gasoline" means unleaded gasoline as defined by the Environmental Protection Agency.

(c) *Method of allocation for unleaded gasoline.* (1)(i) For a period which corresponds to a base period, each supplier shall make available to each wholesale-purchaser consumer which is an automobile manufacturer, new car dealer, fleet owner or operator or which otherwise requires unleaded gasoline and which is entitled to receive motor gasoline from that supplier, an amount of unleaded gasoline equal to the purchaser's entitlement of motor gasoline. To the extent that supplier does not have sufficient unleaded gasoline to meet its obligations under this paragraph (c)(1)(i), it shall distribute its available unleaded gasoline among such purchasers on a pro-rata basis.

(ii) For a period which corresponds to a base period, each supplier shall make available to each of its purchasers which are entitled to receive motor gasoline from that supplier and which are not allocated unleaded gasoline under paragraph (c)(1)(i) of this section, a volume of unleaded gasoline which bears the same ratio to that purchaser's allocation entitlement as the supplier's allocation ratio for that period. Suppliers may refuse to supply unleaded gasoline to any wholesale purchaser-reseller which does not have facilities suitable for the storage and delivery of unleaded gasoline, as required by the provisions of 40 CFR Chapter I, Part 80, Subpart B.

(iii) This subparagraph (1) applies as of July 1, 1974, to all of the supplier's wholesale purchasers and end-users which are entitled to receive motor gasoline from that supplier except those retail sales outlets which were not selling unleaded gasoline during the thirty (30) days prior to July 1, 1974, and which are not required to sell unleaded gasoline pursuant to 40 CFR Chapter I, Part 80, Subpart B. This subparagraph becomes applicable to retail sales outlets which were not selling unleaded gasoline

during the thirty (30) days prior to July 1, 1974 and which are not required to sell unleaded gasoline pursuant to 40 CFR Chapter I, Part 80, Subpart B, on October 1, 1974.

* * * * *

(3) (i) After its initial offer of unleaded gasoline pursuant to paragraph (c) (1) of this section a supplier shall offer any of its supply of unleaded gasoline which remains only to its purchasers which are entitled to receive motor gasoline from that supplier and which desire to purchase unleaded gasoline.

* * * * *

[FR Doc.74-21638 Filed 9-16-74;9:10 am]

[10 CFR Parts 210, 212]

MANDATORY PETROLEUM PRICE REGULATIONS

Miscellaneous Proposals; Change of Location for Pubic Hearing

On September 6, 1974, the Federal Energy Administration issued a notice of Proposed Rulemaking and Public Hearing regarding revision of the Mandatory Petroleum Price Regulations by amendment to Title 10, Parts 210 and 212 of the Code of Federal Regulations (39 FR 32718, September 10, 1974). That notice states that public hearings would be held commencing at 9:30 a.m., on September 19, 1974, and continuing on September 30, 1974, and October 1, 1974, at the New Post Office Building, 12th and Pennsylvania Avenue NW., Washington, D.C.

FEA hereby gives notice that those hearings will be held instead in the Auditorium, Room 2105, at 2000 M Street NW., Washington, D.C.

Issued in Washington, D.C., September 14, 1974.

ROBERT E. MONTGOMERY, Jr.,
General Counsel,
Federal Energy Administration.

[FR Doc.74-21646 Filed 9-16-74;10.39 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE ADVISORY COMMITTEE ON WOMEN IN THE SERVICES

Notice of Public Meeting

Pursuant to Public Law 92-463 notice is hereby given that the next meeting of the Defense Advisory Committee on Women in the Services (DACOWITS) will be held October 21-24, 1974 at the Hilton Palacio del Rio in San Antonio, Texas.

Composed of 40 civilian women, DACOWITS meets twice each year to provide the Department of Defense with assistance and advice on matters relating to women in the Armed Forces, to interpret to the public the role of and the need for servicewomen, and to encourage the acceptance of military service as a career opportunity.

The agenda for this meeting will include discussion on pending legislation affecting women, training and assignment of medical personnel, recruitment needs and enlistment standards, availability of recreational facilities, and housing plans and policies. Sessions will be conducted from 8 a.m. to 4 p.m. daily and will be open to the public.

The following rules and regulations will govern the participation by members of the public at this meeting:

(1) All business sessions, to include executive committee sessions, will be open to the public.

(2) Interested person may make an oral presentation and/or submit a written statement for consideration by the Committee during the meeting.

(3) Persons desiring to make an oral statement or submit a written statement to the Committee must notify Lieutenant Colonel Martha A. Cox, DACOWITS Executive Secretary, OASD (Manpower and Reserve Affairs), Room 2B257, The Pentagon, Washington, D.C. 20301 by October 4, 1974.

(4) Length and number of oral presentations to be made will depend on the number of requests received. Maximum time permitted per presentation will be fifteen (15) minutes.

(5) Oral presentations will be permitted only from 10:15 a.m. to 11:00 a.m. on October 21, 1974 before the full Committee.

(6) Each person desiring to make an oral presentation or submit a written statement must provide the DACOWITS Secretariat with 40 copies of the presentation/statement by October 14, 1974.

(7) Persons submitting a written statement only for inclusion in the minutes of the meeting must submit one (1) copy either before or during the meeting or within ten (10) days after the close of the meeting.

(8) Members of the public will not be permitted to enter into the oral discussion conducted by the Committee members at any of the sessions; however, they will be permitted to reply to questions directed to them by members of the Committee.

(9) Members of the public will be permitted to orally question the scheduled speakers during the general session on October 21, 1974 if time allows after the official participants have asked questions and/or made comments.

(10) Questions from the public will not be accepted during the subcommittee sessions, executive committee sessions or the final general session on October 24, 1974.

(11) Members of the public will not be permitted to question the Committee members during any session.

Additional information regarding the Committee and/or this meeting may be obtained by contacting LtCol Martha A. Cox, DACOWITS Executive Secretary, OASD(M&RA), The Pentagon, Washington, D.C. 20301, telephone (202) OXford 5-5153.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

SEPTEMBER 12, 1974.

[FR Doc.74-21433 Filed 9-16-74;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

GRAIN STANDARDS

Louisiana Grain Inspection Point

Statement of considerations. The Louisiana Department of Agriculture is designated to operate as an official inspection agency in accordance with the provisions of section 7(f) of the U.S. Grain Standards Act (7 U.S.C. 79(f)). The Louisiana Department of Agriculture has been providing official inspection service for 18 years including 4 years at Lake Providence, Louisiana, as a designated inspection point. A designated inspection point is defined as a city, town, or other location assigned under the regulations to an official inspection agency for the conduct of official inspections, and within which the official inspection agency, or one or more of its licensed inspectors is located (7 CFR 26.1(b)(13)).

The Louisiana Department of Agriculture now plans to locate one or more of its licensed grain inspectors at Alexandria, Louisiana, and has requested that its assignment be amended in accordance with § 26.99(b) of the regulations (7 CFR 26.99(b)) to add Alexandria, Louisiana, as a designated inspection point.

Notice is hereby given that the Agricultural Marketing Service has under consideration the request from the Louisiana Department of Agriculture to add Alexandria, Louisiana, as a designated inspection point under the U.S. Grain Standards Act.

Opportunity is hereby afforded all interested persons to submit written views and comments with respect to this matter to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250. All material submitted should be in duplicate and mailed to the Hearing Clerk not later than October 17, 1974. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Hearing Clerk and to all other information available to the U.S. Department of Agriculture before final determination is made with respect to this matter.

Done in Washington, D.C. on: September 12, 1974.

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

[FR Doc.74-21486 Filed 9-16-74;8:45 am]

Forest Service

UNION COUNTY GRAZING ADVISORY BOARD

Notice of Meeting

The Union County Grazing Advisory Board will meet Monday, September 30, 1974 at 1:30 p.m., in the District Ranger's Office, Kiowa National Grassland, 16 North Second Street, Clayton, New Mexico 88415.

The purpose of this meeting will be to discuss:

1. Land line location problems within the Kiowa National Grassland.
2. Obligation of swing pastures.
3. Local forage condition and grazing use for 1975.
4. Other business that might come before the board.

The meeting will be open to the public. Persons who wish to attend should notify Chairman Weston Baker via telephone, 374-9073, or in writing to Mr. Weston Baker, Chairman, Union County

Grazing Advisory Board, Rural Route, Clayton, New Mexico 88415. Written statements may be filed with the Board.

Dated: September 6, 1974.

W. L. LLOYD,
Forest Supervisor.

[FR Doc.74-21389 Filed 9-16-74;8:45 am]

BIGWOOD PROPOSED SKI AREA DEVELOPMENT

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for Bigwood Proposed Ski Area Development, Sawtooth National Forest, Idaho. The Forest Service report number is USDA-FS-DES (Adm) R4-75-4.

The environmental statement concerns the proposed development of a new ski area within the Sawtooth National Recreation Area, Sawtooth National Forest, Idaho. The area will be developed to a maximum capacity of 4,700 skiers per day with an anticipated use of 250,000 skier days during a 140-day skiing season. The facilities will be constructed in stages spanning several years and be based primarily on demand for additional facilities.

This draft environmental statement was transmitted to CEQ on September 6, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA Forest Service
South Agriculture Bldg., Room 3230
12th St. & Independece Ave., S.W.
Washington, D.C. 20250

Regional Planning Office
USDA, Forest Service
Federal Building, Room 4403
324-25th Street
Ogden, Utah 84401

Forest Supervisor
Sawtooth National Forest
1525 Addison Avenue
Twin Falls, Idaho 83301

Area Ranger (Superintendent)
Sawtooth National Recreation Area
P.O. Box 438
Ketchum, Idaho 83340

A limited number of single copies are available upon request to Forest Supervisor E. A. Fournier, Sawtooth National Forest, 1525 Addison Street, Twin Falls, Idaho 83301.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor E. A. Fournier, Sawtooth National Forest, 1525 Addison Avenue, Twin Falls, Idaho 83301. Comments must be received by November 8, 1974, in order to be considered in the preparation of the final environmental statement.

Dated: September 6, 1974.

CHARLES P. TEAGUE, Jr.,
Acting Regional Forester.

[FR Doc.74-21471 Filed 9-16-74;8:45 am]

TIMBER MANAGEMENT PLAN, LASSEN NATIONAL FOREST, CALIFORNIA

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Timber Management Plan, Lassen National Forest, California USDA-FS-R5-DES (Adm)-75-3.

The environmental statement concerns a proposed timber management plan for the management of the timber resources on the forest.

This draft environmental statement was transmitted to CEQ on September 10, 1974.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3230
12th St. & Independence Ave., S.W.
Washington, D.C. 20250

USDA, Forest Service
630 Sansome Street, Rm. 531
San Francisco, California 94111

Lassen National Forest
707 Nevada Street
Susanville, California 96130

A limited number of single copies are available upon request to Regional Forester, Douglas R. Leisz, California Region, U.S. Forest Service, 630 Sansome Street, San Francisco, California 94111.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from state and local agencies which are authorized to develop and enforce environmental standards, and from Federal Agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Douglas R. Leisz, Regional Forester, 630 Sansome Street, San Francisco, California 94111. Comments must be received by November 11, 1974 in order to be considered in the preparation of the final environmental statement.

DOUGLAS R. LEISZ,
Regional Forester.

SEPTEMBER 10, 1974.

[FR Doc.74-21473 Filed 9-16-74;8:45 am]

GRAZING ADVISORY BOARD

Notice of Meeting

The Lyndon B. Johnson National Grasslands Grazing Advisory Board will meet at 7 p.m. October 22, 1974 and Wise Electric Coop. Bldg., Cowan and Hale, Decatur, Texas.

The purpose of this meeting is for: Election of officers; determination of terms of office; approval of the Charter; adoption of By-Laws.

The meeting will be open to the public. Persons who wish to attend should notify P.O. Box 507, Decatur, Texas 76234 817-627-5475. Written statements may be filed with the committee before or after the meeting.

The committee has established the following rules for public participation: Public members may speak up at any time during the meeting.

JOHN H. COURTNAY,
Forest Supervisor.

SEPTEMBER 3, 1974.

[FR Doc.74-21472 Filed 9-16-74;8:45 am]

Office of the Secretary

PUBLIC ADVISORY COMMITTEE ON SOIL AND WATER CONSERVATION

Notice of Renewal

Notice is hereby given that the Secretary of Agriculture has renewed the Public Advisory Committee on Soil and Water Conservation for a two-year period effective January 24, 1974. This committee was originally established in October 1955 to provide a means whereby those persons from outside government can make evaluations of and offer constructive suggestions for program needs and development in the field of soil and water conservation. The committee consists of 18 members appointed by the Secretary of Agriculture for a two-year term.

Renewal of the Committee is in the public interest. The Office of Management and Budget has concurred in this action pursuant to Public Law 92-463.

JOSEPH R. WRIGHT, Jr.,
Assistant Secretary for Administration.

SEPTEMBER 12, 1974.

[FR Doc.74-21492 Filed 9-16-74;8:45 am]

Soil Conservation Service

BUTLER LATERALS WATERSHED, OKLAHOMA

Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500.6e of the Council on Environmental Quality Guidelines issued on August 1, 1973; and part 650.8(b)(3) of 39 FR 19651, issued on June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental statement is not being prepared for the Butler Laterals Watershed Project, Custer County, Oklahoma.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Hampton Burns, State Conservationist, Soil Conservation Service, USDA, USDA Building, Farm Road and Brumley Street, Stillwater, Oklahoma, has determined that the preparation and review of an environmental statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. The remaining works of improvement include 3 floodwater retarding structures.

The environmental assessment file is available for inspection during regular working hours at the following location:

Soil Conservation Service
USDA Building
Farm Road and Brumley Street
Stillwater, Oklahoma

No administrative action on implementation of the proposal will be taken until 15 days after the date of this notice.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services)

Dated: September 6, 1974.

EUGENE C. BUIE,
Acting Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.74-21456 Filed 9-16-74;8:45 am]

FORT COBB LATERALS WATERSHED, OKLAHOMA

Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500.6e of the Council on Environmental Quality Guidelines issued on August 1, 1973; and part 650.8(b)(3) of 39 FR 19651, issued on June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental statement is not being prepared for the Fort Cobb Laterals Watershed Project, Caddo County, Oklahoma.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Hampton Burns, State Conservationist, Soil Conservation Service, USDA, USDA Building, Farm Road and Brumley Street, Stillwater, Oklahoma, has determined that the preparation and review of an environmental statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. The remaining works of improvement include 7 floodwater retarding structures.

The environmental assessment file is available for inspection during regular working hours at the following location.

Soil Conservation Service
USDA Building
Farm Road and Brumley Street
Stillwater, Oklahoma

No administrative action on implementation of the proposal will be taken until 15 days after the date of this notice.

Dated: September 6, 1974.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services)

EUGENE C. BUIE,
Acting Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.74-21457 Filed 9-16-74;8:45 am]

GYP CREEK WATERSHED, OKLAHOMA

Negative Declaration

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; part 1500.6e of the Council on Environmental Quality Guidelines issued on August 1, 1973; and part 650.8(b)(3) of 39 FR 19651, issued on June 3, 1974; the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental statement is not being prepared for the Gyp Creek Watershed Project, Custer and Washita Counties, Oklahoma.

The environmental assessment of this federal action indicates that the project will not create significant adverse local, regional, or national impacts on the environment and that no significant controversy is associated with the project. As a result of these findings, Mr. Hampton Burns, State Conservationist, Soil Conservation Service, USDA, USDA Building, Farm Road and Brumley Street, Stillwater, Oklahoma, has determined that the preparation and review of an environmental statement is not needed for this project.

The project concerns a plan for watershed protection and flood prevention. The remaining works of improvement include 2 floodwater retarding structures.

The environmental assessment file is available for inspection during regular working hours at the following location.

Soil Conservation Service
USDA Building
Farm Road and Brumley Street
Stillwater, Oklahoma

No administrative action on implementation of the proposal will be taken until 15 days after the date of this notice.

Dated: September 6, 1974.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services)

EUGENE C. BUIE,
Acting Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.74-21458 Filed 9-16-74;8:45 am]

MISSION HILL WATERSHED PROJECT, SOUTH DAKOTA

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 Mission Hill Watershed Project, Yankton County, South Dakota, USDA-SCS-EIS-WS-(ADM)-75-1-(D)-SD.

The environmental statement concerns a plan for watershed protection and flood prevention. The planned works of improvement include conservation land treatment, supplemented by one floodwater retarding structure and 3.8 miles of channel work. The channel work will consist of deepening and widening of 2.8 miles of previously modified channel in an ephemeral stream. The remaining 1.0 mile will be new channel where none existed before.

A limited supply of copies is available at the following location to fill single copy requests:

Soil Conservation Service, USDA, 239 Wisconsin Avenue SW., Huron, South Dakota 57350.

Copies of the draft environmental statement have been sent for comment to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments concerning the proposed action or requests for additional information should be addressed to Vincent W. Shally, State Conservationist, Soil Conservation Service, 239 Wisconsin Avenue SW., Huron, South Dakota 57350.

Comments must be received on or before November 5, 1974, in order to be considered in the preparation of the final environmental statement.

Dated: September 6, 1974.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services)

EUGENE C. BUIE,
Acting Deputy Administrator for Water Resources, Soil Conservation Service.

[FR Doc.74-21455 Filed 9-16-74;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

CAPTAIN STARN'S INLET YACHTING PIER AND ARCHIE M. BRAND

Notice of Receipt of Application for Public Display Permits

Notice is hereby given that the following applicants have applied in due form for permits to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 and the Regulations Governing the Taking and Importing of Marine Mammals.

1. Captain Starn's Inlet Yachting Pier, Atlantic City, New Jersey 08401 to take ten (10) male California sea lions (*Zalophus californianus*) for the purpose of public display.

The California sea lions will be taken by a professional collector from the beaches of the California Channel Islands. All animals will be taken from beaches using nets, during the period from November 1974 to April 1975.

The sea lions will be maintained in a tidal pool 39 feet wide by 53 feet long, six to nine feet deep. The pool is enclosed by means of a wooden structure, consisting of pilings and interlocking sheathing. The collective experience of the staff in exhibiting is eleven years. A local veterinarian has examined the facility and recommends it as adequate for the care of the animals.

The display is free to all visitors. The Captain Starn's Inlet Yachting Pier is a corporation of the State of New Jersey operating a seafood restaurant and boating facility. As the display is free, it is difficult to ascertain the number of visitors.

2. Archie M. Brand, Sparky's School of Seals, Route 4, Box 562, Carthage, Missouri 64836 to take four (4) California sea lions (*Zalophus californianus*) for the purpose of public display.

The sea lions will be taken by a professional collector from the beaches of the California Channel Islands. All animals will be taken from beaches using nets during the period from November 1974 to April 1975.

Sparky's School of Seals currently maintains and displays eleven (11) California sea lions in the following manner:

1. During the months of May through September of each year, one to three sea lions are displayed in a performing show at the Como Park Zoo, St. Paul, Minnesota. The animals perform in an arena, and are maintained in a pool 19 feet long, 16 feet wide and 8 feet deep;

2. During the months of May through September of each year, eight sea lions are displayed in a non-performing "feeder seal exhibit" at the Como Park Zoo, St. Paul, Minnesota. These sea lions are maintained and displayed in a moat facility, 100 feet in exterior diameter, 9 feet wide and 3 feet deep;

3. During the remainder of the show season, in the spring and fall of each year, up to three sea lions are displayed in performing exhibits at various Sport Shows. The sea lions are transported in a trailer with a fiberglass pool 5 feet in diameter and 3 feet deep. At the Sport Shows, pool facilities are usually available, normally 60 feet long, 24 feet wide and 4 feet deep;

4. All of the sea lions are maintained during the winter months in a heated building located in Carthage, Missouri. A pool, 12 feet long, 10 feet wide, and 4 feet deep, is available to the sea lions at all times.

The four requested sea lions would be incorporated into the performing shows. Any of the requested animals which do not prove to be adequately trainable would be included in the non-performing "feeder seal exhibit."

Sparky's School of Seals is a profit making venture that records some 900,000 visitors a year. The show is visited by school children in the St. Paul area.

Mr. Brand has worked with sea lions for 20 years. Veterinary services are provided at the St. Paul facility by the University of Minnesota, School of Veterinary Medicine. Veterinary care is available at the winter quarters in Carthage, Missouri.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described applications have been inspected by licensed veterinarians, who have certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with the above applications are available for review at the following locations:

Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, telephone 202–343–9445.

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731, telephone 213–548–2575. (Applications Nos. 1 and 2)

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard St. Petersburg, Florida 33702, telephone 813–893–3145. (Application No. 2)

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930, telephone 617–281–0640. (Application No. 1)

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is sending copies of the applications to the Marine Mammal Commission and the Committee of Scientific Advisors.

Interested parties may submit written data or views on these applications on or before October 17, 1974, to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235.

All statements and opinions contained in this notice in support of these applications are those of the Applicants and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: September 5, 1974.

JACK W. GEHRINGER,
Acting Director,
National Marine Fisheries Service.

[FR Doc.74–21365 Filed 9–16–74;8:45 am]

CHILDREN'S ZOO

Issuance of Permit for Marine Mammals

On May 20, 1974, notice was published in the FEDERAL REGISTER (39 FR 17784), that an application had been filed with the National Marine Fisheries Service by Children's Zoo, 2800 A Street, Lincoln, Nebraska 68502, for a permit to take one male and two female California sea lions (*Zalophus californianus*) for the purpose of public display.

Notice is hereby given that, on August 27, 1974, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit to Children's Zoo, subject to certain conditions set forth therein. The Permit is available for review by interested persons in the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235, and the Offices of the Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702, and the Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: August 27, 1974.

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

[FR Doc.74–21366 Filed 9–16–74;8:45 am]

LOUIS SCARPUZZI ENTERPRISES, INC.

Notice of Receipt of Application for Public Display Permits

Notice is hereby given that the following applicants have applied in due form for a permit to take marine mammals for public display as authorized by the Marine Mammal Protection Act of 1972 and the Regulations Governing the Taking and Importing of Marine Mammals.

1. Louis Scarpuzzi Enterprises, Inc., 339 Riverside Drive, Fort Myers, Florida 33905, to take four (4) Atlantic bottlenosed dolphins (*Tursiops truncatus*) for the purpose of public display.

The bottlenosed dolphins will be taken by a professional collector using a seine net. The animals will be taken in the waters off the western coast of Florida within 90 days of the issuance of the Permit.

The animals will be maintained in a pool 30 feet in diameter with an average depth of 11.5 feet and a capacity of 51,455 gallons. Salt water is prepared and fed into the pool through the filter lines.

Louis Scarpuzzi Enterprises, Incorporated is a profit making organization. It is described by the applicant as the only public display of marine mammals between St. Petersburg and the Keys of Florida. In 1973 some 40,000 visitors were recorded.

Mr. Louis Scarpuzzi has ten years experience in capturing and training dolphins. Two other trainers he employs have some 3 years experience in dolphin training and husbandry each.

2. Little Rock Zoo, Little Rock, Arkansas 72201 to take one (1) male and one (1) female California sea lion (*Zalophus californianus*) for the purpose of public display.

The California sea lions will be taken by a professional collector from the beaches of the California Channel Islands. All animals will be taken from beaches using nets, during the period from November, 1974 to April, 1975.

The sea lions will be maintained in a 90,000 gallon pool with a gunnite mountain in the center and a saline pool which allows daily exposure to salt water. An area 32×18 feet square is available to the animals for hauling out.

The Little Rock Zoo is a municipally owned and operated facility. In 1972 and 1973 over one million people visited the Zoo. Guided educational tours for elementary schools are provided.

3. The Lincoln Park Zoological Gardens, Chicago, Illinois 60614, to take three (3) female California sea lions for the purpose of public display.

The California sea lions will be taken by a professional collector from the beaches of the California Channel Islands. All animals will be taken from the beaches using nets, during the period from November, 1974 to April, 1975.

The sea lions will be maintained in a pool of 200,000 gallon capacity with ample area for hauling out and basking.

The Lincoln Park Zoo's Director, Dr. Lester E. Fisher, D.V.M., has held this position since 1962. Saul L. Kitchener, Assistant Director, has 7 years experience with the Lincoln Park Zoo.

The Zoo is owned and operated by the Chicago Park District and does not charge admission. It is estimated that 4,000,000 people a year visit the zoo. The 100 member Docent organization conducts school tours through the zoo.

4. Theater of the Sea, Incorporated, P.O. Box 407, Islamorada, Florida 33036, to take three (3) Atlantic bottlenosed dolphins (*Tursiops truncatus*) for the purpose of public display.

The bottlenosed dolphins will be taken by a professional collector using a seine net. The animals will be taken from the waters of the Florida Bay. The animals will be maintained in a lagoon 1,200 feet long by 300 feet wide which has 8,000 gallons per minute pumped into it. Only one dolphin at a time will be captured and acclimated to the pool.

Theater of the Sea is a profit making corporation and recorded some 75,000 visitors in 1973. Local school groups are admitted free.

The animals appear in an act every hour and a half for a period of 15 to 20 minutes. Mr. P. F. McKenny of Theater of the Sea has 15 years experience in dolphin husbandry and training. Veterinary care is provided by the services of Dr. J. M. White.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described applications have been inspected by licensed veterinarians, who have certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Documents submitted in connection with the above applications are available for review at the following locations:

Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, telephone 202–343–9445;

Applications 1, 2 and 4:

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702, telephone 813–893–3145;

Application No. 3:

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930, telephone 617–281–0640.

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is forwarding copies of these applications to the Marine Mammal Commission and the Committee of Scientific Advisors.

Interested parties may submit written data or views on these applications on or before October 17, 1974, to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235.

All statements and opinions contained in this notice in support of these applications are those of the Applicants and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: August 30, 1974.

WILLIAM F. ROYCE,
Acting Director,
National Marine Fisheries Service.

[FR Doc.74–21369 Filed 9–16–74;8:45 am]

NORTHWEST FISHERIES CENTER

Issuance of Permit for Marine Mammals

On June 10, 1974, notice was published in the FEDERAL REGISTER (39 FR 20407), that an application had been filed with the National Marine Fisheries Service by the Northwest Fisheries Center, National Marine Fisheries Service, Seattle, Washington 98112, for a Scientific Research Permit to take forty (40) bowhead whales (*Balaena mysticetus*), ten (10) gray whales (*Eschrichtius robustus*), and fifty (50) belukha whales (*Delphinapterus leucas*), which are found dead and beached, dead and floating at sea, or killed by an Indian, Aleut or Eskimo for subsistence purposes.

Notice is hereby given that, on September 5, 1974, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Permit for the above described activities to the Northwest Fisheries Center, National Marine Fisheries Service, subject to certain conditions set forth therein. The taking of bowhead whales and gray whales cannot be undertaken until such time as similar authorization is granted under the provisions of the Endangered Species Act of 1973 (P.L. 93–205).

The Permit is available for review by interested persons in the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235, and in the Offices of the Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue, North, Seattle, Washington 98109, and the Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99801.

Dated: September 5, 1974.

JACK W. GEHRINGER,
Acting Director,
National Marine Fisheries Service.

[FR Doc.74–21367 Filed 9–16–74;8:45 am]

DR. DANIEL K. ODELL

Notice of Issuance of Permit

On February 14, 1974, notice was published in the FEDERAL REGISTER (39 FR 5646) that an application had been submitted to the National Marine Fisheries Service by Dr. Daniel K. Odell, Assistant Professor, Division of Biology, School of Marine and Atmospheric Science, University of Miami, Miami, Florida 33149, to take an unspecified number of dead stranded cetaceans, in particular the Atlantic bottlenosed dolphin (*Tursiops truncatus*), for scientific research.

Notice is hereby given that, on August 29, 1974, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a permit authorizing the above mentioned takings to Daniel K. Odell, subject to certain conditions set forth therein. The Permit does not authorize the taking of cetacean species listed as endangered under the provisions of the Endangered Species Act of 1973 (P.L. 93–205).

The Permit is available for review by interested persons in the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235, and in the Office of the Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702.

Dated: August 29, 1974.

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

[FR Doc.74–21368 Filed 9–16–74;8:45 am]

SEA-ARAMA MARINEWORLD

Notice of Receipt of Application for Public Display Permit

Notice is hereby given that the following applicant has applied in due form for a permit to take marine mammals for the purpose of public display, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Regulations Governing the Taking and Importing of Marine Mammals.

Sea-Arama Marineworld, Seawall Boulevard at 91st Street, P.O. Box 3068, Galveston, Texas 77550, to take two (2) false killer whales (*Pseudorca crassidens*) or two (2) pilot whales (*Globicephala scammoni*) or one (1) killer whale (*Orcinus orca*) for the purpose of public display. The application is for the maximum of two (2) whales of the species noted or a maximum of one (1) killer whale.

The false killer whales will be captured by Sea Life Park collecting staff in Hawaiian waters, principally around the islands of Maui, Lanai, Molokai, Oahu and Hawaii. They will be taken by a break-away hoop net technique. A collecting boat designed and equipped for the purpose of collecting and transporting marine mammals will be used.

The pilot whales will be captured by Marineland of the Pacific collecting staff along the California Coast around the Catalina Channel and in Mexican waters, with the permission of the Mexican government. The pilot whales will be captured by break-away hoop net.

The killer whale will be captured in Canadian waters by a professional collector. The animal will be taken by an encircling net technique, utilizing two large, fully geared seine boats, four support boats, and a trained crew of twelve.

The two pilot whales or two false killer whales or one killer whale will be maintained in a 60 feet long, 40 feet wide and 14 feet deep concrete pool. This pool is adjacent and accessible to the show stadium pool 100 feet long, 30 feet wide and 14 feet deep.

Dr. Kenneth N. Gray, Veterinarian and Curator of Sea-Arama Marineworld, supervises the care and maintenance staff. He is assisted by two Assistant Curators, with 2 years experience in marine mammal husbandry, and a curatorial assistant, with 1 year experience.

Sea-Arama Marineworld hosts approxmately 400,000 visitors annually, and cooperates, through a formal alliance, with the marine mammal research program of the Marine Biomedical Institute of the University of Texas.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the animals.

Documents submitted in connection with this application are available as follows:

Office of the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 (telephone 202–343–9445);

Office of the Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702 (telephone 813–893–3145).

Concurrent with the publication of this notice in the FEDERAL REGISTER, the Secretary of Commerce is sending copies of the application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Interested parties may submit written data or views on this application on or before October 17, 1974, to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235.

All statements and opinions contained in this notice in support of this application are those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: September 4, 1974.

JACK W. GEHRINGER,
Acting Director,
National Marine Fisheries Service.

[FR Doc.74–21364 Filed 9–16–74;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[DESI 7519; Docket No. FDC–D–707; NDA 8–406]

CERTAIN ORAL MERCURIAL DIURETICS

Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Application

The National Academy of Sciences/National Research Council, Drug Efficacy Study Group evaluated the effectiveness of the drug products described below, found the drugs to be less than effective, and submitted its reports to the Commissioner of Food and Drugs. Copies of those reports have previously been made publicly available and are on display at the Office of the Food and Drug Administration's Hearing Clerk. After reviewing the Academy's reports and the available data and information the Commissioner concluded that the drugs are less than effective and published his conclusion in the FEDERAL REGISTER of July 27, 1972 (37 FR 15029) that the drugs are probably and possibly effective and lacking substantial evidence of effectiveness for their various labeled indications.

1. NDA7–519; Cumertilin tablets containing mercumatilin; Endo Laboratories, Inc., 1000 Stewart Avenue, Garden City, NY 11530.

2. NDA8–406; Neohydrin tablets containing chlormerodrin; Lakeside Laboratories, Division Colgate-Palmolive Co., 1707 East North Avenue, Milwaukee, WI 53202.

In an order published in the FEDERAL REGISTER on August 4, 1971 (36 FR 14342), approval of NDA 7–519 for Cumertilin Tablets was withdrawn on the ground of failure to submit required reports under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)). At the time that notice was published, no final conclusions concerning effectiveness of mercumatilin had been reached. These conclusions have now been reached and the purpose of including Cumertilin (mercumatilin) Tablets (NDA 7–519) in this notice is to inform all interested persons of such conclusions and offer them the opportunity to request a hearing.

Both of the above drugs have been reclassified as lacking substantial evidence of effectiveness in that no data were submitted in support of effectiveness. On the basis of all of the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of the drugs.

Therefore, notice is given to the holder of new drug application No. 8–406 for Neohydrin Tablets (chlormerodrin) and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505 (e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application (or if indicated above, those parts of the application providing for the drug product listed above) and all amendments and supplements thereto on the ground that the new information befcre him with respect to the drug product, evaluated together with the evidence available to him at the time of approval of the application, shows there is a lack of substantial evidence that the drug product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holder of the new drug application for Neohydrin (chlormerodrin) Tablets (NDA 8–406) this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product which is identical, related, or similar to either Neohydrin (chlormerodrin) Tablets or Cumertilin (mercumatilin) Tablets, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (HFD–300), 5600 Fishers Lane, Rockville, MD 20852.

In addition to the ground(s) for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in § 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201 (p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR 310, 314), all persons subject to this notice pursuant to 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug application for Neohydrin (chlormerodrin) Tablets should not be withdrawn, and to raise, for administrative determination, all issues relating to the legal status of either of the drug products named above and of all identical, related, or similar drug products.

If any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before October 17, 1974, a written notice of appearance and request for hearing, and (2) on or before November 18, 1974, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 130.14 as published and discussed in detail in the FEDERAL REGISTER of March 13, 1974 (39 FR 9750), recodified as 21 CFR 314.-200 on March 29, 1974 (39 FR 11680).

The failure of any person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to Neohydrin (chlormerodrin) Tablets and a waiver of any contentions concerning the legal status of either of the drug products named above and of all identical, related or similar drug products. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application for Neohydrin (chlormerodrin) Tablets, or which requires a hearing with respect to a determination of the legal status of either of the drug products named above and of all identical, related or similar drug products, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate with the Hearing Clerk, Food and Drug Administration (HFC-20), Room 4-65, 5600 Fishers Lane, Rockville, MD 20852.

All submissions pursuant to this notice, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 2.121).

Dated: August 30, 1974.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.74-21424 Filed 9-16-74;8:45 am]

[DESI No.'s 10201, 1593 & 11017; Docket No. FDC-D-705; NDA 1-704 etc.]

EFFICACY EVALUATIONS FOR CERTAIN DRUGS

Notice of Opportunity for Hearing

Correction

In FR Doc. 74-17961 appearing at page 28450 of the issue for Wednesday, August 7, 1974, in the middle column of that page, the FEDERAL REGISTER citation for NDA 11-017, now reading "(39 FR 245626)", should read "(39 FR 24526)".

[DESI 9410; Docket No. FDC-D-698; NDA9-410]

TALBUTAL TABLETS

Notice of Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Application

The National Academy of Sciences-National Research Council, Drug Efficacy Study Group evaluated the effectiveness of the drug products described below, found the drugs to be less than effective, and submitted its report to the Commissioner of Food and Drugs. Copies of that report have previously been made publicly available and are on display at the office of the Food and Drug Administration's Hearing Clerk. After reviewing the Academy's report and the available data and information, the Commissioner concluded that the drugs are less than effective and announced his conclusion in the FEDERAL REGISTER of April 26, 1972 (37 FR 8406) that the drugs are probably and possibly effective and lacking substantial evidence of effectiveness for their labeled indications.

Lotusate Tablets (30 mg., 50 mg., and 120 mg.) containing talbutal; Winthrop Laboratories, Division of Sterling Drug, Inc., 90 Park Avenue, New York, NY 10016 (NDA9-410).

No new data having been submitted concerning the 30 mg. and 50 mg. tablets, those products have been reclassified as lacking substantial evidence of effectiveness for all of the labeled indications. Winthrop no longer markets the 30 mg. and 50 mg. tablets.

Lotusate Tablets containing 120 mg. talbutal are the subject of another notice appearing elsewhere in this issue of the FEDERAL REGISTER.

On the basis of all of the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a)(5), demonstrating the effectiveness of the 30 mg. and 50 mg. strengths of the drug.

Therefore, notice is given to the holder(s) of the new drug application(s) and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505 (e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of those parts of the new drug application(s) providing for 30 mg. and 50 mg. tablets, and all amendments and supplements thereto, on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice of opportunity for hearing applies to all persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (HFD-300), 5600 Fishers Lane, Rockville, MD 20852.

In addition to the ground(s) for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in § 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201 (p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR 310, 314), the applicant(s) and all other persons subject to this notice pursuant to 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of those parts of the new drug application(s) should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and of all identical, related, or similar drug products.

If an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before October 17, 1974, a written notice of appearance and request for hearing, and (2) on or before November 18, 1974, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 130.14 as published and discussed in detail in the FEDERAL REGISTER of March 13, 1974 (39 FR 9750), recodified as 21 CFR 314.200 on March 29, 1974 (39 FR 11680).

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of those parts of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate with the Hearing Clerk, Food and Drug Administration (HFC–20), Room 4–65, 5600 Fishers Lane, Rockville, MD 20852.

All submissions pursuant to this notice, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 505, 52 Stat. 1052–53, as amended; 21 U.S.C. 355), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 2.121).

Dated: August 30, 1974.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.74–21423 Filed 9–16–74;8:45 am]

[DESI 9410; Docket No. FDC–D–706; NDA No. 9–410]

TALBUTAL TABLETS

Drugs for Human Use; Drug Efficacy Study Implementation; Follow-Up Notice and Notice of Opportunity for Hearing

In a notice (DESI 9410) published in the FEDERAL REGISTER of April 26, 1972 (37 FR 8406), the Commissioner of Food and Drugs announced his conclusions pursuant to the evaluation of a report received from the National Academy of Science-National Research Council, Drug Efficacy Study Group on Lotusate Tablets (30 mg., 50 mg. and 120 mg.) containing talbutal; Winthrop Laboratories, Division of Sterling Drug Inc., 90 Park Avenue, New York, NY 10016 (NDA 9–410).

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, which is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (HFD–300), 5600 Fishers Lane, Rockville, MD 20852.

The notice stated that the products were regarded probably effective, possibly effective, and lacking substantial evidence of effectiveness for their labeled indications.

No new data were submitted in support of the 30 mg. and 50 mg. tablets. Winthrop no longer markets them. A notice concerning them appears elsewhere in this issue of the FEDERAL REGISTER.

Based upon review of all information available, including data submitted by Winthrop Laboratories, the Director of the Bureau of Drugs concludes that 120 mg. tablets of talbutal are effective as a hypnotic for patients with insomnia. Accordingly the notice of April 26, 1972, insofar as it pertains to 120 mg. tablets of talbutal, is amended to read as follows:

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's report, as well as other available evidence, and concludes that:

1. Talbutal tablets (120 mg.) are effective for use as a hypnotic for patients with insomnia.

2. Talbutal tablets (120 mg.) lack substantial evidence of effectiveness for all their other labeled indications.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* Talbutal preparations are in tablet form and suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the Act and regulations. Its labeling bears adequate information for safe and effective use of the drug. The Indication is: As a hypnotic for patients with insomnia.

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled *Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study*, published in the FEDERAL REGISTER July 14, 1970 (35 FR 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling and an abbreviated supplement for updating information as described in paragraphs (a)(1) (i) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application as described in paragraph (a)(3(i) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped

within the jurisdiction of the Act as described in paragraph (b) of that notice.

C. *Notice of opportunity for hearing.* On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a)(5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A.2 of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) (or, if indicated above, those parts of the application(s) providing for the drug product(s) listed above) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A.2 of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in § 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before October 17, 1974, a written notice of appearance and request for hearing, and (2) on or before November 18, 1974, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 130.14 as published and discussed in detail in the FEDERAL REGISTER of March 13, 1974 (39 FR 9750), recodified as 21 CFR 314.200 on March 29, 1974 (39 FR 11680).

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectyieness referred to in paragraph A.2 of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without any approved NDA is subject to regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk (address given below) during regular business hours, Monday through Friday.

Communications forwarded in response to this announcement should be identified with the reference number DESI 9410, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (HFD–100), Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Generic Drug Staff (HFD–107), Office of Scientific Evaluation, Bureau of Drugs.

Submissions pursuant to the notice of opportunity for hearing (identify with docket number): Hearing Clerk, Food and Drug Administration (HFC–20), Room 4–65, Parklawn Building.

Requests for the Academy's report: Drug Efficacy Information Activity (HFD–8), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Manager (HFD–101), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Director, Bureau of Drugs (21 CFR 2.121).

Dated: August 30, 1974.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.74–21422 Filed 9–16–74;8:45 am]

ATOMIC ENERGY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON NUCLEAR MERCHANT SHIP PROGRAM

Notice of Meeting

SEPTEMBER 11, 1974.

In accordance with the purposes of section 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards, Subcommittee on Nuclear Merchant Ships will hold a meeting on October 3, 1974, in Room 1046, 1717 H Street, NW., Washington, D.C. The purpose of this meeting will be to review the application for development of a standard nuclear propulsion unit for large merchant ships.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

Thursday, October 3, 1974, 9 a.m.–5 p.m. The Subcommittee will hear presentations by Regulatory Staff and personnel of the U.S. Department of Commerce, Maritime Administration, and its representatives and hold discussions with these groups pertinent to the development of a standard nuclear propulsion unit for large merchant ships.

In connection with the above agenda item, the Subcommittee will hold Execu-

tive Sessions, not open to the public, at approximately 8:30 a.m. and at the end of the day to consider matters relating to the above report. These sessions will involve an exchange of opinions and discussion of preliminary views and recommendations of the Subcommittee Members and internal deliberations for the purpose of formulating recommendations to the ACRS.

I have determined, in accordance with subsection 10(d) of Public Law 92–463, that the above-noted Executive Sessions will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b). Further, any non-exempt material that will be discussed during the above closed sessions will be inextricably intertwined with exempt material, and no further separation of this material is considered practical. It is essential to close such portions of the meeting to protect the free interchange of internal views, to avoid undue interference with agency or Committee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than September 26, 1974 to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such comments shall be based upon the Preliminary Safety Analysis Report and related documents on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, between the hours of 2 p.m. and 4:30 p.m. on October 3, 1974.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on October 1, 1974, to the Office of the Executive Secretary of the Committee (telephone 301–973–5651) between 8:30 a.m. and 5:15 p.m., e.d.t.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) A copy of the transcript of the open portion of the meeting will be available for inspection on or after October 7, 1974 at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545. Copies of the transcript may be reproduced in the Public Document Room or may be obtained from the Ace Federal Reporters, Inc., 415 Second Street, NE., Washington, D.C. 20002 (telephone 202–547–6222) upon payment of appropriate charges.

(i) On request, copies of the Minutes of the meeting will be made available for inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545 after January 3, 1975. Copies may be obtained upon payment of appropriate charges.

JOE B. LAGRONE,
Acting Advisory Committee Management Officer.

[FR Doc.74–21425 Filed 9–16–74;8:45 am]

[Docket Nos. 50–424, etc.]

GEORGIA POWER CO.

Order To File Memoranda

SEPTEMBER 11, 1974.

In the course of our *sua sponte* review of the June 27, 1974 initial decision of the Licensing Board in this uncontested construction permit proceeding, we issued an order on August 7, 1974 directing the applicant and the AEC regulatory staff to file memoranda addressed to two specific questions. Those questions related to the disposition made by the Licensing Board of an issue which that Board had raised respecting the necessity of requiring that the particulate radioactivity monitoring system be designed to withstand a safe shutdown earthquake.

Having examined the memoranda filed pursuant to our August 7 order, we are of the opinion that there is need for further exploration of the questions posed in that order—and most particularly of the implications of certain of the responses we have received. In our view, such exploration can be best accomplished at an oral argument. Accordingly, the parties are to appear by counsel before this Board at 9:30 a.m. on Friday, October 4, 1974 in the Appeal Panel hearing room, fifth floor, East West Towers Building, 4350 East-West Highway, Bethesda, Maryland. The regulatory staff will be heard first, followed by the applicant. Each party will be allotted such time as appears to the Board to be necessary to canvass fully the various facets of that party's position as developed in its memorandum.

The names of the counsel who will appear should be furnished to the Secretary to this Board by letter on or before September 27, 1974.

It is so ordered.

For the Atomic Safety and Licensing Appeal Board.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.74–21429 Filed 9–16–74;8:45 am]

[Docket No. 50–245]

NORTHEAST NUCLEAR ENERGY CO. ET AL.

Proposed Issuance of Amendment to Provisional Operating License

The Atomic Energy Commission ("the Commission") is considering issuance of an amendment to Provisional Operating License No. DPR–21 issued to The Connecticut Light & Power Company, The Hartford Electric Light Company, Western Massachusetts Electric Company and Northeast Nuclear Energy Company for operation of the Millstone Nuclear Power Station Unit 1 located in the Town of Waterford, Connecticut.

The amendment would revise provisions in the Technical Specifications associated with a planned reactor refueling, including changes in the maximum average planar linear heat generation rates (MAPLHGR) for the reactor fuel. Any changes to the Technical Specifications involving MAPLHGR will be consistent with the requirements of 10 CFR Part 50, Section 50.46.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Act and the Commission's regulations which are set forth in the proposed license amendment.

By October 18, 1974, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the Commission's "Rules of Practice" in 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this action, see the application for amendment dated August 23, 1974, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Waterford, Connecticut. As it becomes available, the Commission's related Safety Evaluation will be available at the above locations. A copy of the proposed license amendment and attachments and the Safety Evaluation, when available, may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing-Regulation.

Dated at Bethesda, Maryland, this 10th day of September 1974.

For the Atomic Energy Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Directorate of Licensing.

[FR Doc.74-21427 Filed 9-16-74;8:45 am]

[Docket Nos. 50-448, 50-449]

POTOMAC ELECTRIC POWER CO.

Prehearing Conference Concerning Postponement of Facility

On August 5, 1974, the Board was notified informally by counsel for the Applicant of a PEPCO News Release of August 2, 1974, which stated in part:

> The schedule revision announced today will result in a two-year extension of PEPCO's first nuclear-fueled generating station, the two-unit Douglas Point plant to be built in Charles County, Maryland. The first nuclear unit now is planned for operation in 1982, the second in 1984.
>
> "This is a schedule change, not a suspension, of the project," Thompson[1] said, "The extension includes necessary time allowances for increasing equipment lead times and recent changes in environmental and other regulatory requirements. We are continuing our Douglas Point programs and proceeding with all engineering and related efforts to meet our schedules."

The Board was informed that there would be discussions with the parties concerning this change and that the Board would be contacted. The Board has had no further information from counsel for the Applicant.

The Board is also aware of the revised schedule for the Regulatory Staff documents: To wit, November 15, 1974 for the Final Environmental Statement; November 29, 1974 for the Safety Analysis; January 22, 1975 for the ACRS report and March 10, 1975 for the Supplement to the Safety Analysis.

Since it has been almost a year from the date of the Prehearing Conference, the Board has determined in consideration of the changes enumerated above that it would be appropriate to have a second Prehearing Conference to discuss whether discovery should be suspended; should the NEPA hearing be scheduled after the release of the Staff Final Environmental Statement or should it be considerably delayed because of Applicant's revised schedule; and any other matters the parties may wish to bring to the attention of the Board.

Take notice, the Prehearing Conference will be in the Hearing Room, 12th floor, Landow Building, 7910 Woodmont Street, Bethesda, Maryland, at 10 a.m., (local time) on September 25, 1974.

The public is invited but limited appearance statements will not be accepted at this conference.

Issued at Bethesda, Maryland, this 11th day of September 1974.

It is so ordered.

For the Atomic Safety and Licensing Board.

ELIZABETH S. BOWERS,
Chairman.

[FR Doc.74-21426 Filed 9-16-74;8:45 am]

[1] W. Reid Thompson, PEPCO Board Chairman and President.

[Docket Nos. 50-434, 50-435]

VIRGINIA ELECTRIC AND POWER CO.

Notice of Schedule for Evidentiary Hearing

A public hearing in the above proceeding will begin at 10 a.m., local time, on Tuesday, October 8, 1974, in the Circuit Courtroom, Surry County Courthouse, in Surry, Virginia.

This second session of the hearing will cover health and safety matters.

Time will be reserved on Tuesday, October 8, 1974, for members of the public who desire to make limited appearances.

It is so ordered.

Dated at Bethesda, Maryland, this 11th day of Septemeber 1974.

For the Atomic Safety and Licensing Board.

JAMES R. YORE,
Chairman.

[FR Doc.74-21428 Filed 9-16-74;8:45 am]

[Dockets Nos. 50-280, 50-281]

VIRGINIA ELECTRIC AND POWER CO.

Request for Exemption From Requirements Concerning Emergency Core Cooling System Performance

On December 28, 1973, the Atomic Energy Commission promulgated new emergency core cooling system (ECCS) performance requirements, incorporated in 10 CFR Part 50 and Appendix K thereto. Compliance with these new criteria was required of certain licensees by August 5, 1974 unless either (1) an extension of time for submission of the required ECCS performance evaluation had been approved by the Director of Regulation pursuant to 10 CFR 50.46(a)(2)(iii), or (2) an exemption from the operating requirement of 10 CFR 50.46(a)(2)(iv) had been granted by the Commission.

On August 5, 1974, the Director of Regulation granted Virginia Electric and Power Company (VEPCO) extension of time until September 6, 1974 to submit the required ECCS analysis for the licensee's Surry Power Station, Units 1 and 2. VEPCO is authorized by Facility Operating Licenses DPR-32 and DPR-37 to operate the facilities located in Surry County, Virginia at power levels of 2441 megawatts thermal each. On September 6, 1974, VEPCO submitted an ECCS analysis and associated proposed technical specification changes as required by 10 CFR 50.46.

Notice is hereby given that the Commission has received from VEPCO a request for an exemption until March 13, 1975 from the requirement of 10 CFR 50.46(a)(2)(iv) that it operate its Surry Power Station, Units 1 and 2, in conformity with the ECCS evaluation and accompanying proposed technical specification changes. In support of its request for exemption, VEPCO states that the ECCS analysis submitted on September 6, 1974, is based on excessively conservative assumptions made by the reactor manufacturer, Westinghouse Electric Corporation, and that it believes a new analysis is necessary. VEPCO further states that it believes the six month period of exemption requested is the minimum time necessary "to complete the re-analysis using appropriate, realistic assumptions." The request for exemption is accompanied by the supporting affidavit of William C. Doley, Manager, Production Operations and Maintenance for VEPCO.

The Commission invites the submission of views and comments by interested persons concerning the action to be taken on the request for exemption. Such views and comments should be submitted in writing, addressed to the Secretary, U.S. Atomic Energy Commission, Washington, D.C. 25045, not later than October 1, 1974. Pursuant to 10 CFR 50.46(a)(2)(vi), the Director of Regulation shall submit his views on the request not later than October 7, 1974.

A copy of the request dated September 6, 1974, and related correspondence and documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. at the Swen Library, College of William and Mary, Williamsburg, Virginia 23185.

Dated at Washington, D.C. this 12th day of September, 1974.

For the Atomic Energy Commission.

GORDON M. GRANT,
Acting Secretary of the Commission.

[FR Doc.74-21518 Filed 9-16-74;8:45 am]

COMMISSION ON CIVIL RIGHTS

DISTRICT OF COLUMBIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the District of Columbia Advisory Committee will convene at 6:30 p.m. on October 4, 1974,

in the Fifth Floor Conference Room, U.S. Commission on Civil Rights, 1121 Vermont Avenue NW., Washington, D.C. 20425.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Mid-Atlantic Regional Office of the Commission, Room 510, 2120 L Street NW., Washington, D.C. 20037.

The purpose of this meeting shall be to plan activities to be undertaken by the District of Columbia Advisory Committee during FY 1975.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., September 11, 1974.

ISAIAH T. CRESWELL, Jr.,
Advisory Committee Management Officer.

[FR Doc.74-21444 Filed 9-16-74;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 264-8; FIFRA Docket No. 246, et al.]

CHAPMAN CHEMICAL CO., ET AL.

Notice of Place of Hearing

The public hearing in the above matter, relating to cancellation of registrations of pesticides containing mercury, which has been set to commence on October 1, 1974, at 9:30 a.m., will be held in EPA Conference Room number 3305, Waterside Mall, 401 M Street SW., Washington, D.C.

The hearing will convene at the above time and place but thereafter may be moved to a different place and may be continued from day to day or recessed to a later date without other notice than announcement thereof at the hearing.

BERNARD D. LEVINSON,
Administrative Law Judge.

SEPTEMBER 12, 1974.

[FR Doc.74-21499 Filed 9-16-74;8:45 am]

[FRL 263-4]

LAKE MICHIGAN COOLING WATER STUDIES PANEL

Notice of Meeting

Pursuant to Public Law 92-463, notice is given that a meeting of the Lake Michigan Cooling Water Studies Panel will be held at 9:30 a.m. on Tuesday, October 1, 1974, at the O'Hare Inn, Mannheim and Higgins Roads, Rosemont, Illinois.

The purpose of this meeting is to discuss the Priority List for the Program Report, the final draft of the Program Report, and future tasks for the panel.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Executive Secretary, Mr. William D. Franz, Environmental Protection Agency, Region V, Federal Activities Branch, 1 North Wacker Drive, Chicago, Illinois 60606. The telephone number is area code 312-353-5757.

JOHN QUARLES,
Acting Administrator.

SEPTEMBER 12, 1974.

[FR Doc.74-21513 Filed 9-16-74;8:45 am]

[FRL 264-1; OPP-32000/112]

NOTICE OF RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the Federal Register a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-37, East Tower, 401 M Street, SW., Washington, D.C. 20460.

On or before November 18, 1974, any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street, SW., Washington, D.C. 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after November 18, 1974.

APPLICATIONS RECEIVED

EPA File Symbol 8959-RI. Applied Biochemists, Inc., PO Box 25, Mequon WI 53092. *TOWERTRINE.* Active Ingredients: Polyoxyethylene (dimethyliminio) ethylene (dimethyliminio) ethylene dichloride 21.60%; Copper as elemental 3.15%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 10878-E. Brazen of Minneapolis, Inc., PO Box 1123, Minneapolis MN 55440. VAPAM. Active Ingredients: Sodium methyl dithiocarbamate (anhydrous) 32.7%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 15297-L. Bio-Derm Laboratories, Inc., PO Box 8070, 717 Eastman Rd., Longview TX 75601. STEWART GROOM SHAMPOO FOR HORSES AND CATTLE. Active Ingredients: Pyrethrins 0.045%; Piperonyl Butoxide technical 0.090%; N-Octyl Bicycloheptene Dicarboximide 0.150%; Petroleum Distillate 0.215%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 15297-U. Bio-Derm Laboratories, Inc., PO Box 8070, 717 Eastman Rd., Longview TX 75601. STEWART GROOM SHAMPOO FOR CATS AND DOGS. Active Ingredients: Pyrethrins 0.045%; Piperonyl Butoxide, technical 0.090%; N-Octyl Bicycloheptene Dicarboximide 0.150%; Petroleum Distillate 0.215%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 419-RIG. Cenol Company, Division of Burgess Vibrocrafters, Inc., PO Box 177, Libertyville IL 60048. CENOL KILL QUICK CONCENTRATE. Active Ingredients: +(5-Benzyl-3-furyl)methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 3.000%; Related compounds 0.409%; Aromatic petroleum hydrocarbons 3.971%; Petroleum distillate 92.500%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 100-LAT. Ciba-Geigy Corp., PO Box 11422, Greensboro NC 27409. CIBA-GEIGY METHIDATHION 50S. Active Ingredients: Methidathion: O,O-dimethyl phosphorothioate, S-ester with 4-(mercaptomethyl)-2-methoxy-Δ-1,3,4 - thiadiazolin-5-one 50.0%; Aromatic petroleum derivative solvent 47.4%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 239-EUEO. Chevron Chemical Co., Ortho Div., 940 Hensley St., Richmond CA 94804. ORTHO HI POWER INDOOR INSECT FOGGER. Active Ingredients: Pyrethrins 0.50%; Piperonyl Butoxide 1.00%; N-octyl bicycloheptene dicarboximide 1.67%; Petroleum distillate 11.83%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 4715-160. Colorado International Corp., 5321 Dahlia St., Commerce City CO 80022. BEST 4 SERVIS BRAND METHYL PARATHION NO. 4. Active Ingredients: O,O-dimethyl O-p-nitrophenyl thiophosphate 44.0%; Xylene 51.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 14800-A. Echol Chemical Formulators, Inc., PO Box 1765, Lakeland FL 33802. MICRONIZED NUTRITIONAL SPRAY NO. 2. Active Ingredients: Copper as elemental 16.3%; Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34852-R. Eucalyptus Laboratories, Eucalyptus Research, PO Box 4301, Carmel CA 93921. KOALA KOLLAR-2. Active Ingredients: 2,2-Dichlorovinyl dimethyl phosphate 1.5%; Related compounds 0.3%; Pyrethrins 0.4%; Piperonyl butoxide, technical 1.5%; Essential oils 2.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34852–E. Eucalyptus Laboratories, Eucalyptus Research, PO Box 4301, Carmel CA 93921. KOALA KOLLAR–3. Active Ingredients: Methoxychlor, Technical 3.5%; Essential Oils 2.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 4816–72. FMC Corp., 100 Niagara St., Middleport NY 14105. BUTACIDE TECHNICAL PIPERONYL BUTOXIDE. Active Ingredients: (Butylcarbityl) (6-propylpiperonyl) ether (Piperonyl Butoxide) 80%; Related compounds 20%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA Reg. No. 279–2038. FMC Corp., Agricultural Chemical Div., 100 Niagara St., Middleport NY 14105. PERTHANE 4.0 EC. Active Ingredients: 1,1-Bis(ethylphenyl)-2,2-dichloroethane 43.00%; Related reaction products 5.90%; Aromatic petroleum soivent 45.00%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 32513–E. Holiman Equipment & Chemical Co., PO Drawer 3768, 419 Dory St., Jackson MI 39202. HECO–SEP–1382–5.00. Active Ingredients: + (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyi) cyclopropanecarboxylate 5.000%; Related compounds 0.681%; Aromatic petroleum hydrocarbons 6.619%; Petroleum distiiiate 87.500%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 32513–G. Holiman Equipment & Chemical Co. HECO SEP–1382–3.0. Active Ingredients: + (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3-(2-methylpropenyl) cyclopropanecarboxylate 3.000%; Related compounds 0.409%; Aromatic petroleum hydrocarbons 3.971%; Petroleum distiiiate 92.500%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 32513–R. Holiman Equipment & Chemical Co. HECO SBP–1382 ULV INSECTICIDE 4.22. Active Ingredients: + (5-Benzyl-3-furyl) methyl 2,2-dimethyl-3 - (2 - methylpropenyl) cyclopropanecarboxylate 4.22%; Related compounds 0.57%; Aromatic petroleum hydrocarbons 5.59%; Mineral oil 89.45%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34860–R. Hvac Services, Inc., PO Box 112, Timonium MD 21093. HVAC ALGAECIDE #102. Active Ingredients: Disodium cyanodithioimidocarbonate 3.18%; Ethylenediamine 1.20%; Potassium N-methyldithiocarbamate 4.37%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 2342–OUO. Kerr-McGee Chemical Corp., Kerr-McGee Center, Oklahoma City OK 73125. TUMBLEAF COTTON DEFOLIANT. Active Ingredients: Sodium Chlorate 56.3%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 12367–U. Lich Paper and Chemical Co., 929 Fifth Ave., McKeesport PA 15132. FOOD PLANT FOGGING INSECTICIDE. Active Ingredients: Pyrethrins 0.5%; Piperonyl Butoxide, Technical 4.0%; Petroleum Distiiiate 95.5%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 12367–G. Lich Paper & Chemical Co., LICO GENERAL PURPOSE INSECTICIDE SPRAY. Active Ingredients: Pyrethrins 0.1%; Piperonyl Butoxide, Technical 0.8%; Petroleum Distiiiate 99.1%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 12367–L. Lich Paper and Chemical Co. LICO WASP & HORNET KILLER NO. 1. Active Ingredients: Pyrethrins 0.075%; Piperonyl Butoxide, Technical 0.188%; Carbaryl (1-Naphthyl N-Methylcarbamate) 0.500%; Petroleum Distiiiate 24.237%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34854–R. Murati Chemicals Inc., PO Box 1 Guaynabo, Puerto Rico 00657. MALATHION 82% EMULSIFIABLE INSECTICIDE. Active Ingredients: Malathion (0,0-Dimethyl Phosphoroditioate of Diethyl mercaptosuccinate) 82%. Method of Support: Application proceeds under 2 (c) of interim policy.

EPA File Symbol 1020–EN. Oakite Products, Inc., 50 Valley Rd., Berkeley Heights NJ 07922. BIOCIDE 30. Active Ingredients: 2 - (Thiocyanomethylthio) benzothiazole 3.2%; 2-Hydroxypropyl methanethiolsulfonate 2.8%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 34861–R. Oregon Pool Chemicals, PO Box 4261, Madison WI 53711. AQUA-QUAT ALGACIDE FOR SWIMMING POOLS. Active Ingredients: Methyldodecylbenzyl trimethyl ammonium chloride (80%) methyldodecylxylene bis (trimethyl ammonium chloride) (20%) 10%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34861–E. Oregon Pool Chemicals. POOL-ITE SODIUM HYPOCHLORITE SOLUTION FOR SWIMMING POOLS. Active Ingredients: Sodium Hypochlorite 12%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34861–U. Oregon Pool Chemicals. TRI-ZINE DRY CHLORINE FOR SWIMMING POOLS. Active Ingredients: Sodium Dichloro-s-triazinetrione Dihydrate 97%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 483–RAE. Pacific Supply Cooperative, PO Box 3588, Portland OR 97208. PACIFIC VIDDEN D SOIL FUMIGANT. Active Ingredients: 1,3-Dichloropropene, 1,2-Dichloropropane and related chiorinated aliphatics 99%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 483–RAG. Pacific Supply Cooperative, PO Box 3588, Portland OR 97208. PACIFIC TELONE SOIL FUMIGANT. Active Ingredients: 1,3-Dichloropropene and related chlorinated aliphatics 99%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 478–II. Realex Corp., PO Box 78, Kansas City MO 64141. REAL-KILL EXTRA STRENGTH FORMULA ROACH & ANT KILLER. Active Ingredients: Pyrethrins 0.045%; n-octyle suifoxide of isosafrole 0.132%; related compounds 0.018%; chlorpyrifos [O,O-diethyi O-(3,5,6-trichloro - 2 - pyridyl) phosphorothioate], 0.500%; petroieum distiiiate 96.272%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 11547–GU. Share Corp., PO Box 9, Brookfield WI 53005. MOSQUITO AND FLY CONTROL AND LARVICIDE. Active Ingredients: Heavy Aromatic Naphtha 85.91%; Methoxychlor, Technical 4.69%; Malathion 3.14%; 2,2-dichlorovinyl dimethyl phosphate 1.17%; Related compounds 0.09%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34861–G. Spectra-Chem, Inc., PO Box 4261, Madison WI 53711. SPECTRA–SAN. Active Ingredients: Methyldodecylbenzyl trimethyl ammonium chloride (80%) methyldodecylxylene bis (trimethyl ammonium chloride) (20%) 5.0%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 998–RRT. Superior Chemical Products Inc., 3942 Frankford Ave., Phila. PA 19124. SUPERIOR TEX 4 FOR CONTROL OF MOSQUITO LARVAE, MOSQUITOES, HOUSE FLIES. Active Ingredients: Fenthion 0,0-Dimethyl 0-[3-methyl-4-(methylathio) Phenyl] phosphorothioate 45%; Aromatic Petroleum Distiiiate 47%. Method of Support: Application. proceeds under 2(c) of interim policy.

EPA File Symbol 148–RRTU. Thompson-Hayward Chemical Co., 5200 Speaker Rd., Kansas City KS 66106. BIOTROL–SULFUR 250–75 DUST. Active Ingredients: Sulfur 75.00%; Bacillus thuringiensis Berliner 0.05%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34855–R. H. C. Timm Co., 2044 Rockwood St., New Holstein WI 53061. CALUMET READY-TO-USE RAT AND MOUSE KILLER. Active Ingredients: Sulfaquinoxaline (N -(2-quinoxaiinyl) sulfanilamide 0.025%; Warfarin, 3 (a-acetonylbenzyl) -4-hydroxycoumarin 0.025%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 5135–EE. Universal Oil Products Co., Water Services Div., 700 S. Flower St., Burbank CA 91502. M–50 ALGAECIDE. Active Ingredients: Disodium cyanodithioimidocarbonate 3.18%; Ethylenediamine 1.20%; Potassium N-methyldithiocarbamate 4.37%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 10562–RE. Vasco Chemical Co., Inc., PO Box 238, Hanford CA 93230. VASCO GENERAL PURPOSE AQUEOUS INSECTICIDE. Active Ingredients: Pyrethrins 0.1%; Piperonyl Butoxide, Technical 1.0%; Petroleum distiiiate 0.4%. Method of Support: Application proceeds under 2(c) of interim policy.

EPA File Symbol 34859–R. Wayne Chemical, Inc., 2014 S. Calhoun St., Fort Wayne IN 46804. WC–4100 ALGAECIDE. Active Ingredients: Poly[oxyethylene(dimethyliminio) ethylene(dimethyliminio) -ethylene dichloride] 15.0%. Method of Support: Application proceeds under 2(b) of interim policy.

EPA File Symbol 7547–RO. Western Chemical Co., 1345 Taney, North Kansas City MO 64116. ALGAE AND SLIME CONTROL BC. Active Ingredients: 2-(Thiocyanomethylthio) benzothiazole 32.0%; 2-Hydroxypropyl methanethiolsulfonate 28.0%. Method of Support: Application proceeds under 2(b) of interim policy.

Dated: September 10, 1974.

MARTIN H. ROGOFF,
Acting Director,
Registration Division.

[FR Doc.74–21509 Filed 9–16–74;8:45 am]

[FRL 264–7; OPP–30001]

INTRASTATE PESTICIDES

Notice Concerning Federal Requirements for Registration

A notice of implementation of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended by the Federal Environmental Pesticide Control Act of 1972 (FEPCA, Public Law 92–516), published in the FEDERAL REGISTER on January 9, 1973 (38 FR 1144), stated in part that "intrastate shipments will be allowed to the same extent as under prior law and will, until such time as Section 3 is operable, be subject to regulations under state law."

New regulations concerning registration and classification of all pesticides (interstate and intrastate) to implement

the provisions of section 3 of FIFRA will be promulgated on or before December 1, 1974, in accordance with section 4(c) of the FEPCA. Many questions have been raised about the status, after final promulgation of these regulations, of pesticides now in compliance with State laws and distributed intrastate. Following the effective date of regulations under section 3, it will take a considerable period of time for the Agency to reach a final determination concerning all such pesticides for which Federal registration is sought. To provide for a smooth and orderly transition from State requirements to Federal registration of these products, the policy of this Agency is as follows.

A. *Pesticides Currently Registered Under State Laws.* Registrants of Products registered by States as of the effective date of the regulations under Section 3 will be required to submit within 60 days of that date, on forms provided by the Agency, for each affected product, notice of application for Federal Registration. This form will include:

The name and mailing address of the registrant.
The State in which the product is registered.
The State registration number of the product.
The product name.
A list of the product's active ingredients in descending order of concentration.
The type and broad use pattern of the product.

Those registrants who submit such notice will then be notified by the Agency, on an orderly basis over the period from December 1974 to October 21, 1976, when to submit full application statements for new registration, including required supporting data. A product with an active State registration as of the effective date of regulations under Section 3, and for which notice of application for Federal registration has been received by the Agency, may continue to be shipped intrastate pursuant to the applicable State regulations until the Agency takes final action on the full application for Federal registration. If no notice of application is submitted within 60 days as provided above, shipment of an attached product after the 60 day period following promulgation of regulations under Section 3 would constitute a violation of the registration requirements of the FIFRA.

Registrants of products now registered by a State should not submit a full application statement for Federal registration until after final promulgation of regulations under Section 3. No final action is contemplated on applications for registration of such intrastate pesticides recently received or which may be submitted prior to the issuance of these regulations.

B. *Products Classed As Pesticides Under FIFRA But Not Under Applicable State Laws.* This Agency understands that there may be products currently in intrastate commerce which are considered pesticides under amended FIFRA, but not under applicable State law, e.g. certain sanitizers and disinfectant-type products. For such products, the abbreviated notice of application for Federal registration will not be adequate to allow continued shipment. For such products, full application for Federal registration should be submitted immediately. Shipment of such pesticides in the absence of final Federal registration will be in violation of FIFRA after the effective date of regulations under section 3.

C. *Pesticides Which Have Been Denied Federal Registration Or Which Have Been Suspended Or Cancelled.* State registered products containing chemicals and bearing directions for uses that have been the subject of denial or suspension actions by the Agency, or which have been cancelled for substantive causes, such as hazard to the environment or human health, or absence of tolerances under the Food, Drug and Cosmetic Act, will be in violation of the FIFRA registration requirements as of the effective date of the section 3 regulations. However, this will not bar persons desiring to register such pesticides from applying to the Agency for new registration pursuant to Section 3 of the FIFRA, as amended, and the regulations thereunder. Before undertaking to submit such a registration request such applicants would be well advised to familiarize themselves with the reasons previously given by the Agency for suspending or cancelling similar products in order to determine whether these reasons apply equally well under today's circumstances to the product for which registration is now proposed.

D. *State Authority To Register New Products.* A State may not issue registrations for new products after the effective date of section 3 regulations except insofar as such registration is performed under a program approved under regulations for section 24(c) of FIFRA as amended, which are also to be promulgated in December 1974. However, States may renew a registration provided that (1) the State registration was in effect on the effective date of Section 3 regulations and (2) the intrastate registrant has submitted a notice of application for Federal registration as prescribed in paragraph (a) above.

Dated: September 11, 1974.

JAMES L. AGEE,
Assistant Administrator for Water and Hazardous Materials.

[FR Doc.74-21504 Filed 9-16-74;8:45 am]

FEDERAL MARITIME COMMISSION

PACIFIC COAST-AUSTRALASIAN TARIFF BUREAU

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y. New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 7, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

A. H. Eber, Secretary
Pacific Coast-Australasian Tariff Bureau
635 Sacramento Street
San Francisco, California 94111

Agreement No. 50-29, entered into by the member lines of the Pacific Coast-Australasian Tariff Bureau, modifies Articles XIX of the basic conference agreement, as amended, entitled "Expenses" to provide that (1) dues and assessments levied against the parties shall be payable within a reasonable time upon receipt of billing, but in no case later than 45 days thereafter; and (2) any member line which for any reason becomes delinquent in payment of dues and assessments shall not be entitled to vote on rate or other conference matters during the period of delinquency.

Dated: September 12, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74-21500 Filed 9-16-74;8:45 am]

PACIFIC-STRAITS CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Fed-

eral Maritime Commission, Washington, D.C. 20573, on or before September 27, 1974. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act of detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

H. R. Rollins, Secretary
Pacific-Straits Conference
635 Sacramento Street
San Francisco, California 94111

Agreement No. 5680–N, of the member lines of the Pacific-Straits Conference (Agreement No. 5680, as amended) with Phoenix Container Liners, Ltd., covers an arrangement for the admission and participation of the latter carrier as an associate member of the conference, under the terms and conditions set forth in the agreement.

Dated: September 11, 1974.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.74–21501 Filed 9–16–74;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. E–8755]

CENTRAL KANSAS POWER CO.

Tender of Revised Fuel Clause

SEPTEMBER 10, 1974.

Take notice that on September 3, 1974, Central Kansas Power Company tendered for filing a proposed fuel clause for application to its Rate Schedule SEC–1–EXCESS. By order issued July 2, 1974, the Commission rejected the proposed fuel clause that Central Kansas Power Company had tendered in association with Rate Schedule SEC–1–EXCESS. Central Kansas Power Company requests an effective date of July 3, 1974, for the proposed fuel clause.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 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 filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–21414 Filed 9–16–74;8:45 am]

[Docket No. CP73–329]

CHATTANOOGA GAS CO.

Amendment to Application

SEPTEMBER 10, 1974.

Take notice that on August 9, 1974, Chattanooga Gas Company, a Division of Jupiter Industries, Inc. (Applicant), 811 Broad Street, Chattanooga, Tennessee 37402, filed in Docket No. CP73–329 an amendment to its application pending in said docket pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of liquefied natural gas (LNG) or vaporized LNG in interstate commerce from facilities in Chattanooga, Tennessee. The original application is amended to request additional authorization to operate Applicant's existing LNG facility located in Chattanooga in interstate commerce, all as more fully set forth in the amendment to the application, which is on file with the Commission and open to public inspection.

By this amendment, Applicant seeks authority to make sales of LNG for resale in interstate commerce during the 1974–1975 heating season in addition to those for which authority was sought in the original application and for authority to make the additional sales under the temporary certificate issued to Applicant by letter order dated November 1, 1973.

Applicant states that it requests permission to make the sales of LNG proposed herein in order to assure energy supplies for winter peak loads of residential and small commercial consumers. Estimated winter sales are as follows:

Customer:	*Million Btu*
Austell Natural Gas System	74,400
Dekalb-Cherokee Gas District	19,000
Fort Hill Natural Gas Authority	16,500
Springfield Gas System	6,000
East Tennessee Natural Gas Co.	[1] 469,212
South Jersey Gas Company	265,000
United Cities Gas Company	40,000

[1] Vaporized LNG storage service sale.

Applicant's current effective adjusted winter rate per million Btu equivalent of LNG ranges from approximately $2.40 to $2.64 depending upon the month of sale. The sales to East Tennessee Natural Gas Company will be made at $1.73 per million Btu.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 26, 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. Persons who have heretofore filed petitions to intervene and protests need not do so again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–21421 Filed 9–16–74;8:45 am]

[Docket No. RP72–142]

CITIES SERVICE GAS CO.

Order Granting Rehearing and Amending Prior Order

SEPTEMBER 10, 1974.

On August 15, 1974, Cities Service Gas Company (Cities Service) filed an Application for Clarification, Reconsideration or Rehearing of our order of July 22, 1974 in the above captioned docket. By that order, we accepted for filing and suspended Cities' proposed alternate tariff sheet [1] reflecting an increase of 3.70¢ per Mcf in Cities' cost of purchased gas. The basis for this suspension was that the increase reflected purchases from small producers at rates in excess of the national area rate established by Opinion No. 699.[2]

Cities states in its application that if the purchases from small producers at rates in excess of the rate established by Opinion No. 699 are eliminated, the decrease in the PGA increase would be only 0.31¢ per Mcf. Cities requests the Commission to permit the amounts reflected in its PGA increase exclusive of the amounts attributable to these small producer purchases in excess of the natural area rate to become effective without refund obligation.[3]

We believe that this action would be appropriate and we shall direct Cities to file a revised tariff sheet to be effective as of July 23, 1974, that reflects only costs other than the costs associated with small producer purchases at rates in excess of the rates established by Opinion No. 699. The increased charges reflected by this filing should be recorded and recovered pursuant to the deferred accounting provisions in Cities PGA clause.

The Commission finds: Good cause exists to grant rehearing of our order of July 22, 1974 as hereinafter ordered.

The Commission orders: (A) Within 15 days from the issuance of this order, Cities shall file a revised tariff sheet to be effective as of July 23, 1974 that re-

[1] Eighth Revised Sheet PGA–1 to Second Revised Volume No. 1.

[2] Docket No. R–389 issued June 21, 1974.

[3] See *Mid Louisiana Gas Company*, Docket No. RP73–43, issued July 31, 1974, *Texas Gas Transmission Company*, Docket No. RP72–156, issued July 31, 1974; *Texas Eastern Transmission Corporation*, Docket No. RP–72–98, issued August 23, 1974.

flects only costs other than costs associated with small producer purchases at rates in excess of the rates established by Opinion No. 699.

(B) In all other respects, our order of July 22, 1974 shall remain in full force and effect.

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

By the Commission.

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

[FR Doc.74-21410 Filed 9-16-74;8:45 am]

[Docket No. G-7007]

CITIES SERVICE OIL CO.

Petition To Amend

SEPTEMBER 10, 1974.

Take notice that on August 16, 1974, Cities Service Oil Company (Petitioner), Box 300, Tulsa, Oklahoma 74102, filed in Docket No. G-7007 a petition to amend the order of the Commission issued in the subject docket on October 29, 1964, as amended July 11, 1969, pursuant to section 7(c) of the Natural Gas Act by extending authorization for the release of up to 3,000 Mcf of gas per day from volumes certificated in the instant docket in order to allow delivery of such released volumes to The Columbian Division of Cities Service Company (formerly Columbian Carbon Company) for use in the manufacture of carbon black at the latter's Hickok Plant located in Grant County, Kansas, for an additional five-year period, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order issued October 29, 1964, in the instant docket the Commission authorized the release of up to 8,000 Mcf of gas per day from volumes previously certificated in said docket in order to allow delivery of such gas to Columbian Carbon Company for a five-year period which ended October 29, 1969. Petitioner states further that by Commission order issued July 11, 1969, this release authorization was extended an additional five years until October 29, 1974, and provided for the release for volumes of up to 5,000 Mcf per day.

The petition indicates that The Columbian Division of Cities Service Company (Columbian) has advised Petitioner that it has a continuing need for supplies of natural gas and has requested that Petitioner make available to it up to 3,000 Mcf of gas per day for an additional period of five years. The petition further indicates that by letter agreement dated June 4, 1974, Cities Service Gas Company has agreed to release up to 3,000 Mcf per day for delivery to Columbian's Hickok Plant for a term of five years from October 29, 1974; however, Cities Service Gas Company reserves the right to curtail, interrupt or discontinue the release of such gas at any time if it deems such action is essential to maintaining service to higher priority gas customers.

Columbian indicates that natural gas and low gravity residual oil are raw materials required for the manufacture of its carbon black products. Columbian's products are described as relatively low surface area furnace-type carbon blacks with unique properties required in specific applications. The petition states that the balance of such production is used in specialized rubber compounds and at the present time the Hickok Plant provides about 15 percent of total industry requirements for these applications.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 30, 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.74-21413 Filed 9-16-74;8:45 am]

[Docket Nos. E-7631; E-7633; E-7713]

CITY OF CLEVELAND, OHIO AND CLEVELAND ELECTRIC ILLUMINATING CO.

Order Denying City of Cleveland's Motion, Scheduling Certain Issues for Hearing and Directing City To Respond to Allegations Proffered by Cleveland Electric Illuminating Company

SEPTEMBER 10, 1974.

On August 6, 1974, the City of Cleveland, Ohio (City) filed a motion with the Federal Power Commission seeking an order directing the Cleveland Electric Illuminating Company (CEI) to comply with the Commission's Opinion Nos. 644 and 644-A. Response from the CEI was received on August 21, 1974, and reply thereto by the City was received on August 27, 1974.

The City states in its motion that the 69 kv temporary, open-switch interconnection ordered in Opinion Nos. 644 and 644-A is "* * * in place and ready for operation in accordance with the Commission's orders." The CEI in its response states that on July 11, 1974, at the City's request, it began service at 69 kv, and except for the period July 15, to July 18, has continued service thereafter.

The City states that the CEI is serving the 69 kv interconnection "* * * as a load transfer point similar to the five existing 11 kv load transfer points * * *" and alleges that such treatment does not comply with the prior Commission orders; results in an unwarranted economic burden on the City and on its customers; and asks for an order to the Company to comply with the previous orders.

While the City's motion is not clear on this point, it appears that its complaint is that the CEI is serving an isolated portion of the City's load at 69 kv, but will not agree to operate the two systems in parallel through the 69 kv interconnection when the interconnection is closed.[1]

The CEI states with respect to the 69 kv interconnection, that it has complied fully with all previous opinions and orders; that it has rendered 11 kv load transfer service since May 6, 1974; and that the motion appears to be an attempt to modify previous orders to provide a synchronous rather than non-synchronous interconnection.

The issue raised by the City of parallel operation after closing the 69 kv emergency interconnection had not been previously specifically raised for discussion by the Presiding Administrative Law Judge, so far as can be determined at this time, and was not addressed in Commission orders. Thus, there is no obvious answer to the question of whether the Company is complying with such orders.

Testimony of witness relating to the 69 kv interconnection dealt almost exclusively with whether or not the two systems should operate continuously interconnected at 69 kv (parallel operation) or whether, alternatively, the switch should remain open until an emergency occurred. The Judge considered this problem and adopted Staff and CEI's recommendations that the connection should under normal, nonemergency conditions, operate as an "open switch, nonsynchronous interconnection" until the permanent 138 kv interconnection is operational. The City recommended normally-closed operation.

In its motion (p. 4), the City asserts that "the only apparent motive for CEI's refusal to comply with the Commission's orders is to be found in the house-to-house competition for customers between CEI and the City." CEI responds that after closing the 69 kv switch, Company power is delivered to a bus at the City's Lake Road Plant, and is then transmitted by City lines to the City's Collinwood substation where "* * * the City is free to deliver the power to any customer or facilities that it chooses." In its reply, the City asserts that it "* * * has no control under such circumstances over the flow of energy. The energy goes directly to the customers from CEI.

The City also alleges (p. 2) that is being forced by the current mode of operation of the 69 kv interconnection point to "* * * take more energy than it would otherwise be required to take, thereby imposing a greater financial burden on the City * * *," and that treating the 69 kv interconnection point as a load transfer point "* * * forces isola-

[1] The City's motion avoids any direct description of what it refers to as "load transfer" service as well as just what mode of operation it would prefer.

tion of the City's Collinwood substation from the City's generation with the result that the City is required to transfer from 13 to 18 mw of load to CEI although the City needs only a few mw during the peak period." The CEI responds that the operation of the interconnection conforms to the orders of the Commission; that the rates in strict accordance with these orders are being changed; and that it believes its rates for off-peak energy are not significantly different from the cost of oil for the City's gas turbines. The City does not address this assertion in its reply.

The CEI responses states that it is indeed complying fully with the Commission's orders, but that the City is not, in that the City did not on July 11, 1974 fully utilize its three gas turbines before requesting 69 kv service. The City states that the gas turbines "* * * were on the line * * *" when the switch was closed. The CEI further claims that the City has not further complied with the Commission's order of April 8, 1974, in that the City has failed to improve the condition of its electric system and that there has been further deterioration. The City did not respond to this allegation.

During the July 18, 1974, system disturbance on the City's system, the details of which were reported to the Commission on July 19, 1974, even though the City has over 200 mw of installed capacity (about 120 mw without the large 85 mw unit. Only 56 mw of capacity were operable following the shutdown of the large unit. The Commission's order of March 18, 1972, requires that the City refurnish and maintain in good operating condition its own generation facilities thereby maximizing their use.

The response of CEI also indicate that it transmitted on February 7, 1974, a draft interconnection agreement covering essential aspects of the permanent 138 kv interconnection not covered by Commission's orders, and that the City has not responded; and that the CEI concludes that such lack of response "* * * can only be construed as an indication that the City does not intend to complete the interconnection by January 1975, in compliance with the Commission's orders." The City did not respond in its reply.

In its response the CEI alleges that the City owes it a total of $1,191,149.69, evidently consisting of the unpaid amount for load transfer service as shown by the Company's bill to the City transmitted to the Secretary by letter of August 8, 1974, for $1,128,640.15 plus $213,200 for 69 kv service through July 31, 1974, less payment on August 15, 1974, of $150,-149.69. CEI further alleges that after depositing in escrow $739,987.55 representing an amount in dispute, the City must deposit an additional $30,388.97 in that account, to equal the correct unpaid amount relative to service through June 28, 1974. The remaining approximately $400,000 which the Company says is owed to it by the City evidently represents load transfer and 69 kv service in July 1974. The Company requests that the City be directed to add this amount to the escrow account. The City did not respond in its allegation.

The CEI notes further in its response that by reason of a decision of the Ohio Board of Tax Appeals there "* * * can no longer be any dispute * * *" as to applicability of the Ohio Excise Tax to sales to the City and that "* * * the City should now be required to pay directly to CEI all amounts due and owing with respect to the gross receipts tax." The City did not respond in its reply.

The Commission orders: (A) The motion filed by the City of Cleveland, Ohio, seeking an order directing the Cleveland Electric Illuminating Company to comply with the Commission's Opinion Nos. 644 and 644–A, is hereby denied.

(B) It is further directed that a hearing will be instituted for the limited purpose of:

(a) Determining the appropriate mode of operation of City's and CEI's electric systems after closing the 69 kv temporary interconnection;

(b) Establishing the nature and extent to date of repairs of the City's generating units and boilers, and plans for further repair; and

(c) Establishing the status of the permanent 138 kv interconnection.

(C) The City of Cleveland, Ohio, is hereby ordered to respond within 15 days from the issuance of this order to the CEI's request that the City be:

(i) Directed to increase the escrow account by $30,388.97; and

(ii) Required to pay to the Company all gross receipts taxes owed the Company.

By the Commission.

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

[FR Doc. 74–21408 Filed 9–16–74;8:45 am]

[Docket No. E–8996]

CONNECTICUT LIGHT AND POWER CO.

Proposed Rate Schedule

SEPTEMBER 10, 1974.

Take notice that on August 29, 1974, Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule for service by CL&P. The Hartford Electric Light Company (HELCO), and Western Massachusetts Electric Company (WMECO) to Montaup Electric Company (Montaup). The agreement entered into by those parties on August 7, 1974 proposes that CL&P, HELCO, and WMECO make available to Montaup 20.6368% of the available capacity of eleven gas turbine generating units at Cos Cob (Greenwich, Connecticut), South Meadow (Hartford, Connecticut), and Silver Lake (Pittsfield, Massachusetts), during the period starting September 1, 1974 and ending October 31, 1974, together with related transmission service.

CL&P states that the capacity charge for the proposed service was developed on a cost of service basis; the monthly transmission charge is equal to one-twelfth of the estimated annual average unit cost of transmission service multiplied by the number of kilowatts of winter capability which Montaup is entitled to receive, and the variable maintenance charge was arrived at through negotiations.

CL&P states that the amounts of gas turbine capacity that could be purchased by Montaup during the period of the purchase agreement were affected by the terms of the New England Power Pool (NEPOOL) Agreement and the questions as to Montaup capability responsibility obligation thereunder delayed execution of the agreement to a date which prevented the filing of such rate schedule more than 30 days prior to the proposed effective date. CL&P therefore requests the Commission to waive its 30-day notice period and permit the rate schedule to become effective on September 1, 1974.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 20, 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.74–21420 Filed 9–16–74;8:45 am]

[Docket No. RP72–134]

EASTERN SHORE NATURAL GAS CO.

Notice of Purchased Gas Cost Adjustment to Rates and Charges

SEPTEMBER 10, 1974.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on August 28, 1974, tendered for filing First Substitute Ninth Revised Sheet No. 3A and First Substitute Ninth Revised PGA–1 to its FPC Gas Tariff, Original Volume No. 1 to become effective October 1, 1974. The proposed changes would increase revenues from jurisdictional sales and service by approximately $23,148 annually based on sales for the 12-month period ending July 31, 1974.

Pursuant to the Purchased Gas Adjustment Clause contained in its tariff, Eastern Shore proposes to increase the commodity or delivery charges in its rate schedules CD–1, CD–E, G–1, PS–1, E–1 and I by 0.8c per Mcf, equivalent to the increases in the similar rates of its sole supplier, Transcontinental Gas Pipe Line Corporation, as contained in the latter's filing in Docket No. RP73–3 dated August 15, 1974. Eastern Shore requests waiver of the notice requirements of § 154.22 of the regulations under the Natural Gas Act and § 20.2 of the Gen-

eral Terms and Conditions of its Tariff, to the extent necessary, to permit the proposed tariff sheets to become effective as of October 1, 1974, coincident with the proposed effective date of Transcontinental's rate changes.

Copies of the filing have been mailed to each of the Company's jurisdictional customers and to interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 18, 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 available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-21405 Filed 9-16-74;8:45 am]

[Docket No. CI75-114]

FRANKS PETROLEUM INC., ETC.

Application

SEPTEMBER 10, 1974.

Take notice that on August 22, 1974, Franks Petroleum Inc. (Operator), et al. (Applicant), P.O. Box 7665, Shreveport, Louisiana 71107 filed in Docket No. CI75-114, for an application for a certificate of public convenience and necessity pursuant to § 2.75 of the Federal Power Commission's rules of practice and procedure to authorize Applicant to sell natural gas from the well in the Mt. Olive Field, Union Parish, Louisiana to United Gas Pipe Line Company. The proposed sale will be at an initial rate of 80 cents per Mcf for the gas produced from the three wells included in the application. The complete details of the sale of the subject gas are set out more fully in the application on file with the Federal Power Commission.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 4, 1974, file with the Federal Power Commission, Washington, DC 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 party 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.74-21395 Filed 9-16-74;8:45 am]

[Docket No. CS71-179]

HERMAN GEO. KAISER, ET AL.

Petition To Amend and for Waiver of Regulations

SEPTEMBER 10, 1974.

Take notice that on August 28, 1974, Herman Geo. Kaiser (Operator), et al. (Petitioner), 4120 East 51st Street, Tulsa, Oklahoma 74135, filed in Docket No. CS71-179 a petition for waiver in part of §§ 157.40(c) of the regulations under the Natural Gas Act (18 CFR 157.40(c)) so as to permit the sale of natural gas under his small producer certificate from reserves acquired in place from large producers, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner states that effective March 1, 1974, Gulf Oil Corporation assigned to Petitioner a 40 percent interest, to Francis Oil and Gas, Inc., a 40 percent interest, and to Fell and Wolfe Oil Company, a 20 percent interest in the Faleta Royal Unit, Bechtold Tonkawa Field, Lipscomb County, Texas, from which Petitioner proposes to continue the sale of approximately 778 Mcf of gas per month to Northern Natural Gas Company heretofore authorized to be made pursuant to Gulf's FPC Gas Rate Schedule No. 261. Petitioner states further that effective July 1, 1973, National Helium Corporation assigned to Kaiser-Francis Special Account "A"[1] a 4/7 interest[2] in the Vamum "A" Unit, North Avard Field, Woods County, Oklahoma, from which Petitioner proposes to continue the sale of approximately 162 Mcf of gas per month to Panhandle Eastern Pipe Line Company heretofore authorized to be made pursuant to National Helium's FPC Gas Rate Schedule No. 1. Finally Petitioner states that effective September 1, 1973, he acquired the interests of First Transportation Gas Company, Inc., Amoco Production Company, and Gulf Oil Corporation in the White "B" Unit, N.E. Catesby Field, Ellis County, Oklahoma, from which Petitioner proposes to continue the sale of approximately 1,367 Mcf of gas per month to Transwestern Pipeline Company heretofore authorized to be made pursuant to First Transportation Company's FPC Gas Rate Schedule No. 1 (includes Gulf's interest) and to Northern Natural Gas Company heretofore authorized to be made pursuant to Amoco's FPC Gas Rate Schedule No. 449.

Subsection 157.40(c) provides in part that sales may not be made pursuant to a small producer certificate from reserves acquired by a small producer by purchase of developed reserves in place from a large producer. Petitioner states that the subject properties are marginal or close to being marginal and the production therefrom will not justify the time, paper work, or expense involved in filing separate certificate applications and rate schedules. Petitioner states further that should the waiver be denied, he and the other interest holders would sustain economic hardship. Petitioner relates that the other parties have consented to have sales from their interests in the subject properties made under his small producer certificate and that he is willing to accept authorization conditioned to the applicable area ceiling rates.

Any interested party may submit to the Federal Power Commission, Washington, D.C. 20426, not later than October 4, 1974 views and comments in writing concerning the petition for waiver. An original and 14 conformed copies should be filed with the Secretary of the Commission. The Commission will consider all such written submittals before acting on the petition.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 74-21397 Filed 9-16-74;8:45 am]

[Docket No. E-8995]

IOWA POWER AND LIGHT CO.

Proposed Rate Change

SEPTEMBER 10, 1974.

Take notice that on August 5, 1974 Iowa Power and Light Company (Iowa Power) tendered for filing proposed changes in its FPC Rate Schedule Nos. 9, 10 and 13 (all as amended) affecting the muncipalities of Carlisle, Imogene, and Neola, Iowa.

The proposed changes, to be effective November 1, 1974, would increase revenues from jurisdictional sales and service by a total of $37,377.82 for the three cities, based on the twelve month period ended May, 1974. In addition to increased rates for Demand, Reactive Demand and Energy, a fuel adjustment clause has been included in the proposed rate schedule.

Iowa Power alleges that the proposed rates reflect the increased costs of producing and transmitting energy and are designed to make its wholesale rates for the cities of Carlisle, Imogene and Neola comparable to its rate for large general service retail customers.

Iowa Power states that copies of the filing were served upon the cities of Carlisle, Imogene and Neola, Iowa, and the Iowa State Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the

[1] A joint venture composed of Herman Geo. Kaiser, Rose Schlanger, Mildred Sanditen, Renee Neuwald, individuals, Francis Oil & Gas, Inc., a corporation; and Fell and Wolf Oil Company, a partnership.

[2] Investor's Royalty Company, Inc. acquired the remaining 3/7 interest which this application does not cover.

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. All such petitions or protests should be filed on or before September 23, 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.74-21393 Filed 9-16-74;8:45 am]

[Docket No. CP75-58]

IOWA POWER AND LIGHT CO. AND NORTHERN NATURAL GAS CO.

Application

SEPTEMBER 10, 1974.

Take notice that on August 27, 1974, Iowa Power and Light Company (Applicant), 823 Walnut Street, Des Moines, Iowa, 50303, filed in Docket No. CP75-58 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Northern Natural Gas Company (Respondent) to construct facilities to establish a new delivery point for the benefit of Applicant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it distributes natural gas in the city of Des Moines, Iowa, and environs and in other communities in central and southwestern Iowa and obtains its entire supply of natural gas for these communities from Respondent. Applicant requests that Respondent be directed to construct a new delivery point and to deliver natural gas to Applicant for use as fuel for combustion turbine electric generators recently installed at Johnston, Iowa. Specifically, Applicant seeks an order causing Respondent to construct a town border meter sufficient to deliver the following volumes through the first three full years of service:

Year	Estimated delivery Mcf at 14.73 lb/in²a	
	Maximum daily volume	Annual volume
September to December 1974	42,000	200,000
1975	42,000	875,000
1976	42,000	875,000
1977	42,000	875,000

Applicant states that any volumes of natural gas delivered at this new delivery point will be used on an interruptible basis and these volumes will be delivered within the amounts available under Applicant's presently effective contract demand. Applicant further states that such delivery will not result in increased daily or annual volumes of gas used for electric generation by Applicant.[1]

The application indicates that the estimated cost of the facilities requested herein is $97,300, which cost will be reimbursed to Respondent by Applicant. The application states that the only alternative available whereby service could be supplied to the combustion turbines would require an expansion of Applicant's distribution system and addition of 4,500 horsepower of compression at an estimated cost of $1,122,000 to Applicant.

Applicant claims that Commission approval of this application will afford Applicant either fuel or cost savings and added fuel flexibility which will immediately benefit Applicant's electric customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 4, 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 156.9). 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.74-21396 Filed 9-16-74;8:45 am]

[Docket No. E-8405]

KANSAS GAS AND ELECTRIC CO.

Supplemental Application

SEPTEMBER 10, 1974.

Take notice that by order issued April 22, 1969, and supplemented by orders dated December 24, 1969, February 23, 1971, July 21, 1972, and January 2, 1974, the Commission authorized Kansas Gas and Electric Company (Applicant) to issue on or before December 31, 1975, promissory notes to banks and commercial paper to commercial paper dealers with final maturity dates not later than December 31, 1975, in an aggregate principal amount not to exceed $35,000,000. On August 27, 1974, Applicant filed a supplemental application seeking an extension so that notes may be issued on or before June 30, 1976, with final maturity date in no case being later than June 30, 1976, and to increase principal amounts outstanding at any one time from $35,000,000 to $50,000,000. The notes would bear interest either at the prime rate of the interest at the lending bank at issuance, or at the applicable interest rate prevailing during the term of the note. All other terms and conditions of the Commission's previous orders are to remain the same.

Proceeds from the additional notes will be used by Applicant to provide greater flexibility in its financing program by making available additional working capital.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 30, 1974, filed 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 is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-21411 Filed 9-16-74;8:45 am]

[Docket No. CP75-57]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Application

SEPTEMBER 10, 1974.

Take notice that on August 26, 1974, Kansas-Nebraska Natural Gas Company, Inc. (Applicant), 300 North St. Joseph Avenue, Hastings, Nebraska 68901, filed in Docket No. CP75-57 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing (1) the construction and operation of certain natural gas gathering facilities in the Bowdoin area of Phillips and Valley Counties, Montana, and (2) the sale and delivery in interstate commerce of the natural gas gathered in the Bowdoin area to Montana-Dakota Utilities Co. (MDU), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Midlands Gas Corporation, a wholly owned subsidiary of Applicant which has recently obtained certain leasehold acreage in the Bowdoin area, has begun a 3-year drilling program to develop its holdings in the Bowdoin area which calls for the drilling of approximately 100 wells per year. Applicant estimates the recoverable proven reserves available to Applicant under its

[1] Applicant explains that certain provisions under the general terms and conditions of Respondent's tariff give Respondent authority to limit Applicant's use of natural gas for the generation of electricity, thereby assuring that gas used for electric generation will not jeopardize Respondent's service to high priority residential and commercial customers.

gas purchase contract with Midlands and others to be 187,000,000 Mcf with approximately an additional 200,000,000 Mcf of probable and possible reserves available to Applicant as a result of such gas purchase contracts.[1]

Applicant further states that it has entered into a Gas Sales, Transportation and Exchange agreement dated May 10, 1974, with MDU which provides for the sale of a portion of said gas to MDU and the transportation and delivery by exchange of the balance thereof to a point of interconnection of MDU's system with the system of Northern Utilities Inc. (Northern) in Fremont County, Wyoming. From said point, Applicant proposes to have the quantities of exchange gas so delivered by MDU transported by Northern and delivered by exchange to a point of interconnection of their respective systems at a point near Applicant's Casper, Wyoming, compressor station. Applicant states that the price, terms and conditions of such sale to MDU shall be the same as that paid or accounted for by Applicant plus the cost of gathering and delivery of such gas by Applicant to MDU. Applicant further states that such transportation and exchange by Northern [2] will be done under an existing rate schedule.

By this application, Applicant proposes to install the facilities required to gather gas in the Bowdoin Field area and to deliver such gas to MDU at various points on MDU's system in the Bowdoin area. Applicant proposes to construct such facilities as are required over a three-year period of time beginning in 1975 so that the system will be essentially complete by the end of 1977. After 1977, pursuant to any authorization which may be required at that time, Applicant states that it will make such additions as are required to recover the reserves available in an orderly and efficient manner. Applicant states that the specific facilities required are for the most part contingent on the drilling program now in progress, but tentatively Applicant proposes to install the following facilities:

In 1975—

a. Approximately 165 miles of 3-inch through and including 12-inch gathering lines.

b. Approximately 2,500 horsepower of gas engine driven reciprocating field compressors.

c. Approximately 25 production and unit meters complete with appurtenances and enclosed in a protective housing.

d. Central point gas dehydration and scrubber equipment at various locations having a combined capacity of 15,000 Mcf per day.

e. Metering and regulating equipment at eight points of delivery to MDU's system.

In 1976–77—

a. Approximately 245 miles of 3-inch through and including 16-inch gathering lines.

b. Approximately 4,500 horsepower of gas engine driven reciprocating compressors.

c. Approximately 130 production and unit meters complete with appurtenances and enclosed in a protective housing.

d. Central point gas dehydration and scrubber equipment at various locations having a combined capacity of 20,000 Mcf per day.

Applicant seeks authority to expend over a three-year period the funds required, but not in excess of $18,000,000, to construct the completed gathering system and to expend these funds annually as may be required to connect and gather natural gas as it becomes available from Midlands and from other producers in the Bowdoin area. Applicant estimates that the cost of the proposed facilities will be $17,532,000, with annual expenditures of approximately $7,149,000 in 1975, $6,157,000 in 1976, and $4,226,000 in 1977. Applicant states that such costs will be met out of current working capital or will be obtained from interim bank loans which at a later date may be funded through a security issue.

In conjunction with MDU's aforementioned right to purchase a portion of gas available to and gathered by Applicant in the Bowdoin area, Applicant further requests authority to gather, transport and sell said gas to MDU pursuant to the Gas Sales, Transportation and Exchange Agreement between Applicant and MDU dated May 10, 1974.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 4, 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.74-21402 Filed 9-16-74;8:45 am]

[1] Applicant estimates that the Midlands wells will have a total deliverability in 1978 of approximately 30,000 Mcf per day and that an additional 5,000 Mcf per day will be available from other producers.

[2] Applicant states that it is soon to complete the process of acquiring Northern through an exchange of capital stock.

[Docket No. RP73-48]

NORTHERN NATURAL GAS CO.

Rate Change

SEPTEMBER 9, 1974.

Take notice that Northern Natural Gas Company (Northern) on August 26, 1974 tendered for filing First Substitute Fifth Revised Sheet No. 3a of its F.P.C. Gas Tariff, Volume No. 4. The proposed change, to become effective October 1, 1974, would increase the rate to jurisdictional customers by 3.46¢ per Mcf. This amount, Northern states, is a net increase resulting from the settlement of Colorado Interstate Gas Company's (CIG) rate filing at F.P.C. Docket No. RP73-93, from CIG's general increase filing at F.P.C. Docket No. RP74-77, and from CIG's PGA increase filed to become effective October 1, 1974.

To enable Northern to make its increase coincide with CIG's PGA increase, Northern has requested waiver of the 45-day notice requirement contained in Paragraph 9.2 of the General Terms and Conditions of Original Volume No. 4, in order to allow First Substitute Fifth Revised Sheet No. 3a to become effective October 1, 1974.

Copies of the filing have been served upon Northern's jurisdictional customers and other interested persons, including public bodies.

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 September 20, 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.74-21407 Filed 9-16-74;8:45 am]

[Docket No. RP73-8]

NORTH PENN GAS CO.

Proposed Change in Rates

SEPTEMBER 9, 1974.

Take notice that North Penn Gas Company (North Penn), on August 30,

1974, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1. The proposed changes would reflect an increase in the rates of 0.490¢ per Mcf.

North Penn asserts that the filing is made pursuant to the provisions of section 14 (PGA Clause) of its FPC Gas Tariff, First Revised Volume No. 1. North Penn states that the increase is based on supplier rate increases and requests an effective date for the increase of October 1, 1974.

North Penn states that copies of this filing have been served on each of its jurisdictional customers and interested state commissions.

Any person desiring to be heard and to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, or 1.10). All such petitions or protests should be filed on or before September 20, 1974. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. The above filing is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-21417 Filed 9-16-74;8:45 am]

[Docket No. CP75-50]

PANHANDLE EASTERN PIPE LINE CO.

Application

SEPTEMBER 10, 1974.

Take notice that on August 23, 1974, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP75-50 an application pursuant to sections 7(b) and (c) of the Natural Gas Act and § 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission and approval of the abandonment, for a 12-month period commencing the date of authorization and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction and abandonment of 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.

Applicant states that the total cost of the proposed construction and abandonment will not exceed $3,000,000, nor will the cost of any single project exceed $500,000. Applicant states further that the proposed facilities will be financed entirely from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 30, 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 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 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.74-21419 Filed 9-16-74;8:45 am]

[Docket No. E-8759]

PENNSYLVANIA POWER CO.

Compliance Filing

SEPTEMBER 10, 1974.

Take notice that Pennsylvania Power Company (PP&L) on August 9, 1974, tendered for filing information concerning the actual amount of a pending wage increase. The filing was made pursuant to PP&L's agreement with Metropolitan Edison (FPC Rate Schedule No. 62) which provides for the sale of various amounts of power and energy from certain generating facilities of PP&L for 1973-1975. According to PP&L, the actual operation and maintenance expense rate for the 1974 service period will be $2.64/KW.

Any person desiring to be heard or to make any protest with reference to said application should, on or before September 16, 1974, file with the Federal Power Commission, 825 North Capitol Street, NE., 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 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.74-21412 Filed 9-16-74;8:45 am]

[Docket No. E-8991]

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE AND CENTRAL VERMONT PUBLIC SERVICE CORP.

Application

SEPTEMBER 10, 1974.

Take notice that on August 26, 1974, a joint application was filed under the Federal Power Act (Section 203(a)—Part 33) by Public Service Company of New Hampshire, whose principal business office is at 1000 Elm Street, Manchester, New Hampshire 03105 (Public Service) and Central Vermont Public Service Corporation, whose principal business office is at 77 Grove Street, Rutland, Vermont 05701 (Central Vermont) for an order authorizing Central Vermont to sell certain transmission line facilities and real estate interests located in the Towns of Hinsdale and Winchester in the County of Cheshire, in the State of New Hampshire to Public Service and authorizing Public Service to buy the facilities subject to the jurisdiction of the Federal Power Commission.

These facilities consist of approximately 3.15 miles of 115 KV electric transmission line extending from its interconnection with a 115 KV electric transmission line owned by Public Service and located about three-quarters of a mile easterly of the Hinsdale-Winchester Town Line and about one mile northeasterly of the Village of Hinsdale to its interconnection with a 115 KV electric transmission line owned by New England Power Company and located about one-half mile easterly of the Connecticut River and about three-quarters of a mile northerly of the Village of Hinsdale. The real estate interests include lands and rights of way on which the 115 KV line is located and other lands and rights of way extending approximately .5 mile westerly from the westerly end of the 115 KV electric transmission line to the Connecticut River.

The following facts are relied upon by Public Service and Central Vermont to show that the proposed sale and merger or consolidation of facilities will be consistent with the public interest:

At the time the line was constructed, Central Vermont was purchasing the great majority of its power from sources outside the State of Vermont, like other electric distribution companies in Vermont. The construction of a 115 KV

transmission line extending from the transmission lines of Public Service in southwestern New Hampshire to the Vernon Road Substation of Central Vermont in Brattleboro, Vermont became necessary in 1966 to assure adequate transmission capability to bring this power into the State, and therefore the line was constructed in the fall and winter of 1966.

When 345 KV transmission lines from Massachusetts and New Hampshire to Vernon, Vermont and the 345/115 KV Substation at Vernon were constructed, the 3.15 mile of 115 KV transmission line in New Hampshire between Winchester and Structure No. 38 became part of the interconnected transmission system with power flows in either direction depending upon conditions.

It is the general practice of the companies in Vermont, New Hampshire, and Maine that each utility own the transmission lines in its franchise area that are a part of the interconnected system.

In addition, Central Vermont originally purchased a right of way sufficiently wide so that Public Service could construct the 345 KV lines alongside the 115 KV line in the same strip of land, providing a utility corridor, with the mutual understanding that Central Vermont would ultimately convey the strip of land to Public Service.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 30, 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 is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-21409 Filed 9-16-74;8:45 am]

[Docket No. E-9001]

ROCKLAND ELECTRIC CO.

Proposed Electric Tariff

SEPTEMBER 10, 1974.

Take notice that on August 30, 1974, Rockland Electric Company (REC) tendered for filing a proposed electric tariff.[1] The increased rates, REC states, are proposed in order to provide the Company with increased revenue needed to meet its increased cost of purchased power, and to permit it to earn a compensatory return upon its property devoted to serving the Borough of Park Ridge. REC also states that the proposed tariff includes a fuel adjustment clause similar to the fuel adjustment clause approved by the New Jersey Board of Public Utility Commissioners for service to REC's other retail customers.

According to REC, the proposed tariff would increase total revenues in the amount of $486,107. An effective date of October 1, 1974, has been requested by the Company.

Copies of the proposed tariff have been mailed to the Borough of Park Ridge.

Any person desiring to be heard or to make any protest with reference to said proposed tariff should on or before September 19, 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, 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.74-21392 Filed 9-16-74;8:45 am]

[Docket No. CI73-694]

RODMAN CORP.

Extension of Procedural Dates

SEPTEMBER 9, 1974.

On September 5, 1974, Staff Counsel filed a motion to extend the procedural dates fixed by order issued May 15, 1974, as most recently modified by notice issued July 24, 1974, in the above-designated matter. The motion states that the Rodman Corporation has no objection to the changes.

Upon consideration, notice is hereby given that the procedural dates in the above-designated matter are modified as follows:

Service of evidence by the Staff, October 16, 1974.
Submission of rebuttal testimony, November 1, 1974.
Hearing, November 14, 1974 (10:00 a.m. e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-21404 Filed 9-17-74;8:45 am]

[Rate Schedule Nos. 153, etc.]

SHELL OIL CO. ET AL.

Rate Change Filings

SEPTEMBER 9, 1974.

Take notice that the producers listed in the Appendix attached hereto have filed proposed increased rates to the applicable area new gas or national ceiling based on the interpretation of vintaging concepts set forth by the Commission in its Opinion No. 639, issued December 12, 1972, and followed in Opinion No. 699, issued June 21, 1974.

The information relevant to each of these sales is listed in the Appendix.

Any person desiring to be heard or to make any protest with reference to said filing should on or before September 20, 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 party 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.

APPENDIX

Filing date	Producer	Rate schedule No.	Buyer	Area
Aug. 14, 1974	Shell Oil Co., 2 Shell Plaza, P.O. Box 2099, Houston, Tex. 77001.	153	Texas Gas Transmission Corp.	South Louisiana.
Aug. 27, 1974	Texaco, Inc., P.O. Box 52332, Houston, Tex. 77052.	2	Columbia Gas Transmission Corp.	Do.

[FR Doc.74-21415 Filed 9-16-74;8:45 am]

[Docket Nos. RP72-91 (Phase II), etc.]

SOUTHERN NATURAL GAS CO.

Proposed Changes in FPC Gas Tariff

SEPTEMBER 9, 1974.

Take notice that Southern Natural Gas Company (Southern) on August 27, 1974, tendered for filing proposed changes in its FPC Gas Tariff, Sixth Revised Volume No. 1 to become effective October 11, 1974. Such filing is pursuant to Article III of the Stipulation and Agreement approved by the Commission's order dated July 23, 1973, in Southern's Docket Nos. RP72-91 (Phase II), et al. Southern states that the proposed change would decrease the commodity and one-part rates by .213¢ per Mcf resulting from reductions in the levels of advance payments of $10,129,248 below the advance payment levels presently reflected in

[1] FPC Electric Power, Rockland Electric Company Schedule FPC No. 8 (supersedes FPC No. 7).

Southern's rates and that the reduction in jurisdictional cost due to net increases and decreases in advance payments is $1,276,387.

Copies of this filing are being served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, L.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 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 filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-21418 Filed 9-16-74;8:45 am]

[Docket No. RP75-13]

TENNESSEE GAS PIPE LINE CO.

Filing of Proposed Changes in Rates

SEPTEMBER 10, 1974.

Take notice that on August 30, 1974, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee) tendered for filing proposed changes in its FPC Gas Tariff to be effective on October 15, 1974, consisting of the following revised tariff sheets:

Ninth Revised Volume No. 1: Sixth Revised Sheet Nos. 12A and 12B.

Sixth Revised Volume No. 2: Second Revised Sheet Nos. 54, 78 and 141 and Fifth Revised Sheet Nos. 11, 12, 27, 28, 44 and 45.

The proposed changes would increase revenues from jurisdictional sales and service by $16,036,994 based on adjusted sales and transportation volumes for the test period (the twelve months ended April 30, 1974, adjusted for known changes through January 31, 1975).

Tennessee states that the increased rates are required to reflect an increase in rate of return to 9.75%, increases in the cost of material, supplies and wages, and increases in property, franchise, payroll and severance taxes.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 26, 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.74-21400 Filed 9-16-74;8:45 am]

[Docket Nos. CP63-247; CP65-93; CP75-53]

TENNESSEE GAS PIPE LINE CO.

Applications

SEPTEMBER 10, 1974.

Take notice that on August 23, 1974, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket Nos. CP63-247 and CP65-93 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the transportation of natural gas for National Fuel Gas Distribution Corporation (NFG), formerly Iroquois Gas Corporation. Take further notice that concurrently, Applicant also filed an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas to NFG under Applicant's CD-5 Rate Schedule. Applicant's proposals are fully set forth in the applications which are on file with the Commission and open to public inspection.

Applicant states that the instant applications are made pursuant to the Stipulation and Agreement of Settlement dated July 8, 1974, by which Applicant, NFG and Valley Gas Transmission, Inc. (Valley Gas), settled certain issues which had arisen in the proceeding in Docket No. RP73-94.[1] The applications indicate that said agreement provides (1) the existing contracts for the sale of 35,000 Mcf[2] per day of gas by Valley Gas to NFG together with the contract for the transportation of such by Applicant for NFG will be terminated, (2) Valley Gas will dedicate to Applicant the existing reserves now dedicated by Valley Gas to NFG under the contracts being terminated, (3) Applicant will contract with NFG to provide NFG with 35,000 Mcf of gas per day pursuant to Applicant's CD-5 Rate Schedule, and (4) Valley Gas, HNG Fossil Fuels Company or their affiliated companies will contract to sell to Applicant all their interest in gas from the following offshore reserves: West Cameron, Louisiana (Block 612), and High Island, Texas (Blocks A-330 and A-349).[3]

In accordance with the Stipulation and Agreement of Settlement, Applicant requests permission and approval to abandon the transportation of 35,000 Mcf of natural gas per day for NFG which was authorized by Commission orders dated May 16, 1963, and March 24, 1965, in Docket Nos. CP63-247 and CP65-93, respectively. In addition, Applicant requests authorization to sell and deliver to NFG a contracted demand of 35,000 Mcf per day of natural gas under Applicant's CD-5 Rate Schedule in lieu of the aforesaid transportation service which is rendered under Applicant's T-2 Rate Schedule of Applicant's FPC Gas Tariff, Sixth Revised Volume No. 2.

Applicant states that no new facilities are necessary to implement its proposals.

Any person desiring to be heard or to make an protest with reference to said applications should on or before September 26, 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 section 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 these applications if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such 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.74-21394 Filed 9-16-74;8:45 am]

[1] In furtherance of the agreement of July 8, 1974, Valley Gas has made application (1) to abandon sales to NFG authorized in Docket Nos. CP63-270 and CP65-123, and (2) to amend the order issued in Docket No. G-19618 in order to make additional sales to Applicant.

[2] All volumes at 14.65 psia.

[3] Also, Valley Gas, HNG Fossil Fuels Company and their affiliated companies will use their best efforts to see that other producers in the area contract to sell their reserves to Applicant.

[Docket No. RI74-240]

TERRA RESOURCES, INC.

Further Extension of Procedural Dates

SEPTEMBER 11, 1974.

On August 30, 1974, Staff Counsel filed a supplemental motion to amend the dates fixed by notice issued August 28, 1974, in the above-designated matter. The motion states that all parties have agreed to the changes.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Rebuttal testimony, September 18, 1974.
Hearing, September 24, 1974 (10 a.m., e.d.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-21399 Filed 9-16-74;8:45 am]

[Docket No. E-8978]

UNITED STATES DEPARTMENT OF THE INTERIOR, BONNEVILLE POWER ADMINISTRATION

Request for Approval of Rates and Charges

SEPTEMBER 9, 1974.

Notice is hereby given that on August 19, 1974, the Secretary of the Interior upon behalf of Bonneville Power Administration (BPA) pursuant to section 5 of the Bonneville Project Act (50 Stat. 546) and section 5 of the Flood Control Act of 1944 (58 Stat. 887, 890), filed with the Federal Power Commission a request for confirmation and approval of proposed rate schedules and general rate schedule provisions for the sale of power by BPA, to take effect December 20, 1974.

The BPA submittal, which comprises seven new rate schedules proposed to supersede existing rate schedules in their entirety, includes:

1. Schedule EC-6: A firm power-demand energy rate for resale or direct consumption by all customer classes except industrial, incorporating different seasonal rates for both capacity and energy, and reflecting (1) an additional charge for transformation and substation facilities provided by BPA, and (2) a $0.10 per kilowatt-hour charge for the unauthorized take of energy. Basic Schedule EC-6 charges from April 1 to August 31 specify $0.93 per kilowatt of billing demand per month and 1.0 mill per kilowatt-hour, increasing to $1.05 per kilowatt of billing demand per month and 1.9 mills per kilowatt-hour from September 1 through March 31. Facility charges range from $0.06 to $0.20 per kilowatt of monthly billing demand for each delivery point wherein BPA provides facilities pursuant to specified service arrangements. Reduced demand charges for at-site delivery of power is also conditionally provided.

2. Schedule EC-7: A firm power demand-energy rate priced at a level 25 percent greater than anticipated costs for thermal generated power during the early 1980's, available to meet customers' unanticipated load growth and short-term seasonal purchases. Schedule EC-7 seasonal pricing for capacity and energy specifies basic charges of $1.65 per kilowatt of billing demand per month and 10.0 mills per kilowatt-hour from September 1 to March 31, and $1.40 per kilowatt of billing demand per month and 5.0 mills per kilowatt-hour from April 1 through August 31. Additional charges for transformation and substation facilities provided by BPA range from $0.06 to $0.20 per kilowatt of monthly billing demand for each point of delivery wherein BPA provides facilities pursuant to specific service arrangements. Schedule EC-7 includes a charge of $0.10 per kilowatt-hour for the unauthorized take of energy.

3. Schedule F-6: A firm capacity rate without energy, available to utilities with their own resources for purchase on either an annual or seasonal basis for $12.00 per kilowatt-year of contract demand or $6.50 per kilowatt season of contract demand from June 1 through October 31. Schedule F-6 reflects an additional charge for transformation and substation facilities supplied by BPA.

4. Schedule H-5: A nonfirm energy rate available within and without the Pacific Northwest for thermal displacement reservoir filling and emergency use. Seasonal charges specify 3.5 mills per kilowatt-hour from September 1 through March 31, and 3.0 mills per kilowatt-hour for the period April 1 through August 31.

5. Schedule J-1: A firm energy rate available to utilities for thermal plant startup, reservoir filling, testing and experimental purposes, with a 4.0 mills per kilowatt-hour charge therefor.

6. Schedule IF-1: A demand-energy rate for industrial firm power available to direct service industrial customers and industrial customers of BPA customers on a flow-through basis with uniform charges for capacity and energy throughout the year. The rate provides for limited curtailment options by customers, and BPA restrictions for lack of water, force mejeure, forced outages, plant installation delays, operation at less than full capacity of new resources, and need to maintain system stability. Exercise of BPA restrictions carries capacity charge credits for reduced availability, and a charge of $0.10 per kilowatt-hour for the unauthorized take of energy is assessed. Customer requested increases where authorized are billed at the industrial firm power rate of $1.20 per kilowatt of billing demand and 1.525 mills per kilowatt-hour.

7. Schedule MF-1: A demand-energy rate for firm or modified firm power available to existing direct service customers and industrial customers of BPA customers on a flow-through basis. Adjustment is provided for authorized increases but no adjustment will be made for reduced availability of firm or modified power. Charges specify $1.20 per kilowatt of billing demand per month and 1.525 mills per kilowatt-hour for firm power, $1.15 per kilowatt per month and 1.525 mills per kilowatt-hour for modified firm power, and $0.10 per kilowatt-hour for the unauthorized take of energy.

Continued Commission approval is also requested for two special applications of wholesale rates and charges previously approved in Docket Nos. E-7242 upon May 29, 1968 and E-8033 upon May 15, 1973. Docket No. E-7242 concerns modification of section B.1 of the current General Rate Schedule Provisions (now section 7.1 of the proposed General Rate Schedule Provisions) applicable to contracts for the sale of power and energy transferred over the Pacific Northwest-Pacific Southwest Intertie lines, and Docket No. E-8033 provides a special rate for exchange energy delivered to the U.S. Bureau of Reclamation Mead Substation in Nevada by the City of Los Angeles, California, or by Southern California Edison Company in lieu of obligations to deliver exchange energy to BPA.

The Secretary submits a supportive repayment study and revenue forecast prepared by BPA to show that along with revenues collected to date, the proposed rate schedules will produce revenues sufficient to repay all generating, purchasing and transmitting costs within the Federal Columbia River Power System for the prescribed time periods. The Secretary also transmits for the Commission's information a copy of the Final Environmental Impact Statement upon the proposed rate increase, filed by BPA with the Council on Environmental Quality.

The application, proposed rated schedules and supporting data are on file with the Commission and available for public information. Copies of the rate schedules and provisions thereof were sent by BPA to its customers, state public service commissions, and other government agencies. Any person desiring to make comments or suggestions upon this application may write the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. All such comments or suggestions should be filed in writing on or before October 18, 1974.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74-21406 Filed 9-16-74;8:45 am]

[Docket No. CP75-73]

WASHINGTON GAS LIGHT CO.

Petition for Declaratory Order Disclaiming Jurisdiction or Application for Certificate

SEPTEMBER 9, 1974.

Take notice that on September 3, 1974, Washington Gas Light Company (Applicant), 1100 H Street, NW., Washington, D.C. 20080, filed in Docket No. CP75-73 a petition pursuant to § 1.7(c) of the Commission's rules of practice and procedure (18 CFR 1.7(c)) for a declaratory order disclaiming jurisdiction over Applicant's proposed emergency sale of natural gas to North Carolina Natural Gas Corporation (North Carolina) or, in the alternative, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity and for a temporary certificate pursuant to § 157.17 of the Commission's regulations (18 CFR 157.17) authorizing the sale of up to 30,000 Mcf per day of natural gas to North Carolina for a period terminating October 31, 1974, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant explains that North Carolina is currently being substantially curtailed by Transcontinental Gas Pipe Line

Corporation (Transco), its sole pipeline supplier, and is in need of additional supplies of gas to maintain adequate service to its customers. Therefore, Applicant proposes to sell up to 30,000 Mcf of natural gas per day to North Carolina until October 31, 1974, on a best efforts basis at a rate of $1.10 per Mcf.[1] Applicant states that the gas would be delivered to North Carolina by Transco for Applicant's account by the reduction of deliveries to Applicant and the contemporaneous deliveries of equivalent volumes of gas to North Carolina; therefore, no increased costs would be incurred by Transco. Applicant further states that no facilities will be constructed in order to make the proposed sale.

Applicant requests that the Commission disclaim jurisdiction over the proposed sale. In support of such request Applicant states that it is a major distributor of natural gas in the States of Maryland and Virginia and the District of Columbia and is classified as a natural gas company under section 2(6) of the Natural Gas Act.[2] Applicant further states that North Carolina is a major distributor of natural gas within the State of North Carolina exempt from Commission jurisdiction pursuant to section 1(c) of the Natural Gas Act. Applicant maintains that but for the fact that its operations cross state lines, it could make an emegency sale of gas pursuant to § 2.68 of the Commission's General Policy and Interpretations (18 CFR 2.68); however, its status as a natural gas company would appear to negate this possibility despite the fact that in every facet of its operations it is a distribution company and not a pipeline company. Applicant further maintains that were North Carolina a pipeline company, it would appear that under § 157.22 of the Commission's Regulations Applicant could make this emergency sale to North Carolina. Applicant points out that in light of the interpretation of § 157.22 by the Commission in *Cascade Natural Gas Corporation*, Docket No. CP74-142, order issued April 4, 1974, as clarified by order issued July 22, 1974, the sale of natural gas by a natural gas company to an exempt company for an emergency 60-day period cannot be made under § 157.22. However, Applicant states that a reasonably liberal interpretation of § 2.68 or § 157.22 would seem to justify Applicant's proposed sale to North Carolina without the need of a Commission certificate of public convenience and necessity.

In the event that the Commission determines that the proposed sale should not be exempt, Applicant requests immediate issuance of a temporary certificate authorizing the sale of natural gas to North Carolina while the application for a permanent certificate is pending.

It appears reasonable and consistent with the public interest in this case to provide less than 15 days for the filing of petitions to intervene and protests. Therefore, any person desiring to be heard or to make any protest with reference to said petition or application should on or before September 20, 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.74-21403 Filed 9-16-74;8:45 am]

[Docket No. CI75-119]

WILLIAM A. JENKINS, ET AL.

Application

SEPTEMBER 10, 1974.

Take notice that on August 23, 1974, William A. Jenkins (Operator), et al. (Applicant), Suite 808, Expressway Terrace Building, 2601 Northwest Expressway, Oklahoma City, Oklahoma 73112, filed in Docket No. CI75-119 for a certificate of public convenience and necessity, pursuant to § 2.75 of the Federal Power Commission's rules of practice and procedure to authorize Applicant to sell initially approximately 1,500 Mcf of natural gas per day, at the initial contract price of 55.27 cents per Mcf. The sale of gas will be from three wells located on tracts more particularly described as (1) the Northwest Quarter of Section 3, Township 22 North, Range 5 West; (2) the Northwest Quarter of Section 10, Township 22 North, Range 5 West; and (3) the Southeast Quarter of Section 34, Township 23 North, Range 5 West, all in Garfield County, Oklahoma, and will be sold to Champlin Petroleum Company, with the ultimate purchaser being Cities Service Gas Company. The complete details of the sale of the subject gas are set out more fully in the application on file with the Federal Power Commission.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 30, 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 party 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.74-21416 Filed 9-16-74;8:45 am]

[Project No. 176—California, Docket Nos. E-7562, E-7655]

ESCONDIDO MUTUAL WATER CO. ET AL.

Availability of Staff Draft Environmental Impact Statement

Applicants: Escondido Mutual Water Company, Rincon, La Jolla, San Pasqual, Pauma, and Pala Bands of Mission Indians, U.S. Department of the Interior.

Notice is hereby given in the captioned Project, that on September 13, 1974, as required by § 2.81(b) of Commission Order 415-C, a draft environmental impact statement prepared by the Staff of the Federal Power Commission was made available for comments. This statement deals with:

(1) The application for new license filed by the Escondido Mutual Water Company for its existing Project No. 176 (Escondido);

(2) The application for non-power license filed by the Rincon, La Jolla, San Pasqual, Pauma, and Pala Bands of Mission Indians;

(3) The recommendation for Federal Takeover of Project No. 176 by the United States Department of the Interior;

(4) Complaint filed by Secretary of the Interior in his capacity as Trustee for the Rincon, La Jolla and San Pasqual Bands of Mission Indians (Docket No. E-7562);

(5) Investigation of Vista Irrigation District (Docket No. E-7655).

This statement has been circulated for comments to Federal, State and local

[1] Applicant states that this rate approximates the interruptible rate which Applicant expects to charge its interruptible customers during the period of the proposed sale (approximately September 3, 1974–October 31, 1974).

[2] By order issued in Docket No. CP62-205, 28 FPC 753, the Commission determined a service area for Applicant pursuant to Section 7(f) of the Natural Gas Act.

agencies, has been placed in the public files of the Commission, and is available for public inspection both in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426 and at its San Francisco Regional Office located at 555 Battery Street, San Francisco, California 94111. Copies may be ordered from the Commission's Office of Public Information, Washington, D.C. 20426.

The existing Project No. 176 located on San Luis Rey River and Escondido Creek in San Diego County, California, consists principally of a concrete diversion dam on San Luis Rey River; a conduit about 15 miles in length consisting of tunnels, canals, a syphon and flumes conveying the flow to the point of release into Lake Wohlford; Lake Wohlford Reservoir; Lake Wohlford Dam on Escondido Creek; the outlet works, pipeline, and penstock; the Bear Valley powerhouse with an installed capacity of 520 kilowatts; the Rincon powerhouse which utilizes water from the conduit at a point 6 miles below the San Luis Rey River diversion dam where it is diverted through a 2,100 foot long penstock connecting to the powerhouse, containing 2 generating units totaling 240 kilowatts; two operator's cottages, one at Rincon powerhouse and one at the diversion dam; telephone lines, power lines, access roads and trails necessary to operate and maintain project works; and other facilities and interests appurtenant to the project.

Any person who wishes to do so may file comments on the staff draft statement for the Commission's consideration. All comments must be filed on or before October 28, 1974.

Any person who wishes to present evidence regarding environmental matters in this proceeding must file with the Commission a petition to intervene pursuant to § 1.8 of the Commission's rules of practice and procedure. Petitioners must also file timely comments on the draft statement in accordance with § 2.81 (c) of Order No. 415–C.

All petitions to intervene must be filed on or before October 28, 1974.

KENNETH F. PLUMB,
Secretary.

[FR Doc.74–21483 Filed 9–16–74;8:45 am]

[Docket No. CP73–332]

NORTHWEST PIPELINE CORP.

Petition To Amend

SEPTEMBER 12, 1974.

Take notice that on August 15, 1974, Northwest Pipeline Corporation (Petitioner), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP73–332 a petition to amend the order issued in the subject docket on September 21, 1973 (50 FPC —), pursuant to Section 3 of the Natural Gas Act so as to permit continued importation of additional volumes of natural gas through October 31, 1975, at its Kingsgate, British Columbia, import point, all as more fully set forth in the petition to amend, which is on file with the Commission and open to public inspection.

By Commission order of September 21, 1973 (50 FPC —), in Docket No. CP73–332, Petitioner was authorized to import natural gas from Canada at the Sumas, Washington, and Kingsgate, British Columbia, import points previously under the control of El Paso Natural Gas Company (El Paso). The Kingsgate import point was originally operated by El Paso for the purpose of purchasing gas from Westcoast Transmission Company Limited (Westcoast) pursuant to authorization granted in Docket G–18033 on August 5, 1960 (24 FPC 134). Currently authorized volumes at Kingsgate are 151,731 Mcf per day at 14.73 psia and 51 million Mcf annually.

The petition to amend states that on December 28, 1973, the Commission authorized increased importation of natural gas at Kingsgate through October 31, 1974. Petitioner states that it proposes to continue the importation of additional volumes under virtually identical terms and conditions.

Petitioner states that Westcoast is anticipating a deficit in meeting its contract obligation at the Sumas delivery point of up to 240,000 Mcf per day of the 800,000 Mcf per day at 14.9 psia average quantity normally delivered at that point. The petition states that Westcoast entered into an agreement with Alberta and Southern Gas Company Limited (A&S) in order to alleviate this gas supply shortage. Under the terms of the agreement A&S will make gas available on a best efforts basis to Westcoast for delivery at the Kingsgate import point for one year beginning November 1, 1974. The agreement is contingent upon volumes of gas that Pacific Gas Transmission Company (PGT), in its sole discretion, is able to accept for delivery to Petitioner. Petitioner has been advised that PGT will make the filings applicable to importation at Kingsgate and subsequent transportation of gas.

Volumes of gas to be made available by A&S will not exceed approximately 30,000 Mcf on an average day and approximately 125,000 Mcf on a peak day. The price of the gas at the international boundary is estimated at 81 cents per Mcf. The price of gas made available by A&S pursuant to the original increased authorization for the period from December 28, 1973, through April 1974, according to the petition, has averaged 40.85 cents per Mcf, inclusive of the average cost of the gas received from A&S and the price of transporting such gas to Kingsgate, plus ten percent. The petition further states that the necessary authorization has been obtained by Westcoast and A&S from the National Energy Board of Canada.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 1, 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.74–21527 Filed 9–16–74;8:45 am]

[Docket No. CP75–78]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

SEPTEMBER 12, 1974.

Take notice that on September 6, 1974, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed Docket No. CP75–78 an application pursuant to section 7 (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the utilization, on a temporary basis, of Applicant's presently authorized delivery points to North Carolina Natural Gas Corporation (North Carolina) as additional delivery points to Washington Gas Light Company (Washington Gas), all as more fully set forth in the application in this proceeding.

Applicant states that Washington Gas and North Carolina, both existing customers of Applicant, have requested that commencing on the date of authorization in this docket and terminating October 31, 1974, Applicant deliver to North Carolina for the account of Washington Gas up to 30,000 Mcf of natural gas per day sold by Applicant to Washington Gas under currently effective service agreements. The application indicates that these deliveries will assist in effectuating a short-term emergency sale by Washington Gas to North Carolina and will be out of allocations previously authorized by the Commission.[1] Applicant states that the proposed delivery points are upstream of the presently existing delivery points to Washington Gas and consequently the temporary diversion of delivery will have no appreciable effect on the flow characteristics of the Applicant's system.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 24, 1974, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the

[1] This emergency sale is the subject of a filing made by Washington Gas in Docket No. CP75–73.

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 with 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.74-21526 Filed 9-16-74;8:45 am]

FEDERAL RESERVE SYSTEM

EAGLE CAPITAL CO.

Order Approving Formation of Bank Holding Company

Eagle Capital Co., Eagle, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 94 percent of the voting shares of Eagle State Bank, Eagle, Nebraska, a proposed new bank ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a non-operating company with no subsidiaries, was organized for the purpose of becoming a bank holding company through the acquisition of Bank. Bank, a proposed new bank, will be located in Eagle, Nebraska, a small agricultural community (population of 441 as of 1970 census) in Cass County, 9 miles east of Lincoln, Nebraska. Bank will be the only bank in Eagle and will compete in the Cass County banking market. Since Applicant has no present operations or subsidiaries, and inasmuch as Bank is a proposed new bank, consummation of the proposal herein would not eliminate existing or potential competition, nor have an adverse effect on any area banks.

The financial and managerial resources and future prospects of Applicant and Bank are satisfactory. While Applicant and Bank have no financial or operating history, the Board believes that the growth, earnings and debt retirement projections by Applicant are attainable, and that adequate equity capital levels would be maintained in Bank. Nevertheless, in view of the inherent uncertainties of projections, in general, and especially in this case where a shell corporation is acquiring a proposed new bank, the Board has been assured that Applicant will also commence operations with an equity capital base that provides flexibility should growth exceed or profitability fall short of those projections. Accordingly, financial and managerial considerations are consistent with approval of the application. Considerations relating to the convenience and needs of the community to be served are also regarded as being consistent with approval in that Bank will provide the residents of Eagle a more convenient source of banking services than presently exists. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after that date, and (c) Eagle State Bank, Eagle, Nebraska, shall be opened for business not later than six months after the effective date of this Order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[1] effective September 9, 1974.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74-21463 Filed 9-16-74;8:45 am]

FIDELCOR, INC.

Proposed Acquisition of Keen Factors, Inc.

Fidelcor, Inc., Rosemont, Pennsylvania, has applied, pursuant to section 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 to acquire substantially all of the assets of Keen Factors, Inc., Beverly Hills, California, through a de novo indirect subsidiary to be known as Trefoil Capital, Inc. Notice of the application was published on July 24, 1974, in the Los Angeles Times, a newspaper circulated in Los Angeles, California and on July 22, 1974, in The Wall Street Journal, a newspaper circulated in Los Angeles, California.

Applicant states that the proposed subsidiary would engage in the activities of making and/or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a commercial finance or factoring company and the servicing of such loans and other extensions of credit for any person. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Philadelphia.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 8, 1974.

Board of Governors of the Federal Reserve System, September 9, 1974.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74-21465 Filed 9-16-74;8:45 am]

FIRST ALABAMA BANCSHARES, INC.

Order Approving Acquisition of Bank

First Alabama Bancshares, Inc., Birmingham, Alabama, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares (less directors' qualifying shares) of the successor by merger to Farmers and Marine Bank, Bayou La Batre, Alabama ("Bank"). The Bank into which Bank will merge has no significance except as a means of acquiring the voting shares of Bank. Accordingly, the proposed acquisition of the shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

[1] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, and Holland. Absent and not voting: Governors Bucher and Wallich.

Notice of the application affording opportunity for interested persons to submit comments and views has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the second largest banking organization in Alabama, controls eleven banks with aggregate deposits of $949.3 million, representing 12.3 per cent of deposits in all commercial banks of the State. (All banking data are as of December 31, 1973, and reflect acquisitions and formations approved through Auguest 1, 1974.) Acquisition of Bank (deposits of $4.7 million) would increase Applicant's share of bank deposits in Alabama by less than 1 per cent and would not change Applicant's rank in size. No undue concentration of banking resources in Alabama would result.

The relevant market is the Mobile Area banking market, which includes all of Mobile County and all but the southern portion of Baldwin County. Applicant has one subsidiary bank in the market with deposits aggregating $16.9 million, or 2.1 per cent of total deposits held by commercial banks in the market and is the sixth largest of nine banking organizations in the market. Bank is a recent entrant to the market (December 1970) and controls less than 1 per cent of market deposits. The acquisition of Bank may enable Applicant to compete more effectively in this highly concentrated market.[1] Applicant's closest banking subsidiary, while in the relevant market, is located 55 miles east of the site of Bank. Therefore, consummation of the proposal will not eliminate any significant existing competition. Future competition between Applicant's existing subsidiary banks and Bank is unlikely to develop due to the distances involved and the relatively small size of these banks. Accordingly, consummation of the proposed transaction would not adversely effect competition in any relevant area.

The financial and managerial resources and future prospects of Applicant, its subsidiaries and Bank are considered satisfactory, particularly in view of Applicant's commitment to increase equity capital in its subsidiary banks. Affiliation with Applicant will enable Bank to provide trust services, lease financing, and credit card servicing to the residents of the Mobile Area market. Bank will also have access to loan participations, investment portfolio management, data processing services, and marketing and centralized advertising programs. Therefore, considerations relating to convenience and needs of the community to be served lend weight toward approval. It is the Board's judgment that consummation of the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[2] effective September 10, 1974.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74-21469 Filed 9-16-74;8:45 am]

FIRST CITY BANCORPORATION OF TEXAS, INC.

Order Approving Acquisition of Bank

First City Bancorporation of Texas, Inc., Houston, Texas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent, less directors' qualifying shares of the voting shares of stock of Southwood Bank, Houston Texas ("Bank"), a proposed new bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the second largest banking organization in Texas, controls 22 banks with aggregate deposits of about $2.5 billion, representing approximately 7.2 per cent of the total deposits in commercial banks in the State of Texas.[1] Applicant also owns interest of more than 5 and less than 25 per cent in eight other banks having aggregate deposits of $184.6 million. Since Bank is a proposed new bank, consummation of the proposed acquisition would not immediately increase Applicant's share of commercial bank deposits in the State and therefore would not immediately result in an increase in the concentration of banking resources in Texas.

Bank is to be located in the Houston banking market, which is approximated by the Houston SMSA ("Standard Metropolitan Statistical Area), including Harris County and five neighboring counties. Applicant, the largest banking organization operating in the Houston market, presently has 11 subsidiary banks controlling slightly less than 20 per cent of total market deposits. Given the fact that Bank is a proposed new bank, approval of its acquisition by Applicant would produce no adverse effects on existing competition in the market. Applicant's share of market deposits would not be immediately enhanced. Further, there would be no adverse effects on potential competition. Bank is to be located more than eight miles from Applicant's nearest banking subsidiary, and such geographic separation, the number of intervening banks, and Texas' prohibitive branching laws would negate the development of significant future competition between Bank and any of Applicant's banking subsidiaries. Conditions in the market would continue to be favorable for de novo or foothold entry, and alternative entry sites and banking institutions remain readily available for these respective types of entry. The Board concludes that consummation of the proposed acquisition would not have an adverse effect on competition in any relevant area.

The financial and managerial resources and future prospects of Applicant and its subsidiaries are regarded as generally satisfactory. Bank, as a proposed new bank, has no financial or operating history, but its future prospects as a subsidiary of Applicant appear favorable. Considerations relating to banking factors are consistent with approval. Although there is no evidence in the record that the major banking needs of the community are not being served adequately, considerations relating to the convenience and needs of the community to be served lend weight toward approval of the application. The addition of a new banking alternative in this strongly developing sector of the market would provide greater convenience to the public, and affiliation with Applicant would permit Bank to provide its customers with new services not normally made available by new banks. It is the Board's judgment that the proposed acquisition is in the public interest and that the application should be approved.

On the basis of the record the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months following the effective date of this Order, and (c) Southwood Bank, Houston, Texas, shall be opened for business not later than six months after the effective date of this Order. Each of the periods described in (b) and (c) may be extended for good cause by the Board or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Board of Governors,[2] effective September 10, 1974.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74-21461 Filed 9-16-74;8:45 am]

[1] The three largest banking organizations control 85.35 percent of the deposits held by commercial banks in the market.

[1] All banking data are as of December 31, 1973, and reflect bank holding company formations and acquisitions approved through July 31, 1974.

[2] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, Bucher and Holland. Absent and not voting: Governor Wallich.

[2] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, Bucher, and Holland. Absent and not voting: Governor Wallich.

FIRST COMMUNITY BANCORPORATION

Order Approving Acquisition of Bank

First Community Bancorporation, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Peoples Bank of Miller, Miller, Missouri ("Bank").

The application has been processed by the Federal Reserve Bank of Kansas City pursuant to authority delegated by the Board of Governors of the Federal Reserve System under the provisions of § 265.2(f)(24) of the Rules Regarding Delegation of Authority.

As required by section 3(b) of the Act, the Reserve Bank gave written notice of receipt of the application to the Missouri Commissioner of Finance. The Commissioner offered no objection to approval of the application. Notice of receipt of the application was published in the FEDERAL REGISTER on July 26, 1974 (39 FR 133), providing an opportunity for interested persons to submit comments and views with respect to the proposal. The United States Department of Justice and the Comptroller of the Currency were given notice of receipt of the application. Time for filing comments and views has expired and none has been received. The Reserve Bank has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the twenty-second largest banking organization in Missouri, controls 2 operating banks with aggregate deposits of approximately $80.1 million, representing .53 percent of the commercial bank deposits in the State.[1] Acquisition of Bank would increase Applicant's share of State deposits only slightly, and would not result in a significant increase in the concentration of banking resources in Missouri. Applicant's ranking among banking organizations in the State would remain unchanged.

Bank ($2.1 million in deposits) is the seventh largest of eight banking organizations in the Lawrence County banking market (approximated by all of Lawrence County and the northern quarter of Barry County) and holds 3.0 percent of the deposits in commercial banks in the market. Applicant's nearest subsidiary is located in Joplin, Missouri, 42 miles from Miller. The record indicates that there is no significant existing competition between Bank and any of Applicant's subsidiaries, and it is not likely that significant future competition will develop in view of the distances involved and Missouri's restrictive branching laws. Furthermore, the possibility that approval would eliminate some potential competition is considered remote. Affiliation with Applicant should increase Bank's effectiveness as a competitor in the market. Competitive considerations are consistent with approval of the application.

The financial condition and managerial resources of Applicant and its subsidiaries appear satisfactory and their future prospects seem favorable. The financial condition of Bank is satisfactory and its future prospects appear favorable. Affiliation with Applicant should provide Bank with an adequate source of qualified managerial and technical resources to enable Bank to offer expanded and more efficient banking services, including trust services and data processing services. These factors, as they relate to the convenience and needs of the community to be served, lend some weight for approval of the application. It is the Reserve Bank's judgment that consummation of the proposed acquisition is in the public interest and the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

[SEAL] WILBUR T. BILLINGTON,
Senior Vice President.

AUGUST 28, 1974.

[FR Doc.74-21459 Filed 9-16-74;8:45 am]

[1] All banking data are as of December 31, 1973, and reflect bank holding company formations and acquisitions approved by the Board through July 31, 1974.

FIRST MARYLAND BANCORP

Order Approving Acquisition of Schenectady Discount Corp.

First Maryland Bancorp, Baltimore, Maryland, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire all of the voting shares of Schenectady Discount Corporation, Albany, New York ("SDC"), and its wholly-owned subsidiaries, companies engaged variously in the activities of financing mobile home sales, servicing SDC's accounts, selling mobile homes repossessed by SDC, and acting as agent with respect to the sale of credit-related insurance in connection with the mobile homes financed by SDC. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(1), (3) and (9)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (39 FR 13178). The time for filing comments and views has expired, and the Board has considered the application and all comments received in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)).

Applicant, the third largest banking organization in Maryland, controls one bank with deposits of approximately $864 million, representing 11.5 percent of the total deposits in commercial banks in the State.[1] Applicant's nonbanking subsidiaries are engaged in personal property and equipment leasing, the sale of credit-related insurance and international banking.

SDC (total assets of approximately $19 million) and its subsidiaries are engaged in mobile home financing and the related activities of servicing accounts, sale of repossessed mobile homes, and sale, as agent, of credit life, credit accident, theft, property damage, rental value and liability insurance in connection with the mobile homes financed by SDC. SDC and its wholly-owned subsidiaries have a total of three offices located in Colonie and Ballston Lake, New York and in Mesa, New Mexico, respectively.

Applicant engages to some extent in mobile home financing in Maryland, through its lead bank, which is located approximately 300 miles from SDC's nearest office. Neither Applicant nor SDC derive any significant business from the areas served by the other. Furthermore, in view of the distances involved, it does not appear likely that any significant competition would develop between the two in the future in the relevant product line. The Board concludes, therefore, that consummation of the proposed acquisition would have no adverse effects on existing or potential competition.

As discussed above, SDC also engages in the sale, as agent, of various types of insurance directly related to extensions of credit, which have been determined to be permissible activities under § 225.4(a)(9)(ii)(a) and (b) of the Board's Regulation Y. In addition, SDC engages in the sale, as agent of certain types of insurance as a matter of convenience to the purchaser. This activity has been determined to be permissible under § 225.4(a)(9)(ii)(c) of Regulation Y provided that such sales are not more than 5 percent of the aggregate insurance premium income of the holding company system for insurance sold pursuant to § 225.4(a)(9)(ii). In view of the limited nature of such insurance activities, the Board finds that Applicant's acquisition of these activities would not have any adverse effects on existing or future competition.

There is no evidence in the record indicating that SDC's acquisition by Applicant would lead to an undue concentration of resources, conflicts of interests, unsound banking practices or other adverse effects on the public interest. On the other hand, it is expected that SDC's acquisition by Applicant will increase SDC's access to capital, thereby benefiting the public by enabling SDC to make more funds available for mobile home financing.

[1] All banking data are as of December 31, 1973, and reflect holding company acquisitions and formations approved through July 31, 1974.

In consideration of this application, the Board has examined the covenant not to compete which was executed in connection with the proposed acquisition. The Board finds that in view of the duration of this covenant, the provisions contained therein are reasonable as to its scope and geographic area and are consistent with the public interest.

Based upon the foregoing and other considerations reflected in the record,[2] the Board has determined, in accordance with the provisions of section 4(c)(8), that consummation of this proposal can reasonably be expected to produce benefits to the public that outweigh possible adverse effects. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in section 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and others issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[3] effective September 6, 1974.[4]

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74-21462 Filed 9-16-74;8:45 am]

FIRST NATIONAL HOLDING CORP.

Order Approving Application To Engage in Certain Insurance Agency Activities

First National Holding Corporation, Atlanta, Georgia, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(a)(9) of the Board's Regulation Y, to engage in certain insurance agency activities through a division of Applicant's wholly-owned subsidiary, Tharpe and Brooks, Inc., Atlanta, Georgia. Applicant proposes to act as an insurance agent or broker in respect to the following types of insurance:

1. Any insurance for Applicant and its subsidiaries.
2. Any insurance required by a lender to protect the value of an asset being financed by Applicant of its subsidiaries such as autos, boats, mobile homes, campers, and appliances. Insurance sold in this regard would be:
   a. Fire, theft and other perils.
   b. Comprehensive.
   c. Collision.
   d. Marine.
   e. Liability.
   f. Property floaters.
3. Any insurance required by Applicant or its subsidiaries to protect the value of inventory being financed by Applicant or its subsidiaries. Insurance sold in this regard would be:
   a. Property coverage.
   b. Business interruption.
   c. Liability.
4. Any insurance required to protect the value of an asset being leased where Applicant or its subsidiaries are the lessors. Insurance sold in this regard would be:
   a. Property coverage.
   b. Liability.
5. Any insurance required by Applicant or its subsidiaries to protect the value of real estate being financed by Applicant or its subsidiaries, whether acting as principal or agent. Insurance sold in this regard would be:
   a. Property coverage.
   b. Loss of rents.
   c. Liability.
   d. Homeowners.
   e. Performance bonds.
6. Any insurance required by Applicant or its subsidiaries to protect the value of business equipment being financed by Applicant or its subsidiaries. Insurance sold in this regard would be:
   a. Property coverage.
   b. Liability.
7. Any insurance on the life or health of a borrower or lessee of the Applicant or its subsidiary where the Applicant or the subsidiary is the beneficiary of the insurance. Insurance sold in this regard would be:
   a. Disability income.
   b. Mortgage life.
   c. Credit life.
8. Any insurance that is otherwise sold as a matter of convenience to the purchaser, such as:
   a. Accident health.
   b. Automobile.
   c. Property.
   c. Casualty.
   e. Life.

The sale of certain types of insurance is an activity which has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(9)) and, in general, to offer sufficient public benefits so as to meet the requirements of section 4(c)(8) of the Act.

Notice of the application was published in accordance with § 225.4(b)(2) of the Board's Regulation Y. Objections to the application were filed by certain local independent insurance agencies and by the National Association of Insurance Agents ("NAIA") and the Georgia Association of Independent Insurance Agents ("GAIA"). These parties sought and were granted intervention in the proceeding and requested a hearing thereon.

By Order dated March 6, 1973, the Board directed that a formal hearing be held on the subject application, as well as 21 other pending applications by bank holding companies to engage in certain insurance agency activities before a designated Administrative Law Judge ("Law Judge") (38 FR 6441). In addition to the parties designated above, other parties sought and were granted permission to participate in the proceeding, including the National Association of Life Underwriters ("NALU"), U.S. Fidelity and Guaranty Company ("USF&G"), and the Committee to Preserve Consumer Options ("CPCO") (an association of 28 banking institutions including most of the applicant bank holding companies in other docketed insurance agency applications then pending before the Board).

Following a prehearing conference on March 27, 1973, a public hearing was held in Atlanta, Georgia, commencing on June 27 and closing on June 29, 1973. A substantial record was developed through testimony and exhibits of the parties to the proceedings and others from the banking and insurance communities, both in support of, and in opposition to the application.[1] The hearing has been conducted in accordance with the Board's Rules of Practice for Formal Hearings (12 CFR 263).

In a Recommended Decision, the Law Judge concluded that the evidence supported a partial approval of the application and recommended:

(1) That the application be granted with respect to proprietary and employee insurance for Applicant and its subsidiaries and for credit life, health and accident, and mortgage redemption insurance for their customers but denied as to all other forms of insurance in the Atlanta, Georgia area.

(2) That the application be granted as to insurance agency sales by First South Insurance Agency Division of Tharpe and Brooks, Inc. at its offices located outside of the Atlanta, Georgia, area and to customers of nonbanking affiliates of First National Holding Company also located outside the Atlanta, Georgia, area subject to the restrictions as set forth in Regulation Y § 225.4(a)(9).

(3) That, in those respects in which the application is granted, the authorization be subject to appropriate anticoercion statements to be furnished for execution by customers as part of their insurance applications.

The Board, having considered the exceptions taken to the Recommended Decision by the various parties and the entire record, and having determined that the Law Judge's findings of fact, conclusions, and order, as modified and supplemented herein, should be adopted as the findings, conclusions, and order of the Board, now makes its findings as to the facts, its conclusions drawn therefrom, and its order.

Applicant's only banking subsidiary, First National Bank of Atlanta ("Bank") had deposits of $1.0 billion representing about 24.5 per cent of total deposits of commercial banks in the Atlanta Metropolitan Statistical Area.[2] Applicant also controls several nonbanking subsidiaries engaged in such activities as data processing, leasing of personal property and equipment, mortgage banking, factoring, and commercial real estate financing. One of Applicant's nonbanking subsidiaries, Tharpe and Brooks, Inc., was acquired in 1970. This subsidiary is engaged in the activity of

[2] Dissenting Statement of Governor Brimmer filed as part of the original document. Copies are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551 or to the Federal Reserve Bank of Richmond.

[3] Voting for this action: Vice Chairman Mitchell and Governors Sheehan, Bucher, Holland and Wallich. Voting against this action: Governor Brimmer. Absent and not voting: Chairman Burns.

[4] Board action was taken while Governor Brimmer was a Board Member.

[1] Board counsel participated in the hearing in a nonadversary capacity and took no position with respect to the merits of the application (12 CFR 263.6(d)).

[2] All banking data are as of December 31, 1972.

mortgage banking and, as of May 31, 1973, serviced loans on property worth $420 million. Applicant proposes to engage in the above-described insurance agency activities through a division of Tharpe and Brooks, Inc. and estimates that during the first year of operation this division should generate approximately $1.5 million in premium income.

The principal issues involved in this application are identical to those considered by the Board in its July 3, 1974, approval of the application of The Alabama Financial Group, Inc. to engage in certain insurance agency activities (39 FR 25548). The Board must determine whether the activities sought to be engaged in by Applicant are: (1) permissible activities within § 225.4(a)(9) of Regulation Y and therefore closely related to banking or managing or controlling banks and (2) whether performance of the proposed activities can reasonably be expected to produce benefits to the public such as greater convenience, increased competition, or gains in efficiency that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests or unsound banking practices. The Board has previously determined by Regulation (12 CFR 225.4(a)(9)) ("Insurance Regulation") that the following insurance agency activities are closely related to banking or managing or controlling banks and, in general, that performance of these activities by bank holding companies satisfies the public benefits test of section 4(c)(8) of the Act.[1]

The Law Judge concluded after review of the legislative history to the 1970 Amendments to the Bank Holding Company Act that "the Congress clearly had credit-related insurance agency sales in mind as an enterprise closely related to banking subject, however, to surviving the gamut of a net public benefits test * * *" page 17. The Board concurs with the Law Judge's understanding of the legislative history to this section of the Act and notes that this interpretation formed, in part, the basis for the adoption of the Board's Insurance Regulation. The Board has examined the individual types of insurance that Applicant seeks permission to sell in order to determine whether they come within the terms of the Insurance Regulation and whether their sale by Applicant satisfies the public benefits test.

Applicant seeks to sell under No. (1) above insurance for Applicant and its subsidiaries. Sale of this type of insurance has heretofore been permitted under § 225.4(a)(9)(i) of the Board's Insurance Regulation. Insurance permissible to sell under No. (1) would include insurance for the protection of the employees of the holding company in situations where the employee pays a portion of the premium for such insurance. As the Board noted in its Order referred to above relating to the application of The Alabama Financial Group, Inc., the protection of a bank holding company's employees through group insurance is a distinct benefit to the holding company the same as insurance on real property owned by the holding company. Therefore, the Board finds that the sale of insurance for the holding company and its subsidiaries, including group insurance for the protection of employees of Applicant, is a permissible activity under § 225.4(a)(9)(i) of the Insurance Regulation.

Under Nos. (2), (3), (5), and (6) above, Applicant seeks to sell various forms of insurance that protect the collateral that secures an extension of credit by Applicant or its subsidiaries. The Board finds that such coverages are directly related to an extension of credit within the meaning of § 225.4(a)(9)(ii)(a) of the Insurance Regulation. Insurance is essential from the lenders' standpoint to assure that the value of the collateral underlying an extension of credit will not be impaired by physical damage. The evidence of record in this proceeding confirms that the sale of insurance protecting the collateral securing an extension of credit is directly related to such extension of credit.

Applicant also seeks approval under these sections to sell liability insurance with regard to the assets being financed by Applicant or its subsidiaries. It appears from the evidence in this proceeding that liability insurance is generally sold in conjunction with property insurance on collateral securing extensions of credit. The Board has previously determined that where liability insurance is sold as part of a package with property insurance on collateral securing an extension of credit, the sale of such liability insurance is directly related to an extension of credit within the meaning of § 225.4(a)(9)(ii)(a) of the Board's Insurance Regulation. The Board reaffirms that position herein.

Applicant seeks authority under No. 5(d) above to sell homeowners' insurance. This is also a package form of insurance that combines property insurance with several other types of coverages and comes within § 225.4(a)(9)(ii)(a) of the Board's Insurance Regulation. This conclusion is further confirmed by the evidence of record indicating the difficulty of separately obtaining the several types of coverages contained in a homeowner's policy at a price comparable to that for the package. Accordingly, the Board concludes that the sale of homeowners' insurance supports the lending transactions of a bank or bank-related firm in the holding company system when it is sold to borrowers as a means of protecting the collateral in which the bank or bank-related firm has a security interest and is a permissible activity within § 225.4(a)(9)(ii)(a) of the Insurance Regulation.

Applicant requests authority under No. 5(e) above to sell performance bonds. Performance bonds have traditionally been sold as part of a mortgage loan transaction, and in the Board's judgment, there is a direct relationship between the sale of performance bonds and an extension of credit. The Board, therefore, finds that the sale of performance bonds is an activity within § 225.4(a)(9)(ii)(a) of the Insurance Regulation.

The sale of the several types of insurance sought to be sold under 5(a)(c)(d)(e) is also permissible where Applicant or its subsidiaries service mortgages for third parties. A company that services mortgages is usually responsible for obtaining insurance protecting the collateral supporting such mortgages and, thus, the sale of insurance is directly related to the provision of a financial service. Accordingly, the Board finds that the sale of insurance under such circumstances is within § 225.4(a)(9)(ii)(b).

Under No. (4) above, Applicant seeks to sell property and liability insurance which protects the value of assets being leased by Applicant or its subsidiaries. Property insurance protects the interest of Applicant in the assets being leased and, moreover, where liability insurance is sold as part of a package with property insurance, the former also is directly related to the provision of a financial service. Accordingly, the Board concludes that such insurance comes within § 225.4(a)(9)(ii)(b) of the Insurance Regulation since it is directly related to the provision of a financial service by a bank or bank-related firm.

Applicant has applied under 3(b) and 5(b) above for permission to sell business interruption insurance and loss of rent insurance. However, little or no evidence was presented orally, or otherwise, concerning these types of insurance. Accordingly, there is insufficient evidence in this record upon which the Board may determine whether the sale

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[1] The Board's Insurance Regulation was adopted after notice of proposed rulemaking and following receipt of comments on the substance of the proposed regulation. The insurance activities authorized by the Insurance Regulation are arguably narrower than those insurance activities authorized by the Board prior to the 1970 amendments to the Bank Holding Company Act. These prior decisions of the Board were referred to approvingly by members of Congress in debate on the 1970 Amendments.

(9) Acting as insurance agent or broker in offices at which the holding company or its subsidiaries are otherwise engaged in business (or in an office adjacent thereto) with respect to the following types of insurance:

(i) Any insurance for the holding company and its subsidiaries;

(ii) Any insurance that (a) is directly related to an extension of credit by a bank or a bank-related firm of the kind described in this regulation, or (b) is directly related to the provision of other financial services by a bank or such a bank-related firm, or (c) is otherwise sold as a matter of convenience to the purchaser, so long as the premium income from sales within this subdivision (ii)(c) does not constitute a significant portion of the aggregate insurance premium income of the holding company from insurance sold pursuant to this subdivision (ii);

(iii) Any insurance sold in a community that (a) has a population not exceeding 5,000 or (b) the holding company demonstrates has inadequate insurance agency facilities.

of such insurance is closely related to banking or managing or controlling banks.

Applicant seeks under No. (7) above, to sell credit life, credit accident and health, and mortgage redemption insurance where the Applicant or one of its subsidiaries is the named beneficiary. The Board has previously determined that the sale of these forms of insurance is within § 225.4(a)(9)(ii)(a) of the Insurance Regulation [4] and reaffirms that determination herein.

Finally, under No. (8), Applicant seeks to sell insurance that is otherwise sold as a matter of convenience to the purchaser. The premium income from sales in this category would not constitute a significant portion of the aggregate premium income from insurance sold in connection with the extension of credit or the provision of other financial services. Convenience sales are expressly permitted by the Board under § 225.4(a)(9)(ii)(c) of the Insurance Regulation. However, the Board does not regard this provision as permitting the entrance by any of Applicant's subsidiaries into the general insurance agency business.

In determining whether a particular activity is a proper incident to banking or managing or controlling banks, the 1970 Amendments to the Act require the Board to "consider whether its performance by an affiliate of a holding company can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." The Board, in adopting the Insurance Regulation, found that the performance by bank holding companies of those activities authorized by such Regulation satisfied, in general, this public benefits test. Additionally, in considering this application the Board has specifically determined whether performance of insurance activities by this Applicant satisfies the public benefits test.

It is reasonable to anticipate that approval of the subject application will result in a greater convenience to the public. There is evidence in the record that the ability of a borrower to purchase insurance at the same location where he obtains credit is likely to result in savings in time as well as avoiding duplication of information common to both credit and insurance transactions. Although initially Applicant intends to have only one licensed agent at one of the branches of its banking subsidiary, borrowers from other branches and from Applicant's nonbanking subsidiaries can telephone the licensed agent and should be able to complete the insurance transaction at the time the credit is extended. This convenience may well be more apparent in regard to the sale of personal insurance than in the sale of commercial insurance; however, it appears that there is a commonality of information between existing commercial credit and commercial insurance so that convenience factors should be present in this context also. On the basis of this evidence, the Board concludes that consummation of this transaction would provide a greater convenience to the public and that this factor supports approval of the application.

It appears from the evidence of record that Applicant's sale of insurance would result in certain efficiencies. Almost all of the customers of the proposed agency will be referred to the agency by loan officers of Applicant. This should result in the reduction or, perhaps, even elimination of advertising and solicitation expenses. Moreover, there was testimony in the record that Applicant's banking subsidiary encountered problems in obtaining a verification of renewals of automobile insurance. This problem should be eliminated by having an agent affiliated with Applicant responsible for these renewals. There was also testimony that having the various loan officers of Applicant deal with one agent employed by Applicant would likely result in efficiencies through the establishment of a common pattern of operations. The Board concludes that such efficiencies taken in the aggregate constitute a public benefit and that this factor weighs in support of approval of the application.

It is reasonable to anticipate that Applicant's entry into the sale of certain insurance policies will result in increased competition among insurance agencies in Georgia. While this increased competition may not result in more than a minimum amount of price competition, it is likely to produce increased competition on the basis of service to customers. For example, the ability to combine credit and insurance in one transaction at one location could be a means by which Applicant would be able to offer effective competition in the sale of these forms of insurance. Additionally, the availability of the financial expertise of Applicant should insure the borrower that he has obtained the proper package of insurance required by the lender. This would bring competitive pressure to bear on other insurance agencies to improve their services. Based on these and other facts and records, the Board concludes that consummation of the subject application would provide public benefits through increased competition.

One of the possible adverse effects which Congress directed the Board to consider in determining whether a particular activity is a proper incident to banking is the danger of undue concentration of resources. There is no credible evidence in this record establishing that consummation of this transaction would result in an undue concentration of resources. Applicant projects that during the first year of operation after approval of this application the insurance agency division of Tharpe and Brooks, Inc. will generate about $1.5 million in premium income. Even assuming that Applicant's premium income would be substantially greater than this projection, premium income of such volume cannot be viewed as an undue concentration of resources of the magnitude which Congress visualized in adopting section 4(c)(8) of the 1970 Amendments. Nor, considering the numerous banking alternatives available in Atlanta, is it likely that Applicant will be able to dominate the insurance agency business through the sale of such insurance by its banking subsidiary. Accordingly, the Board concludes that Applicant does not possess sufficient market power to deny its entry into the insurance agency field.

Another possible adverse effect which the Congress directed to the Board to consider in any section 4(c)(8) application is the danger of decreased or unfair competition. Intervenors vigorously contested this application on such grounds. Their argument was that permitting Applicant to sell insurance would lead to coerced or voluntary tying [5] of insurance to extensions of credit by Applicant. The incidence of tying would allegedly be particularly widespread in times of "tight money." It appears that the Law Judge was concerned with such a possibility and accordingly recommended that Applicant not be permitted to sell several types of insurance in the Atlanta area where Applicant's banking subsidiary held approximately 24.5 per cent of the total deposits in commercial banks.

However, the evidence of record contains no specific instances of a tying arrangement resulting from either coerced or "voluntary" tying. In fact, a witness for the intervenors admitted that he knew of no attempt by Applicant to coerce borrowers to purchase insurance. On the other hand, there was testimony by Applicant's witnesses that insurace was not discussed with borrowers until after the loan transaction was closed. This would appear to alleviate any potential danger of voluntary tying. Moreover, it is clear that coerced tying is forbidden by § 106 of the Bank Holding Company Act and, under certain conditions, by provisions of the antitrust laws. For these reasons, in addition to Applicant's commitment not to coerce borrowers to buy insurance, the Board concludes that the dangers of coerced tying are not substantial and should not bar Applicants sale of insurance in the Atlanta area.

Further evidence that would indicate that the amount of voluntary tying that would arise from the ability of Applicant to sell insurance would not be substantial include testimony that Applicant, through its subsidiary Tharpe and Brooks, Inc., had been able to sell insurance to only approximately 13.5 percent of the mortgage borrowers of this firm. It appears that an even lower percentage of automobile loan borrowers from Applicant also purchased automobile insur-

[4] See Board Order relating to Worcester Bancorp, Inc., (1974 *F.R. Bulletin* 393) and the Board's Order relating to the application of the Alabama Financial Group, Inc. (39 *F.R. Bulletin* 25548).

[5] Voluntary tying results not from any coercion placed on the borrower by the lender but rather from the borrower's presumed desire to enhance the probability of obtaining a loan.

ance from the Applicant's insurance agency. Additionally, as noted above, there are numerous alternative commercial banks in Atlanta to which a borrower may turn. There are also many nonbank lenders which compete in the Atlanta area. Borrowers can obtain automobile loans from sales finance companies, personal loans from consumer finance companies and credit unions, and mortgage loans from savings and loan associations and mortgage bankers. Considering these nonbank sources of credit together with the banking alternatives in Atlanta, the Board concludes that the sale of certain forms of insurance by Applicant will not create a possible danger of voluntary tying by borrowers of their insurance needs to their loans. Accordingly, the Board does not believe that Applicant should be foreclosed from selling insurance in Atlanta or that the public should be denied the greater conveniences, efficiencies, and increased competition that are likely to result from approval of the application. It is the Board's judgment that consummation of the proposal would not result in decreased or unfair competition.

The Law Judge recommended in his decision that "appropriate statements be included in all insurance application forms furnished by affiliates of the Applicant, in bold type above the borrower's signature, to the effect that the customer understands the placement of such insurance is not offered as a condition to the grant of credit, nor is an inducement therefor * * *" The Board notes that similar statements are likely to be included in all Truth in Lending disclosures made pursuant to the Board's Regulation Z with respect to credit life, accident and health, or loss of income insurance and it finds that the evidence in this record is not sufficient to otherwise require such language.

The Law Judge also recommended as a condition of approval that language be added to insurance application forms indicating that "similar insurance, not necessarily naming the lending institution as beneficiary, may be obtained from independent agents or in lieu thereof, that existing insurance owned by the debtor may be assigned to the bank" (page 20). The Board has not required this specific condition before; it notes that a similar statement will most likely be involved in appropriate Truth in Lending disclosures under the Board's Regulation Z with regard to casualty and liability insurance, and it believes that the evidence in this record is insufficient to demonstrate a public need for such a requirement beyond that reflected in Regulation Z.

Finally, in passing on an application under section 4(c)(8), the Board is required to consider whether conflicts of interests or unsound banking practices might arise from Applicant's entry into the insurance agency business. There was no evidence in this record to indicate such possibilities and the Board concludes that consummation of the transaction would not result in either conflicts of interests or unsound banking practices.

Subsequent to the Law Judge's decision in this case, legislation was passed by the Georgia legislature which arguably bore upon this application. Copies of such legislation, section 56–322 of the Georgia Code, were provided the parties and they were given the opportunity to comment. The parties' comments have been received, and the Board has considered such legislation and the parties' comments thereto.

In general, section 56–322 would restrict the types of insurance that a bank holding company could sell in Georgia. Applicant and CPCO have argued that such legislation by its terms does not apply to Applicant. The Board agrees with this contention since 1(d) of section 56–322 provides that any officer or employee of a bank holding company licensed to sell insurance in Georgia on January 1, 1974, and operating continuously since that date is not subject to the restrictive terms provided for in 1(a) of section 56–322.[6] The record establishes that Applicant acquired Tharpe and Brooks, Inc. in 1970 and has operated the insurance agency division of the company since then until the present time with appropriately licensed agents. Thus, Applicant appears to come within the exemptive provisions of 1(d) of section 56–322 and the Board concludes that Georgia law does not clearly prohibit the insurance activities in which Applicant seeks to engage.

The Board notes that NAIA has objected to the exclusion by the Law Judge of certain testimony of Mr. Harrison Houghton, a witness for NAIA. The Board, after examining the record, concludes that the Law Judge correctly exercised his discretion in refusing to admit this testimony since it was cumulative to other testimony in the record and, moreover, irrelevant to many of the issues involved in this application.

NAIA filed a motion to exclude Board personnel who were involved in this hearing from participating "in the making of the Board's decision" on this application. Since such personnel of the Board did not participate in the decisional process, the issue raised by the motion is moot.

Based on the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved subject to the exceptions noted above. This determination is further subject to conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination in the activities of the holding company or any subsidiaries as the Board finds necessary to ensure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder or to prevent evasion thereof. The transaction here approved shall be made not later than three months after the effective date of this Order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By Order of the Board of Governors,[7] effective September 5, 1974.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74–21467 Filed 9–16–74;8:45 am]

[6] Section 1(d) of section 56–322 reads as follows:

(d) Nothing contained within this Section shall apply to any lending institution, bank holding company, nor to any organization which was a subsidiary or affiliate of either of the foregoing on January 1, 1974, nor to any officer or employee of the foregoing, if on January 1, 1974, such lending institution, bank holding company, subsidiary or affiliate, officer or employee was licensed to operate and was conducting business in conformity with all Federal and State laws applicable thereto, and all Federal and State rules and regulations applicable thereto and who have since January 1, 1974, been in continuous operation.

[7] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, Holland, and Wallich. Absent and not voting: Governor Bucher.

GIRARD CO.

Order Approving Acquisition of Omnilease Corp.

Girard Company, Bala Cynwyd, Pennsylvania, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 885.4(b)(2) of the Board's Regulation Y, to acquire, through a proposed de novo subsidiary, Girard Leasing Corporation, Philadelphia, Pennsylvania ("GLC"), 50 percent of the voting shares of Omnilease Corporation, San Diego, California ("Omni"), and through such subsidiaries to engage in the activities of leasing personal property and equipment on a full-payout basis and act as agent, broker or advisor in the leasing of such property. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(6)(a)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (39 Federal Register 13919). The time for filing comments and views has expired. The application and all comments and views received have been considered in light of public interest factors in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant controls one bank, Girard Trust Bank, Bala Cynwyd, Pennsylvania ("Bank"), with deposits of $1.8 billion,[1] which represents about 5 percent of total deposits in commercial banks in Pennsylvania and ranks thereby as the fourth largest banking organization in the State.

GLC will be organized by Applicant for the purpose of acquiring 50 percent of the voting shares of Omni. While Omni was established in October of 1972,

[1] All banking data are as of June 30, 1973.

it has not yet engaged in any business and is virtually a de novo corporation. Omni and GLC propose to engage in leasing personal property and equipment on a full-payout basis whereby the lessor recovers its acquisition cost during the initial term of the lease and act as agent, broker or advisor in arranging such leasing transactions for third-parties. Although Omni may participate in such leases as lessor in a few instances, its primary business activity would be arranging such leasing transactions in the form of limited partnerships for GLC and third-parties. GLC would be the general partner in such transactions and each limited partnership would be established to facilitate leasing a single item of property. Since the limited partnership would be used only as a vehicle to facilitate the permissible leasing activities of GLC, Board approval of each limited partnership would not be required.

Since Omni has not yet engaged in any leasing activity it should be considered as a de novo corporation for purposes of assessing the competitive aspects of this proposal. Applicant does not engage, directly or indirectly, in acting as agent, broker or advisor with respect to leasing personal property. However, Bank has engaged in a few personal property leasing transactions. In view of the de novo nature of GLC and Omni and the limited extent of Bank's leasing activities, it is the Board's view that approval of the proposed transactions would have no adverse effects on either existing or potential competition. There is no evidence in the record to indicate that consummation would result in any undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices, or other adverse effects upon the public interest.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulaton Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Philadelphia.

By order of the Board of Governors,[3] effective September 9, 1974.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74-21466 Filed 9-16-74;8:45 am]

[3] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, and Holland. Absent and not voting: Governors Bucher and Wallich.

PLYMOUTH BANCORPORATION, INC.

Order Approving Formation of Bank Holding Company

Plymouth Bancorporation, Inc., Le Mars, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 80.96 per cent of the voting shares of the First National Bank in Le Mars, Le Mars, Iowa ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a nonoperating company with no present or proposed subsidiaries other than Bank. Bank (deposits of $18.1 million)[1] is the smaller of two banks in Le Mars and ranks second of nine banks in the relevant market,[2] holding 20.7 per cent of market area commercial bank deposits. Applicant's principal officer and shareholder is associated with other banking organizations in northwestern Iowa, but none of the banks is located in Bank's area, and the proposed transaction involves the acquisition by a new corporation of only one bank. Since the acquisition is essentially a means of transferrng shares of Bank from an individual to corporate ownership, it is concluded that consummation of the proposal will neither eliminate existing or potential competition, increase the concentration of banking resources in any relevant market area, nor have any adverse effect on any other firm.

The financial and managerial resources and future prospects of Applicant are dependent upon those same factors in Bank, which are viewed as generally satisfactory. Banking factors are regarded as consistent with approval.

Applicant's acquisition of Bank is expected to provide Bank's customers with increased residential mortgage loans and to provide computerized operations for certain of Bank's internal functions. Considerations relating to the convenience and needs of the community served are, therefore, consistent with approval. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[3] effective September 6, 1974.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74-21468 Filed 9-16-74;8:45 am]

[1] Deposit data are as of December 31, 1973.

[2] The relevant market area is approximated by Plymouth County, excluding the southeast corner.

[3] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, and Holland. Absent and not voting: Governors Bucher and Wallich.

SOUTHEAST BANKING CORP.

Order Approving Acquisition of Bank

Southeast Banking Corporation, Miami Florida, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of The Sebastian River Bank, Sebastian, Florida ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views has been given in accordance with § 3(b) of the Act. This Federal Reserve Bank has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the largest banking organization in Florida, controls thirty-six banks with aggregate deposits of $2.15 billion, representing 9.38 percent of deposits in all commercial banks in the state. (All banking data are as of December 31, 1973, and reflect acquisitions and formations approved through August 1, 1974.) Acquisition of Bank with deposits of $7.7 million, would increase Applicant's share of State deposits by less than one percent, and would not result in a significant increase in the concentration of banking resources in Florida.

Bank is the fourth largest of six banks in the relevant market which is approximated by Indian River County, and holds 6.18 percent of the deposits in the market area. Applicant's nearest banking subsidiary is located 22 miles north in a separate market. There is no significant competition between Bank and any of Applicant's subsidiaries, and it is unlikely that any future competition will develop because of the distances involved and the number (four) of intervening banks. Accordingly, competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicant, its subsidiaries, and Bank appear generally satisfactory, and are consistent with approval.

There is no evidence that the banking needs of the community are not being served; however, affiliation with Applicant should aid Bank in its commercial mortgage and construction lending. Further, Applicant will provide Bank with assistance in recruiting and training personnel. Convenience and need factors lend some weight toward approval. It is this Federal Reserve Bank's judgment that consummation of the proposed

transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after that date, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Federal Reserve Bank of Atlanta acting under delegated authority for the Board of Governors of the Federal Reserve System, effective September 5, 1974.

[SEAL] MONROE KIMBREL.

[FR Doc.74-21460 Filed 9-16-74;8:45 am]

WISDOM HOLDING CORP.

Formation of Bank Holding Company

Wisdom Holding Corporation, Salem, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 81 percent or more of the voting shares of The Bank of Bunker, Bunker, Missouri and through acquisition of 100 per cent of the voting shares (less directors' qualifying shares) of Dent County Bank, Salem, Missouri. 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)).

Wisdom Holding Corporation, Salem, Missouri, has also applied, pursuant to section 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 to acquire the insurance agency business of Glen Wisdom, sole proprietor, currently operated upon the premises of The Bank of Bunker, Bunker, Missouri, and the Dent County Bank, Salem, Missouri. Notice of the application was published on July 26, 1974, in The Salem News, a newspaper circulated in Bunker, Missouri and in Salem, Missouri.

Applicant states that it will engage in the sale of whole life, credit life and accident and health insurance in communities of less than 5,000 people. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 7, 1974.

Board of Governors of the Federal Reserve System, September 9, 1974.

[SEAL] THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.74-21464 Filed 9-16-74;8:45 am]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Notice of Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on August 27, 1974. See 44 U.S.C. 3512(c) & (d). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public of such receipt.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Further information about the items on this list may be obtained from the Regulatory Reports Review Officer, 202-376-5425.

CIVIL AERONAUTICS BOARD

Request for clearance of the reporting requirements contained in the amendment to Part 250 of the Board's Economic Regulations which extends the application of Part 250 to foreign air carriers on a limited basis; frequency is monthly; potential respondents are scheduled foreign air carriers; reporting burden is estimated at 2 hours for each respondent per response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.74-21453 Filed 9-16-74;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Wildlife Order 122; D-Utah-401J]

WENDOVER AIR FORCE RANGE, UTAH

Transfer of Property

Pursuant to section 2 of Public Law 537, Eightieth Congress, approved May 19, 1948 (16 U.S.C. 667c), notice is hereby given that:

1. By deed from the United States of America dated August 29, 1974, the property comprising approximately 216 acres of unimproved land identified as a portion, Wendover Air Force Range (Blue Lake), Wendover, Utah, has been conveyed to the State of Utah.

2. The above described property was conveyed for wildlife conservation purposes in accordance with the provisions of section 1 of said Public Law 537 (16 U.S.C. 667b), as amended by Public Law 92-432.

Dated: September 9, 1974.

L. F. ROUSH,
Commissioner, Public Buildings Service.

[FR Doc.74-21383 Filed 9-16-74;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

DANCE ADVISORY PANEL

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Dance Advisory Panel to the National Council on the Arts will be held at 9:30 a.m. on September 26, 27, and 28, 1974 in the first floor conference room of the Shoreham Bldg., 806 15th St. NW., Washington, D.C.

A portion of this meeting will be open to the public on Sept. 27 all day & 9/26 & 28 from 11:30 a.m. to 5:30 p.m. on a space available basis. Accommodations are limited. During the open session the relationship of dance with other funding areas in the different programs of the Endowment will be discussed.

The remaining sessions of this meeting, Sept. 26 and Sept. 28, 1974 from 9:30 to 11:30 a.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of January 10, 1973, these sessions, which involve matters exempt from the requirements of public disclosure under the provisions of the Freedom of Information Act (5 U.S.C. 552(b)(4) and (5) will not be open to the public.

Further information with reference to this meeting can be obtained from Mrs. Luna Diamond, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202)-382-5871.

EDWARD M. WOLFE,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.74-21379 Filed 9-16-74;8:45 am]

NATIONAL SCIENCE FOUNDATION

ADVISORY COMMITTEE ON ETHICAL AND HUMAN VALUE IMPLICATIONS OF SCIENCE AND TECHNOLOGY

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (P.L. 92-463), notice is hereby given that a meeting of the Advisory Committee on Ethical and Human

Value Implications of Science and Technology will be held at 10 a.m. on October 7, 1974, in room 642 at 1800 G Street NW., Washington, D.C. 20550. The afternoon session will begin at 1:30 p.m. in the same location, and will be in collaboration with the Advisory Committee on Science, Technology and Human Values of the National Endowment for the Humanities.

The purpose of this Committee is to provide advice and recommendations concerning support of scholarly activities in the field of ethical and human value implications of scientific and technological progress, in conjunction with cooperative programs of the National Endowment for the Humanities and the National Science Foundation.

The agenda for the meeting shall include:

MORNING 10:00

Discussion of program developments since the meeting of December 12, 1973
Discussion of projected activities for FY 1975
Discussion of long-range plans

AFTERNOON 1:30

(Collaborative session with the NEH Science, Technology and Human Values Advisory Committee)
Discussion of current joint NSF–NEH activities
Discussion of possible projects for joint agency support

This meeting shall be open to the public on a space available basis. Individuals who plan to attend should notify Dr. Robert J. Baum, Manager, Ethical and Human Value Implications of Science and Technology Program, by telephone (202/282–7947) or by mail (Rm. 668W, 1800 G Street NW., Washington, D.C. 20550) not later than the close of business on October 3, 1974. For further information concerning this Committee, contact Dr. Robert J. Baum, Program Manager, at the above address. Summary minutes of this meeting may be obtained from the Management Analysis Office, room K–720, 1800 G Street NW., Washington, D.C. 20550.

Dated: September 11, 1974.

FRED K. MURAKAMI,
Committee Management Officer.

[FR Doc.74–21432 Filed 9–16–74;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management of Budget on September 12, 1974 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this Daily List may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, (202–395–4529).

NEW FORMS

DEPARTMENT OF COMMERCE

Departmental:
Assisting Institution Questionnaire, Form ----, Single Time, EGG/Hulett ---- Businesses.
LBDO/CCAC Financial Data Form, Form, ---- Single Time, EGG/Hulett ---- Businesses.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Policy Development and Research:
Administrative Agency Experiment, Third Participant Survey, Form ----, Single Time ---- CVAD/Sunderhauf, Households participating in EHAP.

REVISIONS

DEPARTMENT OF COMMERCE

Bureau of Census:
Production and Shipments of Rubber and Plastics Hose and Belting Annual Report, Form MA–30B, ---- Annual, ---- Weiner, Hose and Belting Manufacturers.
State Tax Collections—Quarterly Survey, Form F–72 ---- Quarterly, Ellett ---- State governments.

EXTENSIONS

DEPARTMENT OF COMMERCE

Bureau of the Census:
Quarterly Survey of Property, Tax Collections, Form F–71, Quarterly, Ellett, County, City and Township Governments.
Quarterly Survey—Selected Local Taxes, Form F–73, Quarterly, Ellett, Selected major city and county governments.

Bureau of Economic Analysis:
Foreign Carriers' Ocean Freight Revenues and Expenses in the United States, Form BE–29, Annual, Evinger, Foreign Ocean Freight Carriers.
Foreign Airline Operators Revenues and Expenses in the United States, Form BE–36, Annual, Evinger, Foreign Airline Operators.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration Transmittal of Periodic and Promotional Material for New Animal Drugs, Form FD 2301, Occasional, Evinger, Drug Firms.

VETERANS ADMINISTRATION

Daily Report of Workmen and Materials, Form ----, Occasional, Caywood, Workmen.
Schedule of Costs, Form ----, Occasional, Caywood, Workmen.

PHILIP D. LARSEN,
Management and Budget Officer.

[FR Doc.74–21590 Filed 9–16–74;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[812–3549]

HAYDEN STONE, INC. AND BERNSTEIN-MACAULAY, INC.

Filing of Application

SEPTEMBER 10, 1974.

Notice is hereby given that Hayden Stone, Inc., 767 Fifth Avenue, New York, New York ("Hayden") and Bernstein-Macaulay, Inc., 767 Fifth Avenue, New York, New York ("Bernstein") have filed an application pursuant to section 9(c) of the Investment Company Act of 1940 ("Investment Company Act") for an order exempting Hayden and Bernstein from the provisions of section 9(a) of the Investment Company Act insofar as any ineligibility to serve or act in the capacities enumerated in section 9(a) of the Investment Company Act arises out of injunctions entered against Hayden in connection with two civil actions entitled Securities and Exchange Commission v. Topper Corporation, et al. (United States District Court for the Southern District of New York 73 CA4848) ("Topper Case") and SEC v. Hayden Stone, Inc., et al. (United States District Court for the Southern District of New York 74 CA1014) ("Hayden Case").

All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

Hayden states that it is a multi-service, publicly held broker-dealer with 55 domestic and foreign branches carrying approximately 80,000 active customer accounts and employing over 2,000 persons. Hayden states that it is presently in the process of effectuating a merger between Hayden and another broker-dealer, Shearson, Hammill & Co., Incorporated ("Shearson, Hammill"). Shearson, Hammill is principal underwriter for and through its wholly-owned subsidiary, The Shearson Hammill Management Company, Inc., is an investment adviser to four registered investment companies:

Shearson Income Fund, Inc., Shearson Investors Fund, Inc.
Shearson Capital Fund, Inc., and Shearson Appreciation Fund, Inc.
Bernstein is a wholly owned subsidiary of Hayden and is registered with the Commission as an investment adviser.

Section 9(a)(2) of the Investment Company Act, as here pertinent, makes it unlawful for any person who, by reason of any misconduct, is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security to serve or act in the capacity of employee, officer, director, member of advisory board, investment adviser or depositor of any registered investment company or principal underwriter for any registered open-end company, registered unit investment trust,

or registered face amount certificate company. Section 9(a)(3) makes it unlawful for a company, any affiliated person of which is ineligible by reason of section 9(a)(2) to serve or act in the enumerate capacities.

Section 9(c) provides that upon application the Commission by order shall grant an exemption for the provisions of Section 9(a) either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of section 9(a) as applied to Hayden Stone and/or Bernstein are unduly or disproportionately severe, or that the conduct of such person had been such as not to make it against the public interest or protection of investors to grant such application.

On November 12, 1973, Hayden consented to an injunction in the Topper case referred to above. Said injunction enjoined Hayden from further violations of section 10(b) of the Securities and Exchange Act of 1934 ("Exchange Act") and Rule 10b–5 thereunder in connection with the purchase or sale of securities in the capacity as managing or co-managing underwriter of a public offering or as manager of a private placement. The allegations in the Topper case related to non-disclosures in a private placement of Topper securities in September, 1971.

On March 5, 1974 Hayden consented to an injunction in the Hayden case referred to above. Said injunction restrained Hayden from violating section 17(a) of the Securities Act of 1933 and section 10(b) of the Securities Exchange Act, Rule 10(b)–5 thereunder in connection with the purchase or sale of any securities in a public offer for which Hayden is a managing or co-managing underwriter, and Rule 10b–6 thereunder in connection with the distribution of any security in which Hayden is participating or has agreed to participate. In connection with the settlement of the injunctive action, Hayden also consented to the institution of administrative proceedings by the Commission and to the imposition of sanctions against it in those proceedings. (Securities and Exchange Act Release 10675, March 8, 1974.) The allegations in the Hayden case related to a public offering of the securities of The Seaboard Corporation which was underwritten by Hayden in January, 1970.

By virtue of the Topper and Hayden injunctions, Hayden and Bernstein are subject to the prohibitions of section 9(a). Hayden states that it seeks exemptions from the prohibitions so that it can act as an underwriter for open end investment companies or unit investment trusts, and in the event the merger of Hayden and Shearson Hammill is successfully concluded, and subject to the appropriate approvals by the investment companies presently managed by Shearson Hammill, it is contemplated that the merged company will become investment adviser and principal underwriter for the investment companies either directly or through Bernstein or some other subsidiary of the merged company.

Hayden and Bernstein state that the prohibitions of section 9(a) of the Act are unduly harsh and disproportionately severe as applied to Hayden and Bernstein and that the conduct of Hayden and Bernstein has been such as not to make it against the public interest or the protection of investors for the Commission to grant a permanent exemption from the provisions of section 9(a) of the Act.

In support thereof, Hayden and Bernstein state:

(i) Since the date of the transactions involving Seaboard and Topper, Hayden had undergone significant changes in terms of size, management, and services offered to the public;

(ii) Except for the two injuctive actions, neither Hayden nor Bernstein has ever been charged by the Commission or the Government in either a formal administrative proceeding or a court action with violations of any of the securities laws; and

(iii) Hayden proceeded at all times in good faith.

Notice is further given that any interested person may not later than September 26, 1974, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing upon Hayden and Bernstein at the address set forth above. Proof of such service (by affidavit or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided in Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the Application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter including the date of the hearing (if ordered) and any postponement thereof.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–21387 Filed 9–16–74;8:45 am]

[812–3636]

INVESTORS SYNDICATE OF AMERICA, INC. AND IDS LIFE INSURANCE COMPANY

Filing of Application

SEPTEMBER 10, 1974.

Notice is hereby given that Investors Syndicate of America, Inc. ("ISA"), registered under the Investment Company Act of 1940 ("Act"), as a face-amount certificate company, and IDS Life Insurance Company ("IDS Life"), IDS Center, Minneapolis, Minnesota 55402, an insurance company incorporated in Minnesota (collectively the "Applicants"), have filed an application pursuant to section 17(d) of the Act and Rule 17d–1 thereunder for an order of the Commission permitting Applicants to participate to the extent noted below in proposed transactions arising out of the marger of Unimet Corporation ("Unimet") into Azcon Corporation ("Azcon"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants are each wholly-owned subsidiaries of Investors Diversified Services, Inc. ("IDS") which acts as distributor of the face-amount certificates issued by ISA and as investment adviser to each of the Applicants. Applicants have two common directors and three common officers. Unimet, which had consolidated assets of approximately $14,700,000 and consolidated income of approximately $1,100,000 as of December 31, 1972, is a Delaware corporation engaged principally in the wholesale distribution of metals and metal products. ISA and IDS Life hold $1,250,000 and $416,667 respectively, in unpaid principal amount of the 9¼ percent Senior Notes due January 1, 1987 of Unimet (the "Unimet Notes"). Consolidated Gold Fields Limited ("Gold Fields") and three of its wholly-owned subsidiaries own not less than 84 percent of Azcon, a Maine corporation. Gold Fields, a United Kingdom corporation, which had consolidated assets of approximately £239,242,000 ($552,649,000) at book value or £458,760,000 ($1,059,736,000) at market value and consolidated net income of approximately £19,043,000 ($43,989,000) as of June 30, 1973, is engaged principally in the mining business and other related businesses through wholly-owned or majority owned subsidiaries and associated companies.

On June 30, 1972, ISA and IDS Life acquired $1,500,000 and $500,000, respectively, in unpaid principal amount of the Unimet Notes which then had a maturity date of January 1, 1988. An election by Unimet subsequent to the issuance of the Unimet Notes to double two semi-annual sinking fund payments advanced maturity to January 1, 1987. The terms of the Unimet Notes were determined through a series of discussions between IDS, Unimet, and Laird Incorporated ("Laird"), an underwriter retained by Unimet. After consideration of the offering materials prepared by Laird, the research reports and recommendations of IDS, and the results of other investigations, each of the Applicants determined that the purchase of the Unimet Notes was in its best interest. Applicants state that the purchase by ISA of the Unimet Notes was on the same terms as the purchase by IDS Life and, therefore, was not on a basis different from or less advantageous than the purchase by IDS Life. It is submitted that the notes re-

ceived, the Note Agreements entered into, and the rights of payment were identical for ISA and IDS Life and that only the principal amount purchased by each applicant varied. Applicants represent that this variation reflected considerations of respective cash flow and risk in relation to total assets available for investment. It is stated that neither ISA, IDS Life or IDS nor any of their affiliates held Unimet securities other than the Unimet Notes on June 30, 1972 or subsequent thereto.

Following a successful tender offer for Unimet's common stock, Unimet was merged into Azcon. Unimet requested that the holders of the Unimet Notes consent to the merger since the terms of the Unimet Notes required such consent. In addition, Unimet requested that the holders of the Unimet Notes consent to the modification of the Unimet Notes to eliminate certain negative covenants in exchange for like guarantees by Gold Fields. Such request was made to conform the terms of the Unimet Notes to the terms of a bank term loan negotiated by Azcon to finance the tender offer. Applicants have consented to such merger and modifications contingent upon the granting of an order permitting their participation in such transactions since it was necessary for Azcon to commence its tender offer and consummate the merger prior to the issuance of such an order. In the event an order permitting Applicants' participation is not granted, Azcon will prepay the aggregate unpaid principal amount of the Unimet Notes held by the Applicants, plus interest accrued thereon, together with a prepayment premium of 8.64 percent of such principal amount in accordance with the prepayment provisions of the Unimet Notes. Other institutional investors holding Unimet Notes elected to have their Unimet Notes prepaid and such prepayment has been affected.

Applicants propose to enter into Exchange and Recapitalization Agreements (the "Exchange Agreements") with Azcon and Gold Fields providing for the issuance to Applicants of Azcon's 9¼% Senior Notes due January 1, 1987 (the "Azcon Notes") in an aggregate principal amount equal to the aggregate unpaid principal amount of the Unimet Notes held by Applicants. The Azcon Notes and the Exchange Agreements will contain none of the restrictions relating to various financial matters provided in the Unimet Notes such as limitations on indebtedness, lease obligations, liens and investment dividends and will contain no asset maintenance requirements on net worth and working capital. In lieu of these restrictions, Applicants will receive the unconditional guaranty of Gold Fields (the "Guaranty") of the due and punctual payment of the Azcon Notes. Pursuant to the Guaranty, Gold Fields will be obligated, if an event of default shall occur under the terms of the Azcon Notes, to purchase the Azcon Notes from the holders thereof at the principal amount thereof plus accrued interest and any applicable premium thereon. Under the Exchange Agreements, Azcon will be permitted to merge into or sell its assets to another company provided such other company is organized under the laws of the United States or of any state in the United States and expressly assumes the obligations of Azcon under the Azcon Notes and the Exchange Agreements. It will constitute an event of default under the Azcon Notes if Gold Fields, together with its wholly-owned subsidiaries, fails at any time to own at least 51% of the voting stock of Azcon or any successor to Azcon. Except for the foregoing differences, the Azcon Notes to be received by ISA and IDS Life will be identical in all material respects to the Unimet Notes and will rank equally in right of payment.

Applicants state that since IDS is the parent of and the investment adviser for both ISA and IDS Life, Applicants might be deemed to be under "common control" and each of the Applicants and IDS might be deemed to be an "affiliated person" of each of the others under the definition of "affiliated person" set forth in section 2(a)(3) of the Act. Rule 17d–1 adopted by the Commission under section 17(d) of the Act provides, in pertinent part, that "no affiliated person of or principal underwriter for any registered investment company * * * and no affiliated person of such a person or principal underwriter, acting as principal, shall participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement or profit-sharing plan in which any such registered investment company * * * is a participant, and which is entered into, adopted or modified subsequent to the effective date of this rule, unless an application regarding such joint enterprise, arrangement or profit-sharing plan has been filed with the Commission and has been granted by an order entered prior to the submission of such plan or modification to security holders for approval, or prior to such adoption or modification if not so submitted." It also provides that in passing upon such application the Commission will consider whether the participation of such registered investment company in such joint enterprise, joint arrangement, or profit-sharing plan on the basis proposed is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants. Applicants submit that the consent to the merger of Unimet into Azcon by the respective Applicants, the execution by them of the Exchange Agreements and the carrying out of the transactions contemplated thereby and by the Azcon Notes and the Guaranty may be deemed to constitute a joint enterprise, joint arrangement or profit-sharing plan as defined by Rule 17d–1.

Applicants assert that the merger of Unimet into Azcon and the receipt by Applicants of the Azcon Notes and the Guaranty will be in the best interests of ISA and IDS Life and that the participation of ISA in such transactions will be consistent with the provisions, purposes and policies of the Act. Applicants represent that the Guaranty will improve their present position and that the Azcon Notes so guaranteed constitute an attractive investment for each of them in view of the overriding financial strength of Gold Fields as compared to Unimet. Applicants assert that the terms of the Azcon Notes and the Exchange Agreements are identical, with respect to both Applicants, except as to the principal amount of the Azcon Notes, and that the Azcon Notes received by ISA rank equally in right of payment with those to be received by IDS Life. Applicants therefore represent that the participation of ISA is not on a basis different from or less advantageous than that of IDS Life.

Notice is further given that any interested person may, not later than October 7, 1974, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing(upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following October 7, 1974, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74–21385 Filed 9–16–74;8:45 am]

NATURIZER, INC.

[File No. 500–1]

Suspension of Trading

SEPTEMBER 10, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the Class A and Class B common stock of Naturizer, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 3 p.m., e.d.t., on September 10, 1974 through midnight, e.d.t., on September 19, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-21388 Filed 9-16-74;8:45 am]

[812-3662]

SCHUSTER FUND, INC. AND SCHUSTER SPECTRUM FUND, INC.

Notice of Application

SEPTEMBER 10, 1974.

Notice is hereby given that Schuster Fund, Inc. ("Schuster") and Schuster Spectrum Fund, Inc., ("Spectrum") (collectively referred to as "Applicants"), 245 Park Avenue, New York, New York 10017, open-end, diversified, management investment companies registered under the Investment Company Act of 1940 ("Act"), have filed an application pursuant to section 17(b) of the Act for an order of the Commission exempting from the provisions of section 17(a) of the Act the proposed merger of Spectrum into Schuster. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Schuster, a Maryland corporation, was organized in 1967 and, as of March 31, 1974, had net assets of $11,249,772. Spectrum, a Maryland corporation, was organized in 1969 and, as of March 31, 1974, had net assets of $975,733. The investment objective of Schuster is long-term capital appreciation; the investment objective of Spectrum is to seek capital growth. CNA Management Corporation ("CNA"), wholly-owned subsidiary of CNA Financial Corporation, acts as investment adviser and principal underwriter for both Applicants. The Boards of Directors and officers of both Applicants are identical, and their governing instruments are substantially similar. Accordingly, each of the Applicants may be deemed to be under common control, and, therefore, Applicants may be deemed to be affiliated persons of each other within the meaning of section 2(a)(3) of the Act.

Applicants propose to enter into an agreement of merger under which Spectrum is to be merged into Schuster. Schuster shall be the surviving corporation, and the separate existence of Spectrum shall cease. The proposed merger is contingent upon the receipt of an opinion of counsel to the effect that the merger will constitute a tax-free reorganization. The agreement of merger requires the affirmative vote of at least a majority of the outstanding voting securities of Spectrum.

Prior to the effective date of merger, each Applicant will distribute to its respective shareholders a dividend consisting of substantially all of its undistributed net taxable investment income and net taxable short-term capital gains. Such taxable dividends will be paid in each case in additional shares of the respective Applicant or, at the election of each shareholder, in cash. On the effective date of merger, the outstanding shares of capital stock of Spectrum will be converted into that number of full shares (and fractional interest in a full share) of Schuster as shall have an aggregate net asset value, as of the last day on which the New York Stock Exchange is open for unrestricted trading prior to the effective date of the merger, equal to the aggregate net asset value of each shareholder's interest in Spectrum.

As of March 31, 1974, Spectrum had a tax loss carry forward of approximately $515,800. Of such tax loss carry forward, $205,787 will be available to Schuster if the merger is effected. As of March 31, 1974, Schuster had a tax loss carry forward of approximately $4,923,000. On March 31, 1974, Spectrum had unrealized losses of $141,870 and Schuster had unrealized losses of $2,650,057.

No adjustment in the net asset values of Applicants will be made to compensate for any potential Federal income tax impact on the shareholders of Applicants which may result from the differences between the Applicants in the percentage of each Applicant's net unrealized capital losses to its net asset value and in the amount of each Applicant's tax loss carry forward. Applicants assert that the application of an adjustment formula is inappropriate in this instance in view of the substantial tax loss carry forward and unrealized losses possessed by each Applicant. Applicants further assert that a tax adjustment cannot be demonstrated to result in fairer treatment to the respective shareholders than not making an adjustment since the effect on a particular shareholder is dependent on a variety of personal factors such as the individual shareholder's capital gains tax rate, the individual's cost basis, the time when the individual ultimately redeems his shares in Schuster, and Schuster's future pattern of realization and distribution of gains.

Section 17(a) of the Act, in pertinent part, provides that it shall be unlawful for any affiliated person of a registered investment company knowingly to sell to or purchase from such registered investment company any security or other property. Section 17(b) of the Act provides that the Commission, upon application, may exempt a proposed transaction from the provisions of section 17(a) if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned and the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Applicants assert that the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned since shares of Schuster will be issued to the shareholders of Spectrum on the basis of the respective net asset values of each of the Applicants determined at the same point in time. Applicants state that certain expenses, such as legal, accounting, and custodial fees, qualification of shares for sale, shareholder meetings, preparation of proxies and shareholder reports, franchise taxes and possibly brokerage commissions, are expected to constitute a lower percentage of income of the surviving Applicants than they presently constitute of each Applicant separately.

Applicants assert that the proposed merger is consistent with the policies of both Spectrum and Schuster and the general purposes of the Act. The investment objectives of both Applicants is capital appreciation, and the investment policies and restrictions of both Applicants are substantially the same.

The aggregate expenses of the Applicants in connection with the proposed merger, including legal, accounting, printing, transfer agent and other miscellaneous expenses, are estimated at $12,500. Such expenses will be borne by Schuster in the event the merger is effected and will be allocated to each Applicant in proportion to its respective net asset value in the event the merger is not effected.

Notice is further given that any interested person may, not later than October 16, 1974, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following October 16, 1974, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-21384 Filed 9-16-74;8:45 am]

[File No. 500-1]

WESTGATE CALIFORNIA CORP.

Suspension of Trading

SEPTEMBER 9, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock (Class A and B), the cumulative preferred stock (5 percent and 6 percent), the 6 percent subordinated debentures due 1979 and the 6½ percent convertible subordinated debentures due 1987 being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from 10:00 A.M. (EDT) on September 9, 1974 through midnight (EDT) on September 18, 1974.

By the Commission.

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

[FR Doc.74-21386 Filed 9-16-74;8:45 am]

[70-5338]

AMERICAN ELECTRIC POWER COMPANY, INC.

Notice of Post-Effective Amendment Regarding Proposed Cash Capital Contributions to Subsidiary Companies

SEPTEMBER 11, 1974.

Notice is hereby given that American Electric Power Company, Inc. ("AEP"), 2 Broadway New York, New York 10004, a registered holding company, has filed a fourth post-effective amendment to its application-declaration in this proceeding pursuant to sections 6(b) and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45 and 50(a)(5) promulgated thereunder regarding the following proposed transaction.

By order dated June 29, 1973 (Holding Company Act Release No. 18013), the Commission authorized AEP to make cash capital contributions from time to time prior to December 31, 1974, to three of its public-utility subsidiary companies as follows: $85,000,000 to Ohio Power Company ("Ohio"), $40,000,000 to Appalachian Power Company ("Appalachian"), and $70,000,000 to Indiana & Michigan Company ("I&M").

It is now proposed that AEP be permitted to increase the proposed contributions to two of its public utility subsidiary companies to the following amounts: $100,000,000 to I&M and $115,000,000 to Ohio Power.

No state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than October 4, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended by said post-effective amendment, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

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

[FR Doc.74-21478 Filed 9-16-74;8:45 am]

BROKER-DEALER MODEL COMPLIANCE PROGRAM ADVISORY COMMITTEE

Notice of Public Meetings

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92-463, 86 Stat. 770, the Securities and Exchange Commission announces the following public advisory committee meeting.

The Commission's Advisory Committee on a Model Compliance Program for Broker-Dealers, established on October 25, 1972 (Securities Exchange Act Release No. 9335), will hold meetings on October 9-12, 1974, at the Riviera Hyatt House, Conference Room B, 1630 Peachtree Street NW., Atlanta, Georgia. The meeting on October 9 will commence at 2 p.m. and the meetings on October 10, 11 and 12 (if needed) will commence at 9:00 a.m.

This Advisory Committee was formed to assist the Commission in developing a model compliance program to serve as an industry guide for the broker-dealer community. Assisted by this Committee's work, the Commission plans to publish a guide to broker-dealers of the standards to which they should adhere if investor confidence in the fairness of the market place is to be warranted and sustained. The Committee's recommendations are not intended to result in the expansion of Commission rules governing broker-dealers, but to inform broker-dealers as to the existing requirements and how they may comply with them.

The Committee's scheduled meetings will be for the purpose of reviewing the final draft of the Committee's proposed report to the Commission on these compliance guidelines for broker-dealers.

These meetings are open to the public. Any interested person may attend and appear before or file statements with the Advisory Committee—which statements, if in written form, may be filed before or after the meetings or, if oral, at the time and in the manner and extent permitted by the Advisory Committee. Information on the procedures for making statements may be obtained by contacting: SEC Broker-Dealer Model Compliance Program Advisory Committee, Mr. Sidney T. Bernstein, Secretary, 500 North Capitol Street NW., Room 334, Washington, D.C. 20549.

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

SEPTEMBER 11, 1974.

[FR Doc.74-21477 Filed 9-16-74;8:45 am]

[70-5430]

EASTERN UTILITIES ASSOCIATES, ET AL.

Notice of Proposed Loans and Open Account Advances by Holding Company to Subsidiaries

SEPTEMBER 11, 1974.

In the matter of Eastern Utilities Associates, P.O. Box 2333, Boston, Massachusetts 02107; Blackstone Valley Electric Company, P.O. Box 1111, Lincoln, Rhode Island 02865; Brockton Edison Company, 36 Main Street, Brockton, Massachusetts 02403; Fall River Electric Light Company, 85 North Main Street, Fall River, Massachusetts 02722; Montaup Electric Company, P.O. Box 391, Fall River, Massachusetts 02722.

Eastern Utilities Associates ("EUA") a registered holding company, and its four electric utility subsidiary companies, Blackstone Valley Electric Company ("Blackstone"), Brockton Edison Company ("Brockton"), Fall River Electric Light Company ("Fall River"), and Montaup Electric Company ("Montaup"), have filed a post-effective amendment to the application-declaration, as amended, previously filed in this proceeding pursuant to sections 6(a), 7, 9(a), 10, 12(b), 12(c) and 12(f) of the Public Utility Holding Company Act of 1935 ("Act"), and Rule 45(a) promulgated thereunder regarding the following proposed transactions.

By Order dated December 27, 1973, (Holding Company Act Release No. 18238), in this proceeding EUA, Blackstone, Brockton, Fall River and Montaup were authorized to issue notes to banks, and in the cases of Blackstone, Brockton, and Fall River to also receive open account advances from EUA in maximum aggregate amounts specified by said order.

Applicants-declarants now request authority (i) for EUA to make loans to Montaup in amounts not to exceed $15,000,000 in principal amount out-

standing at any one time; and (ii) for EUA to make advances on open account through December 31, 1974, in addition to those heretofore authorized in this proceeding of up to $1,000,000 to Blackstone, $2,000,000 to Brockton and $1,000,000 to Fall River. Proceeds of said loans and advances are to be used for meeting construction expenditures or to reduce short-term borrowings from banks.

EUA's loans to Montaup will be evidenced by promissory notes maturing not later than December 31, 1974. The loans to Montaup and the advances to Blackstone, Brockton and Fall River will bear interest at a rate per annum equal at all times to 115 percent of the base rate in effect at First National City Bank, New York, New York on 90-day loans to responsible and substantial commercial borrowers, each change in the interest rate on such advances to take effect simultaneously with the corresponding change in the base rate. Assuming a base rate of 12 percent, the effective interest cost would be 13.8 percent.

It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions. Fees and expenses, if any, to be incurred in connection with the proposed transaction will be filed by amendment.

Notice is further given that any interested person may, not later than October 3, 1974, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as further amended by said post-effective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended by said post-effective amendment, or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-21479 Filed 9-16-74;8:45 am]

[File No. 500-1]

FRANKLIN NEW YORK CORP.

Suspension of Trading

SEPTEMBER 11, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common and preferred stock and 7.30 percent notes of Franklin New York Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended; for the period from September 12, 1974 through September 21, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-21475 Filed 9-16-74;8:45 am]

[File No. 500-1]

FRANKLIN NATIONAL BANK

Suspension of Trading

SEPTEMBER 11, 1974.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the preferred stock and 4.75 percent debentures of Franklin National Bank (New York, N.Y.) being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

Therefore, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, trading in such securities otherwise than on a national securities exchange is suspended, for the period from September 12, 1974 through September 21, 1974.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.74-21476 Filed 9-16-74;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[V-74-44]

AMERICAN BRIDGE, ET AL.

Notice of Applications for Variance and Grant of Interim Orders

I. *Notice of applications.* Notice is hereby given that American Bridge, Division of United States Steel Corporation, 600 Grant Street, Pittsburgh, Pennsylvania 15230 and Bethlehem Steel Corporation, Fabricated Steel Construction Division, Bethlehem, Pennsylvania 18016 have made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1926.451(a)(4), (5), and (10) dealing with scaffolding.

The places of employment affected by these applications are the construction sites where the applicants are engaged in construction operations.

The applicants certify that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the applications, the applicants contend that they are providing employment and places of employment as safe as those which would prevail if they complied with § 1926.451 (a) (4), and (10). Section 1926.451(a)-(4) and (5) reads as follows:

(4) Guardrails and toeboards shall be installed on all open sides and ends of platforms more than 10 feet above the ground or floor, except needle beams scaffolding and floats (see paragraphs (p) and (w) of this section). Scaffolds 4 to 10 feet in height having a minimum horizontal dimension in either direction of less than 45 inches, shall have standard guardrails installed on all open sides and ends of the platform.

(5) Guardrails shall be 2 x 4 inches, or the equivalent, approximately 42 inches high, with a midrail, when required. Supports shall be at intervals not to exceed 8 feet. Toeboards shall be a minimum of 4 inches in height.

The applicants state that their business is of a specialized nature involving steel plate erection by members of the boilermaker's trade.

The applicants contend that the scaffolds they use in building tanks are mobile and are frequently raised as are the tank sections, in order to position the next set of steel plates. The scaffolds used do not have toeboards because tools are placed in well designed "loose tool" containers provided for that purpose. In addition, the applicants propose to rope off the area directly below and in close proximity to the scaffold and to permit only those employees, and tools currently being used by them, on the scaffolds. As a further precaution, a taut wire is installed midway between the innermost plank face of the scaffold platform and the tank face. The applicants state that because the scaffolds must be moved frequently, it would be more hazardous to constantly remove and replace toeboards.

The applicants also propose to place guardrail supports at 10'6" intervals in lieu of 8' requirement of § 1926.451(a)(5). This would allow consistent bracket spacing since the applicants further desire to use 10'6" spans for their scaffold planking although § 1926.451(a)(16) allows a maximum span of 10'. American Bridge states that rough full-dimensional 2" x 12" x 12' planks of Douglas Fir or Southern Yellow Pine are used. Bethlehem Steel Corporation states that it uses 2" x 10" x 12' Douglas Fir. Both applicants state that the boards are Select Structural grade with 1900 psi fiber construction grade lumber. The applicants contend that scaffolds they are using are safe, even though the span is one-half foot longer than the maximum length allowed, because of the increased strength of the wood.

A copy of the applications will be made available for inspection and copying upon request at the Office of Compliance Programming, U.S. Department of Labor, 1726 M Street NW., Room 210, Washington, D.C. 20210, and at the following Regional and Area Offices:

U.S. Department of Labor
Occupational Safety and Health Administration
15220 Gateway Center
3535 Market Street
Philadelphia, Pennsylvania 19104

U.S. Department of Labor
Occupational Safety and Health Administration
Room 802, Jonnet Building
4099 William Penn Highway
Monroeville, Pennsylvania 15146

U.S. Department of Labor
Occupational Safety and Health Administration
William J. Green Jr. Federal Building
600 Arch Street
Philadelphia, Pennsylvania 19106

All interested persons, including employers and employees, who believe they would be affected by the grant or denial of the applications for variance are invited to submit written data, views, and arguments relating to the pertinent application no later than October 17, 1974. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the applications no later than October 17, 1974, in conformity with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing should be in quadruplicate, and must be addressed to the Office of Compliance Programming at the above address.

II. *Interim order.* It appears from the applications for variance and interim orders filed by the companies named in this notice, that the proposed scaffolding described in their applications, with certain variations, will provide employment and places of employment as safe as those which would prevail if the applicants were to comply fully with 29 CFR 1926.451(a)(4), (5), and (10). It further appears that interim orders are necessary, pending a decision on the applications, in order to prevent undue hardship to the applicants and their employees. Therefore, it is ordered, pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, and 29 CFR 1910.11(c), that the companies be, and they are hereby, authorized to use scaffolds in accordance with the following conditions, in lieu of complying with the toeboard and span requirements in § 1926.451(a)(4), (5), and (10):

(a) The applicants' loose tools and equipment shall be kept in tool containers. This does not include fit-up bar, key plates, key channels, or long handled maul which may rest on the scaffold plank from time to time. The loose tool containers shall be secured to prevent their upset or dislodgement from the scaffold area.

(b) Areas beneath employees working elevated areas shall be roped off and posted with signs stating "Danger Overhead Work".

(c) A taut wire rope shall be installed at the scaffold plank level between the scaffold plank and the curved plate structure, so that the open space on either side of the taut wire rope shall not exceed 12".

(d) Brackets, posts, supports and rails for the outer guardrail and midrail shall be proportionately stronger at 10'6" intervals in order to provide guardrail strength and stability equal to that which would be obtained by the use of 2" x 4" at 8' intervals in accordance with § 1926.451(a)(5). Brackets and supports shall be located at 10'6" intervals.

(e) Tank scaffold brackets shall be spaced 10'6" center to center for this type of tank work.

(f) Scaffold planks with the following specifications shall be used. All planking shall be of rough full-dimensioned 2" x 12" x 12' Douglas Fir or Southern Yellow Pine of Select Structural grade. The Douglas Fir shall have at least a 1,900 fiber stress and 1,900,000 modulus of elasticity, while the Yellow Pine shall have at least a 2,500 fiber stress and 2,000,000 modulus of elasticity.

Each applicant shall give notice of its interim order to all employees affected thereby, by the same means required to be used to inform them of the application for a variance.

Effective date. These interim orders shall be effective as of September 17, 1974, and shall remain in effect until a decision is rendered on the applications for variance.

Signed at Washington, D.C. this 11th day of September, 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74-21481 Filed 9-16-74;8:45 am]

SUPPLEMENT TO APPROVED OREGON PLAN

Completion of Developmental Step

1. *Background.* Part 1953, Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Assistant Secretary for Occupational Safety and Health (hereinafter called the Assistant Secretary), under delegation of authority from the Secretary of Labor (Secretary's Order 12-71, 36 FR 8754, May 12, 1971), will review changes in a State plan which has been approved in accordance with section 18(c) of the Act and Part 1902 of this Chapter. On December 28, 1972, notice was published in the FEDERAL REGISTER (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing this decision.

Section 1952.105(b)(1) and (2) of Subpart D contains a description of the State's proposed enabling legislation to be enacted in the 1973 legislative session. By letter dated August 9, 1973, from the Workmen's Compensation Board (hereinafter called the Board), the State has submitted, as part of its plan, copies of Senate Bill 44, the Oregon Safe Employment Act, amending Oregon Revised Statutes 654 and 446 and other miscellaneous provisions. The State Act was signed by the Governor on July 22, 1973, and carried an effective date of July 1, 1973. This legislation was submitted to the State Legislature in accordance with the requirement of § 1952.108(a) of the State's developmental schedule as revised on April 1, 1974 (39 FR 11881). Pursuant to 29 CFR 1953.11(d)(1), preliminary examination discloses no cause for rejecting this supplement and its approval is under consideration.

2. *Issues.* The decision approving the Oregon State plan, including its proposed legislation, incorporated several assurances from the State on revisions to the legislation, to meet the requirements of the Act and 29 CFR Part 1902. These revisions have been made as follows:

(a) *Revised legislation.* (1) As stated in the decision of approval, the legislation, as enacted includes a repeal of several criminal penalties and legislative standards which are covered by existing State civil penalties and standards.

(2) The legislation as enacted, ORS 654.062(4), contains a provision for assuring the confidentiality of an employee's name when the employee requests an inspection.

(b) *Additional provisions.* In enacting the draft bill which was included in the approved State plan, Oregon substantially reorganized the legislation and included a number of significant revisions, which do not appear to lessen the effectiveness of the State program, as follows:

(1) The potential employee sanction for a knowing violation of a standard or regulation after notice by the Board has been deleted.

(2) Section 13 of the legislation as enacted, contains a more detailed description of the Board's authority to grant permanent and temporary variances as well as provision for hearings if requested by employers and employees. This section also provides that a request for a variance, filed after an inspection, will not function as a stay or a dismissal

of a citation and if the variance is granted, it shall have no retroactive effect. As stated in the developmental schedule, revised April 1, 1974 (39 FR 11811), the specific regulations concerning variances will be developed by July 1, 1974.

(3) In the proposed legislation, employee complaints alleging discrimination were to be handled by the Board. The enacted legislation confers this authority on the Labor Commissioner. An agreement requiring referral of discrimination complaints to the Labor Commissioner was completed on April 15, 1974.

(4) Both the proposed and enacted legislation cover public employers in the same manner as private employers. However, the legislation, as enacted, includes a list of factors to be considered in setting the penalty and abatement date when the violation involves the structural or mechanical condition in an existing public building constructed, acquired or occupied after July 1, 1973. These limitations with respect to existing buildings terminate on July 1, 1975.

(5) The legislation, as enacted, ORS 654.090, authorizes on-site consultation services to employers and authorizes the Board to prescribe procedures permitting employers to request an inspection, focused on specific problems or hazards, which will not directly result in a citation and civil penalty.

(6) Section 17 of the legislation, as enacted includes a six month statute of limitations on the issuance of a citation or civil penalty but this limitation does not prevent the issuance of an order by the Board to correct the violation or the issuance of a citation for a subsequent violation.

(7) The enacted legislation contains specific sections on definitions, authority of the Board in relation to other State agencies, and inter-agency coordination.

(c) *Areas of difference.* In addition to minor organization and word changes, there are three areas where Oregon's legislation, as enacted, differs from the provisions of the legislation as approved.

(1) Section 16(5) of the legislation, as enacted provides for employee participation in an inspection by accompanying the inspector, where there is an employee representative, and authorizing discretionary consultation with employees in the absence of a representative. The legislation, as approved, made such consultation mandatory. In an advisory opinion on the revised legislation transmitted to the State on March 27, 1973, it was recommended that the discretionary provision be revised as mandatory either in the legislation or by regulations. Oregon has promulgated the appropriate regulatory provision, Rule 46–331, and included a mandatory consultation requirement in its Field Compliance Manual.

(2) As approved, Oregon's legislation provided for notification to employees of action taken on their requests for inspections. In enacting the legislation, this provision was revised, ORS 654.062(3), to require an additional written request from an employee in order to obtain a statement of the reasons why no citation was issued. A statement that such a written request is necessary is included on the State's complaint request form.

(3) Section 18 of Oregon's legislation, as enacted differs from section 10(b) of the Federal Act when it defines the provisions for a stay of the abatement date following a contest of a citation by the employer. The Federal Act, and Oregon's legislation as approved, provide a stay of the abatement date by operation of law until entry of a final order where the contest of the citation, penalty or abatement date was initiated in "good faith and not solely for delay or avoidance of penalties". As enacted, Oregon's legislation only authorizes a stay of the abatement date as follows: (i) The abatement date for a nonserious violation is stayed by operation of law pending a final order of the Board when an employer contests, "ing good faith and not solely for delay or avoidance of penalties, the period of time fixed for correction of the nonserious violation;" (ii) the abatement date for serious violation is not stayed by operation of law. However, where an employer or employee contests the abatement date for a serious violation "any hearing on that issue shall be conducted as soon as possible and shall take precedence over other hearings * * *."; (iii) there are no specific provisions for staying the abatement date on other types of violations such as e.g. willful, repeated or failure to abate such as that provided for in section 10(b) of the Federal Act; (iv) there is no provision for a stay of the abatement date or for an expedited hearing as to any type of violation when the citation itself and/or the penalty, but not the abatement date, is at issue in the case.

3. *Location of supplement for inspection and copying.* A copy of the supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Associate Assistant Secretary for Regional Programs, Room 850, 1726 M Street NW., Washington, D.C. 20210; Office of the Assistant Regional Director, Occupational Safety and Health Administration, 1804 Smith Tower Building, 506 Second Avenue, Seattle, Washington 98104; Workmen's Compensation Board, Labor and Industries Building, Room 204, Salem, Oregon 97310; and Office of the Occupational Health Section, State Health Division, Room 840, State Office Building, 1400 Southwest Fifth Avenue, Portland, Oregon.

4. *Public participation.* Interested persons are hereby given until October 17, 1974. to submit written data, views and arguments concerning the legislation. Such data, views and arguments should address the matter of whether the Oregon Safe Employment Act conforms with the requirements of the Act and implementing regulations as well as with the State's assurances regarding the proposed bill submitted as part of its previously approved plan. General comment not relevant to § 1952.108(a) of the developmental schedule are not appropriate. The submission should be addressed to the Associate Assistant Secretary for Regional Programs, Room 850, 1726 M Street, NW., Washington, D.C. 20210, and will be available for inspection and copying at this address.

Any interested person(s) may request an informal hearing concerning the enacted legislation, whenever particularized written objections thereto are filed within the time allowed for comments specified above. If, in the opinion of the Assistant Secretary, substantial objections which warrant further discussion are submitted, a formal or informal hearing on the subjects and issues involved may be held.

The Assistant Secretary shall thereafter consider all relevant comments and arguments and issue his decision as to approval or disapproval of the supplement, make appropriate amendments to Subpart D of Part 1952 and initiate appropriate further proceedings if necessary.

(Secs. 8(g), 18, Pub. L. 91–596, 84 Stat. 1598, 1608 (29 U.S.C. 657(g), 667)).

Signed at Washington, D.C. this 11th day of September 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74–21480 Filed 9–16–74;8:45 am]

STANDARDS ADVISORY COMMITTEE ON AGRICULTURE

Notice of Meeting

Notice is hereby given that the Standards Advisory Committee on Agriculture, including the subcommittees on Field Sanitation, Hand and Portable Tools, Walking and Working Surfaces, and Ladders, established under section 7(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 656), will meet on Tuesday, September 24, 1974, and on Wednesday, September 25, 1974, starting at 9 a.m. each day in Room 107 ABC, Main Labor Building, Constitution Avenue at 14th Street, N.W., Washington, D.C. The meeting shall be open to the public.

The agenda provides for the full committee to meet in an introductory session each day after which the subcommittees will meet in separate sessions. The subcommittees on Field Sanitation, Walking and Working Surfaces, and Hand and Portable Power Tools will continue their deliberations from previous meetings. The subcommittee on Ladders is meeting for the first time and will begin deliberations toward recommending a standard as soon as the Walking and Working Surfaces subcommittee completes a brief meeting on September 24th. The full committee will reconvene to receive and consider any interim or final recommendations of the subcommittees and to consider any other business pending before the committee.

Any written data or views concerning the subjects to be considered which are received by the Committee Management Office before the date of the meeting, together with 20 duplicate copies, will be

given to the members and included in the record of the meeting.

Persons wishing to orally address the Committee at the meeting should submit a written request to be heard, including the subject on which they will speak, as well as an estimate of the amount of time requested and the capacity in which they will appear. Such information should be addressed to:

Jeanne W. Ferrone
Committee Management Officer
Occupational Safety and Health Administration
U.S. Department of Labor
1726 M Street, N.W., Room 200
Washington, D.C. 20210
(Phone: 202/961-2248, 2487)

Signed at Washington, D.C., this 11th day of September 1974.

JOHN STENDER,
Assistant Secretary of Labor.

[FR Doc.74-21438 Filed 9-16-74;8:45 am]

Office of the Secretary

[Secretary of Labor's Order 13-74]

FEDERAL COMMITTEE ON APPRENTICESHIP

Responsibilities and Structure

1. *Purpose.* To set forth the responsibilities and structure of the Federal Committee on Apprenticeship (hereinafter referred to as "Committee").

2. *Purpose of the Committee.* The purpose of the Committee is to advise the Secretary of Labor on: (a) the establishment of programs and practices for developing and promoting an expanded apprenticeship and journeyman training program in all sectors of the economy; (b) the formulation and promotion of labor standards necessary to safeguard the welfare of apprentices and the inclusion of such standards in contracts of apprenticeship; (c) the identification of research needs and experimental and demonstration projects designed to test new approaches to apprenticeship and skill training; (d) the establishment of cooperative relationships with State agencies concerned with apprenticeship and skill training, and (e) the development, review and promotion of more effective programs and policies for establishing and maintaining equal opportunity in apprenticeship and skilled occupations.

3. *Composition of the Committee.* Consistent with the requirements of section 2 of the National Apprenticeship Act, 29 U.S.C. 50a, the Committee shall be composed of 25 individuals appointed by the Secretary. The membership of the Committee shall include 10 representatives of employers, 10 representatives of organized labor, and 5 representatives of the public, including one or more educators. The Secretary shall appoint one of the public members as Chairman of the Committee. The President of the National Association of State and Territorial Apprenticeship Directors and a representative of the U.S. Office of Education, Department of Health, Education and Welfare, will be invited to serve as members of the Committee ex officio. The Assistant Secretary for Manpower shall be a member of the Committee ex officio, and he or his designee shall, pursuant to Section 10(e) of the Federal Advisory Committee Act, be the Federal representative on the Committee. The members are appointed by the Secretary of Labor for a two-year term.

4. *Compensation.* Committee members shall receive no compensation for their participation on the Committee, but may receive authorized travel expenses, including per diem in lieu of subsistence, as allowable in Part 7 of the Department's Manual of Administration.

5. *Meetings.* Meetings of the Committee will be held at least semiannually.

6. *Committee Procedures.* The Federal Committee on Apprenticeship shall operate in accordance with the provisions of the Federal Advisory Committee Act of 1972 (P.L. 92-463) and the regulations issued thereunder.

7. *Authority and Directives Affected.* This Order is issued under authority of Section 2 of the National Apprenticeship Act (P.L. 75-309, 29 U.S.C. 50a) and the Federal Advisory Committee Act of 1972 (P.L. 92-463, 5 U.S.C. App.). Secretary's Order 12-67 of June 22, 1967, is hereby canceled.

Signed at Washington, D.C., on this 31st day of May, 1974.

PETER J. BRENNAN,
Secretary of Labor.

[FR Doc.74-21436 Filed 9-16-74;8:45 am]

Wage and Hour Division

ADVISORY COMMITTEE ON SHELTERED WORKSHOPS

Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Department of Labor's Advisory Committee on Sheltered Workshops which will be held on October 2, 1974, beginning at 9:30 a.m. in Room 107 A, B, and C (Conference Level—one flight down) of the U.S. Department of Labor Building, 14th Street and Constitution Avenue NW., Washington, D.C.

The Advisory Committee on Sheltered Workshops advises the Department of Labor with respect to the application of the Federal minimum wage laws to nonprofit sheltered workshops and related matters. Membership consists of workshop representatives, workshop workers, labor, industry, and the public.

The agenda for the meeting follows:

1. Status of Sheltered Workshop Study.
2. Employment of Patient Workers in Hospitals and Institutions under the Fair Labor Standards Act.
3. Regulations on Minimum Wage and Overtime Exemption for Students Employed by Elementary and Secondary Schools.
4. Clarification of Sheltered Workshop Regulations.
5. Appeal from Cancellation of a Workshop Certificate.
6. Status of Affirmative Action Program on Employment of the Handicapped by Government Contractors.
7. Setting Minimum Wages on Government Contracts.
8. Fringe Benefits for Workshop Clients.
9. Items Committee Members Wish to Have Considered.

The meetings are open. It is suggested that persons planning to attend as observers contact Mrs. Florence Dunn, Secretary, Advisory Committee on Sheltered Workshops, U.S. Department of Labor, Employment Standards Administration, Washington, D.C. 20210 (telephone: 202-382-7375).

Signed at Washington, D.C., this 13th day of September 1974.

BETTY SOUTHARD MURPHY,
Administrator,
Wage and Hour Division.

[FR Doc.74-21593 Filed 9-16-74;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACURED IN HAITI

Entry or Withdrawal From Warehouse for Consumption

SEPTEMBER 16, 1974.

On August 13, 1974, there was published in the FEDERAL REGISTER (39 FR 20944) a notice dated August 12, 1974 in which the Chairman of the Committee for the Implementation of Textile Agreements requested specific information relating to shipments of cotton textiles and cotton textile products, produced or manufactured in Haiti, which would exceed the levels of restraint established pursuant to the Bilateral Cotton Textile Agreement of November 3, 1971, as amended, between the Governments of the United States and Haiti, for the twelve-month period which began on October 1, 1973. On the basis of information received, and in consultations with the Government of Haiti, the United States has agreed to permit entry of all such goods exported from Haiti to the United States on or before August 31, 1974. The Government of Haiti has agreed that these quantities will be deducted from the levels of restraint of the affected categories for the agreement year beginning October 1, 1974.

Accordingly, there is published below a letter of September 16, 1974, from the Chairman of the Committee for the Implementation of Textile Agreements directing that, effective as soon as possible, cotton textiles and cotton textile products in Categories 1 through 64, produced or manufactured in Haiti and exported to the United States on or before August 31, 1974, shall be permitted entry; and requesting that cotton textiles and cotton textile products entered for consumption or withdrawn from warehouse for consumption be accounted for so that subsequent adjustments may be made in the levels of restraint that will apply

during the twelve-month period beginning October 1, 1974.

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

SEPTEMBER 16, 1974.

DEAR MR. COMMISSIONER: This directive amends but does not cancel the directive issued to you on July 3, 1974 by the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit entry during the twelve-month period beginning October 1, 1973 of cotton textiles and cotton textile products in Categories 1 through 64, produced or manufactured in Haiti, in excess of a designated level of restraint.

Pursuant to paragraph 13 of the Bilateral Cotton Textile Agreement of November 3, 1971, as amended, between the Governments of the United States and Haiti, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed, effective as soon as possible and through September 30, 1974, to permit entry of cotton textiles and cotton textile products in Categories 1 through 64, produced or manufactured in Haiti and exported to the United States on or before August 31, 1974, notwithstanding the level of restraint for Categories 1 through 64 contained in the directive of July 3, 1974. You are further directed to provide reports of the aforementioned entries, by category, to the Chairman of the Committee for the Implementation of Textile Agreements.

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The actions taken with respect to the Government of Haiti and with respect to imports of cotton textiles and cotton textile products exported from Haiti have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commission of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

SETH M. BODNER,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.74-21645 Filed 9-16-74;10:38 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1974

Notice of Proposed Deletions

Notice is hereby given pursuant to section 2(a)(2) of Public Law 92-28; 85 Stat. 79, of the proposed deletion of the following commodities from Procurement List 1974, November 29, 1973 (38 FR 33038).

COMMODITIES

Class 8440
Neckerchief
8440-240-4922
Class 8465
Bag, Sleeping
8465-338-5415
Bag, Soiled Clothes
8465-286-5455

Comments and views regarding these proposed deletions may be filed with the Committee not later than thirty days after the date of this FEDERAL REGISTER. Communications should be addressed to the Executive Director, Committee for Purchase From the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.74-21390 Filed 9-16-74;8:45 am]

PROCUREMENT LIST 1974

Deletion From Procurement List

Notice of proposed deletion from Procurement List 1974, November 29, 1973 (38 FR 33038) was published in the FEDERAL REGISTER on July 16, 1974 (39 FR 26061).

Pursuant to the above notice the following commodities are deleted from Procurement List 1974.

COMMODITIES

Class 8455
Backing Plates, Plastic
8455-421-7475
8455-421-7476
8455-421-7477
8455-421-7478
8455-421-7479
8455-421-7480
8455-421-7481
8455-421-7482
8455-421-7483
8455-421-7484
8455-421-7485

By the Committee.

C. W. FLETCHER,
Executive Director.

[FR Doc.74-21391 Filed 9-16-74;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice 591]

ASSIGNMENT OF HEARINGS

SEPTEMBER 12, 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 the date of this publication.

MC 119777 Sub 290, Ligon Specialized Hauler, Inc., now assigned October 1, 1974, will be held in the East Courtroom, U.S. Court of Appeals, 600 Camp Street, New Orleans, La.

MC 20783 Sub 99, Tompkins Motor Lines, Inc., now assigned October 2, 1974, will be held in the East Courtroom, U.S. Court of Appeals, 600 Camp St., New Orleans, La.

MC 119792 Sub 39, Chicago Southern Transportation Co., now assigned October 7, 1974, will be held in the East Courtroom, U.S. Court of Appeals, 600 Camp St., New Orleans, La.

AB 26 Sub 3, Southern Railway Company and Southern Railway-Carolina Division Abandonment Between Barnwell and Furman, in Barnwell, Allendale, and Hampton Counties, South Carolina, now assigned October 16, 1974, will be held in the Auditorium of The James B. Brandt Agriculture Building, Courthouse Square, Allendale, S.C.

MC 119777 Sub 279, Ligon Specialized Hauler, Inc., now assigned October 21, 1974, will be held in Room 345, Federal Bldg., 1800 5th Avenue, North, Birmingham, Ala.

MC 134599 Sub 97, Interstate Contract Carrier Corp., now assigned October 1, 1974, will be held on the 5th Floor, 150 Causeway St., Boston, Mass.

AB 77, Bangor and Aroostook Railroad Co., Abandonment Between Monticello and Bridgewater, Aroostook County, Maine, now assigned October 7, 1974, will be held at the Gentle Memorial Building, Recreation Center, Main St., Houlton, Maine.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-21498 Filed 9-16-74;8:45 am]

TEMPORARY AUTHORITY TERMINATION

[Notice 10]

The temporary authorities granted in the dockets listed below have expired as a result of final action either granting or denying the issuance of a Certificate or Permit in a corresponding application for permanent authority, on the date indicated below:

Temporary authority application	Final action or certificate or permit	Date of action
Bass Transportation Co., Inc., MC-87720 Sub 151	MC-87720 Sub 138	Feb. 28, 1974
Valley Transportation & Warehouse Co., Inc., MC-99866 Sub 2	MC-99866 Sub 4	Nov. 29, 1973
Earl Gibbon Transport, Inc., MC-102567 Sub 167	MC-102567 Sub 170	Aug. 16, 1974
Schjoneman Trucking, Inc., MC-103786 Sub 6	MC-103786 Sub 7	Nov. 30, 1973
Marten Transport, Ltd., MC-103798 Sub 5	MC-103798 Sub 6	June 5, 1974
Morgan Drive-Away, Inc.:		
MC-103993 Sub 792	MC-103993 Sub 791	Aug. 26, 1974
MC-103993 Sub 796	MC-103993 Sub 791	Do.
The Transport Co., Inc., MC-104210 Sub 67	MC-104210 Sub 68	Nov. 7, 1973
Schilli Motor Lines, Inc., MC-106674 Sub 101	MC-106674 Sub 92	Do.
Pre-Fab Transit Co., MC-107295 Sub 353	MC-107295 Sub 291	Nov. 1, 1973
Matlack, Inc., MC-107403 Sub 844	MC-107403 Sub 839	Nov. 26, 1973
Matlack, Inc., MC-107403 Sub 850	MC-107403 Sub 861	June 14, 1974
Refrigerated Transport Co., Inc.:		
MC-107515 Sub 833	MC-107515 Sub 838	Nov. 20, 1973
MC-107515 Sub 846	MC-107515 Sub 838	Do.
Frozen Food Express, Inc., MC-108207 Sub 359	MC-108207 Sub 367	Aug. 8, 1974
Coldway Food Express, Inc., MC-110563 Sub 102	MC-110563 Sub 103	Mar. 12, 1974
Stauffer Truck Service, Inc., MC-113865 Sub 16	MC-113865 Sub 17	Apr. 19, 1974
Stauffer Truck Service, Inc., MC-113865 Sub 18	MC-113865 Sub 19	May 1, 1974
Erickson Transport Corp., MC-113908 Sub 225	MC-113908 Sub 234	Feb. 20, 1974
DBA, Shoemaker Trucking Co., MC-114265 Sub 18	MC-114265 Sub 19	July 31, 1974
Roberts Cartage, Inc., MC-117160 Sub 2	MC-117160 Sub 3	June 20, 1974
William's Chemical Transport, Inc., MC-119395 Sub 1	MC-119395 Sub 2	Nov. 16, 1973

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-21497 Filed 9-16-74;8:45 am]

[S.O. 1179]

TEXAS AND PACIFIC RAILROAD CO.

Stay of Order

The Texas and Pacific Railway Company ordered to operate trains of National Railroad Passenger Corporation (AMTRAK). In the matter of stay of order served August 12, 1974.

Upon consideration of the record in the above-entitled proceeding, and of a petition filed August 30, 1974, by the National Railroad Passenger Corporation for a stay of the effective date of the order entered herein by the Commission, Division 3, acting as an Appellate Division, on August 12, 1974, and good cause appearing therefor:

It is ordered, That those provisions of the said order served August 12, 1974, which revoked the Service order served March 21, 1974, requiring the refiling of an application under section 402(a) of the Rail Passenger Service Act of 1970, as amended, and required the posting of notice of termination of the subject trains as set forth in the first two ordering paragraphs of the said order served August 12, 1974, be, and they are hereby, stayed pending further order of the Commission;

It is further ordered, That except to the extent herein stayed, the order of August 12, 1974, shall remain in full force and effect.

Dated at Washington, D.C., this 6th day of September, 1974.

By the Commission, Commissioner Tuggle.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-21494 Filed 9-16-74;8:45 am]

[No. 36062]

DUPLICATE PAYMENTS OF FREIGHT CHARGES

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 6th day of September, 1974.

It appearing, that several complaints have been received from shipper interests that duplicate payments for charges on particular shipments have been made due to carrier billing errors, and that when repayment has been requested certain carriers have declined on the ground that the amounts involved are "overcharges" and that the statute of limitations has extinguished the claims;

It further appearing, that by request dated March 13, 1974, United Traffic Consultants seeks entry of a declaratory order finding that such duplicate payments are not overcharges; and good cause appearing therefor,

It is ordered, That this proceeding be, and it is hereby, instituted with a view to entering an appropriate order in the premises.

It is further ordered, That public notice of the institution of this proceeding shall be given by publication hereof in the FEDERAL REGISTER and by posting a copy hereof in the Office of the Secretary of this Commission; that any person interested in actively participating herein shall merely notify the Commission, Office of Proceedings, Room 5342, to that effect on or before October 18, 1974; and that, thereafter, a list of those persons will be served on each, and the nature of further proceedings will be specified.

By the Commission, Division 2.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.74-21496 Filed 9-16-74;8:45 am]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

SEPTEMBER 12, 1974.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065(a)), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC-42261 (Sub-No. E2), filed May 10, 1974. Applicant: LANGER TRANSPORT CORP., Box 305, Jersey City, N.J. 07303. Applicant's representative: A. J. Langer (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: A. *Empty Containers* (except cargo containers) between Danbury Conn., on the one hand, and, on the other, points in Virginia, and those in West Virginia on and east of U.S. Highway 219. The purpose of this filing is to eliminate the gateway of Hanover, Pa.

B. *Containers, container ends, and materials, equipment, and supplies used in the manufacture and distribution of containers and container ends* (except commodities in bulk), in mixed loads with containers and container ends, (1) from Paulsboro, N.J., and points in that part of New Jersey on and north of a line extending from the Atlantic Ocean over an unnumbered highway (formerly New Jersey Highway 40) via West Point Pleasant to Laurelton, thence over New Jersey Highway 70 to Camden, and on east of a line extending from Camden along New Jersey Highway 25 to junction U.S. Highway 206, near Bordentown, thence along U.S. Highway 206 to junction U.S. Highway 202, thence along U.S. Highway 202 to New Jersey-New York State line, to Cranston, R.I. The purpose of this filing is to eliminate the gateway of New York, N.Y. (2) From points in Pennsylvania on and east of a line beginning at the Pennsylvania-Delaware State line and extending along U.S. Highway 202 to junction U.S. Highway 309, and thence along U.S. Highway 309 to Allentown, thence along U.S. Highway 22 to the Pennsylvania-New Jersey State line, to Cranston, R.I. The purpose of this filing is to eliminate the gateway of New York, N.Y.

No. MC-59952 (Sub-No. E1), filed May 20, 1974. Applicant: J. M. BARBE CO., P.O. Box 767, Warren, Ohio 44483. Applicant's representative: James R. Grace, P.O. Box 749, Youngstown, Ohio 44501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Empty metal containers, container ends, and parts and accessories* for the commodities

described above, between points in that part of West Virginia on and west of a line beginning at the Virginia-West Virginia State line, thence along U.S. Highway 219 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction U.S. Highway 250, thence along U.S. Highway 250 to junction West Virginia Highway 69, thence along West Virginia Highway 69 to the Pennsylvania-West Virginia State line, on the one hand, and, on the other, points in that part of New York on and west of U.S. Highway 81, and points in that part of Pennsylvania north of U.S. Highway 80 and west of U.S. Highway 219. The purpose of this filing is to eliminate the gateway of Warren, Ohio.

No. MC–59952 (Sub-No. E2), filed May 20, 1974. Applicant: J. M. BARBE CO., P.O. Box 767, Warren, Ohio 44483. Applicant's representative: James R. Grace, P.O. Box 749, Youngstown, Ohio 44501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty metal containers, container ends, and parts and accessories* for the commodities described above, from points in Indiana, on the one hand, and, on the other, points in Pennsylvania, New York, Maryland, and Delaware. The purpose of this filing is to eliminate the gateway of Warren, Ohio.

No. MC–73688 (Sub-No. E17), filed May 14, 1974. Applicant: SOUTHERN TRUCKING CORP., P.O. Box 7195, Memphis, Tenn. 38107. Applicant's representative: Fred F. Bradley, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles* (except commodities used in or in connection with the discovery, development, production, refining, manufacturing, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products), from Anniston, Montgomery, Decatur, Gadsden, Holt, and Birmingham, Ala., to Greenville, Miss. The purpose of this filing is to eliminate the gateway of points in Arkansas.

No. MC–73688 (Sub-No. E21), filed May 14, 1974. Applicant: SOUTHERN TRUCKING CORP., P.O. Box 7195, Memphis, Tenn. 38107. Applicant's representative: Fred F. Bradley, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Greenville, Miss., to points in Kentucky. The purpose of this filing is to eliminate the gateway of points in Arkansas within the Memphis, Tenn., Commercial Zone.

No. MC–73688 (Sub-No. E22), filed May 14, 1974. Applicant: SOUTHERN TRUCKING CORP., P.O. Box 7195, Memphis, Tenn. 38107. Applicant's representative: Fred F. Bradley, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing, roofing materials, and roofing asphalt* (except in bulk), which are building materials, from Tuscaloosa County, Ala., to Lockland, Ohio. The purpose of this filing is to eliminate the gateway of points in Kentucky.

No. MC–73688 (Sub-No. E23), filed May 14, 1974. Applicant: SOUTHERN TRUCKING CORP., P.O. Box 7195, Memphis, Tenn. 38107. Applicant's representative: Fred F. Bradley, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* which are iron, steel, or steel products, from Lockland, Ohio, to points in Arkansas (except Pine Bluff, Little Rock, Stuttgart, and Camp Joseph T. Robinson; points on U.S. Highway 70 between Little Rock and the Arkansas-Tennessee State line; points in Arkansas Highway 11 between junction Arkansas Highway 11 and U.S. Highway 70 and Stuttgart; and points in U.S. Highway 79 between Stuttgart and Pine Bluff). The purpose of this filing is to eliminate the gateway of Memphis, Tenn.

No. MC–73688 (Sub-No. E24), filed May 14, 1974. Applicant: SOUTHERN TRUCKING CORP., P.O. Box 7195, Memphis, Tenn. 38107. Applicant's representative: Fred F. Bradley, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Structural steel, steel piling, iron and steel wire, nails, and pipe, and contractors' equipment, roofing materials, and culvert and fabricated metal pipe* which are iron, steel, or steel products, restricted against the transportation of oilfield and pipeline commodities as defined in *T. E. Mercer Extension-Oilfield Commodities*, 74 M.C.C. 459, from points in Mississippi on and north of a line beginning at the Arkansas-Mississippi State line and extending along Mississippi Highway 4 to Holly Springs, thence along U.S. Highway 78 to the Mississippi-Alabama State line, to points in Louisiana on and north of U.S. Highway 84 and on and west of U.S. Highway 167, restricted to traffic having a prior movement by water. The purpose of this filing is to eliminate the gateways Memphis, Tenn., and points in Arkansas on the Arkansas River and its tributaries.

No. MC–73688 (Sub-No. E25), filed May 14, 1974. Applicant: SOUTHERN TRUCKING CORP., P.O. Box 7195, Memphis, Tenn. 38107. Applicant's representative: Fred F. Bradley, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* (except oilfield and pipeline commodities as defined in *T. E. Mercer Extension-Oilfield Commodities*, 74 M.C.C. 459), from points in Missouri on and east of Missouri Highway 51 to points in Louisiana on and north of U.S. Highway 84, restricted to traffic having a prior movement by water, and restricted against the transportation of traffic originating in Alabama and Tennessee (except Memphis, Tenn.). The purpose of this filing is to eliminate the gateway of points in Arkansas on the Arkansas River and its tributaries.

No. MC–73688 (Sub-No. E26), filed May 14, 1974. Applicant: SOUTHERN TRUCKING CORP., P.O. Box 7195, Memphis, Tenn. 38107. Applicant's representative: Fred F. Bradley, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stone building materials*, from Tate and Elberton, Ga., and points in Georgia within 10 miles of each, to points in Arkansas (except Pine Bluff, Little Rock, Stuttgart, and Camp Joseph T. Robinson; points on U.S. Highway 70 between Little Rock and the Arkansas Highway 11 between junction Arkansas Highway 11 and U.S. Highway 70 and Stuttgart and points on U.S. Highway 79 between Stuttgart and Pine Bluff). The purpose of this filing is to eliminate the gateway of Memphis, Tenn.

No. MC–73688 (Sub-No. E28), filed May 27, 1974. Applicant: SOUTHERN TRUCKING CORP., P.O. Box 7195, Memphis, Tenn. 38107. Applicant's representative: Fred F. Bradley (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Structural steel, steel piling, iron and steel wire, nails, and pipe, and contractors' equipment, roofing materials, and culvert and fabricated metal pipe* which are iron and steel articles, (1) from points in Shelby County, Tenn., to points in Kentucky; (2) from points in Tennessee on and west of a line beginning at the Tennessee-Mississippi State line extending along Tennessee Highway 76 to Somerville, thence along Tennessee Highway 59 to the Mississippi River to points in Kentucky on and east of U.S. Highway 41; and (3) from points in Tennessee on and west of a line beginning at the Tennessee-Mississippi State line and extending along Tennessee Highway 125, to Bolivar, thence along Tennessee Highway 138 to junction U.S. Highway 70, thence along U.S. Highway 70 to Brownsville, thence along Tennessee Highway 19 to the Mississippi River, to points in Kentucky on and east of Interstate Highway 75. The purpose of this filing is to eliminate the gateway of Memphis, Tenn.

No. MC–106194 (Sub-No. E8), filed June 4, 1974. Applicant: HORN TRANSPORTATION, INC., P.O. Box 1808, Kansas City, Mo. 64141. Applicant's representative: Charles A. Mintunn, 1221 Baltimore Ave., Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* (except commodities, which because of size or weight, require the use of special equipment, and except oilfield commodities as defined by the Commission in *Mercer Extension-Oilfield Commodities*, 74 M.C.C. 459), from points in that part of Oklahoma on and bounded by a line beginning at the Kansas-Oklahoma State line, thence along Oklahoma Highway 132 to junction Oklahoma Highway 51, thence along Oklahoma Highway 51 to junction Oklahoma Highway 77, thence

along Oklahoma Highway 77 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction Oklahoma Highway 99, thence along Oklahoma Highway 99 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction U.S. Highway 75, thence along U.S. Highway 75 to the Oklahoma-Kansas State line, thence along the Oklahoma-Kansas State line to points of beginning, to points in Colorado on and west of U.S. Highway 85. The purpose of this filing is to eliminate the gateway of Hutchinson, Kans.

No. MC–106194 (Sub-No. E9), filed June 4, 1974. Applicant: HORN TRANSPORTATION, INC., P.O. Box 1808, Kansas City, Mo. 64141. Applicant's representative: Charles A. Minturn, 1221 Baltimore Ave., Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* (except commodities, which because of size or weight, require the use of special equipment, and except oilfield and pipeline commodities as defined by the Commission in *Mercer Extension-Oilfield Commodities*, 74 M.C.C. 459), from points in that part of Oklahoma on and bounded by a line beginning at the Kansas-Oklahoma State line, thence along U.S. Highway 281 to junction Oklahoma Highway 45, thence along Oklahoma Highway 45 to junction Oklahoma Highway 8, thence along Oklahoma Highway 8 to junction Oklahoma Highway 51, thence along Oklahoma Highway 51 to junction Oklahoma High 77, thence along Oklahoma Highway 77 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction Oklahoma Highway 99, thence along Oklahoma Highway 99 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction U.S. Highway 75, thence along U.S. Highway 75 to the Oklahoma-Kansas State line, thence along the Oklahoma-Kansas State line to point of beginning, to points in Montana, Wyoming, North Dakota, South Dakota, Utah, and Idaho. The purpose of this filing is to eliminate the gateway of Hutchinson, Kans.

No. MC–107403 (Sub-No. E302), filed May 29, 1974. Applicant: MATLACK, INC., 10 West Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, (except coal tar, coal tar products, and petroleum products), in bulk, in tank vehicles, from Ashland, Ky., to points in Maine, Massachusetts, New Hampshire, and Vermont. The purpose of this filing is to eliminate the gateways of Philadelphia, Pa., and Newark, N.J.

No. MC–107403 (Sub-No. E310), filed May 29, 1974. Applicant: MATLACK, INC., 10 West Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry commodities* (except cement and fly ash), in bulk, in tank vehicles, from points in West Virginia to points in Allen, Dekalb, and Steuben Counties, Ind. The purpose of this filing is to eliminate the gateways of Pataskala, Ohio, and points in Defiance County, Ohio.

No. MC–108449 (Sub-No. E215), filed May 25, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Mn. 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, from Council Bluffs, Iowa, to points in the Upper Peninsula of Michigan, (except points in that part of the Upper Peninsular of Michigan south of U.S. Highway 2 and west of Michigan Highway 35). The purpose of this filing is to eliminate the gateway of Duluth, Minn.

No. MC–108449 (Sub-No. E217), filed May 25, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Mn. 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Dubuque, Iowa, to points in Minnehaha, McCook, Turner, Lincoln, Bon Homme, Yankton, Clay, and Union Counties, S. Dak. The purpose of this filing is to eliminate the gateway of the Williams Brothers Pipe Line Company terminal located at Spirit Lake, Iowa, and the site of the pipeline terminal of American Oil Company at or near Spring Valley, Minn.

No. MC–108449 (Sub-No. E218), filed May 25, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul ,Minn. 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, from Council Bluffs, Iowa to points in Wisconsin. The purpose of this filing is to eliminate the gateways of Prairie Du Chien, Wis. and Minneapolis, Minn.

No. MC–108449 (Sub-No. E119), filed May 22, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt road oils, and residual fuel oils*, in bulk, in tank vehicles, from Kansas City, Mo., to points in Minnesota. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa.

No. MC 108449 (Sub-No. E120), filed May 22, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt, road oils, and residual fuel oils*, in bulk, in tank vehicles, from Kansas City, Mo., to points on, west, and north of a line beginning at the Iowa-Nebraska State line, and extending along U.S. Highway 81 to its junction with South Dakota Highway 46, thence along South Dakota Highway 46 to the Iowa-South Dakota State line. The purpose of this filing is to eliminate the gateway of Des Moines, Iowa.

No. MC 108449 (Sub-No. E121), filed May 22, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from the terminal facilities of the Kaneb Pipe Line Company located at or near Aberdeen, S. Dak., to points in the Upper Peninsula of Michigan. The purpose of this fling is to eliminate the gateway of McGregor, Minn.

No. MC–108449 (Sub-No. E122), filed May 22, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Minn. 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt, road oils, and residual fuel oils*, in bulk, in tank vehicles, from Kansas City, Mo., to points in North Dakota. The purpose of this filing is to eliminate the gateways of Des Moines, Iowa and Marshall, Minn., and the terminal facilities of the Kaneb Pipe Line Company located at or near Aberdeen, S. Dak.

No. MC–108449 (Sub-No. E123), filed May 22, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, Saint Paul, Minn. 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Rhinelander, Wis., to points in South Dakota. The purpose of this filing is to eliminate the gateway of Minneapolis, Minn.

No. MC–108449 (Sub-No. E137), filed May 24, 1974. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, Mn. 55113. Applicant's representative: W. A. Myllenbeck (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fly-ash*, from points in Vernon County, Wis., to points in North Dakota. The purpose of this filing is to eliminate the gateway of points in Otter Tail County, Minn.

No. MC–110525 (Sub-No. E854), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box

200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry coal tar chemicals*, in bulk, in tank vehicles, from Philadelphia, Pa., to points in New Hampshire, Vermont, and Maine (except points in Aroostook County). The purpose of this filing is to eliminate the gateways of Ft. Lee, N.J., and Springfield, Mass.

No. MC–110525 (Sub-No. E855), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except bituminous products and materials), in bulk, in tank vehicles, from Baltimore, Md., to points in Virginia and that part of West Virginia on and west of West Virginia Highway 9. The purpose of this filing is to eliminate the gateway of points in that part of Virginia located in the District of Columbia commercial zone.

No. MC–110525 (Sub-No. E856), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from points in Onondaga County, N.Y., to points in Delaware and that part of Maryland on and east of a line beginning at the Pennsylvania-Maryland State line, thence along Maryland Highway 194 to junction Maryland Highway 26, thence along Maryland Highway 26 to junction U.S. Highway 15, thence along U.S. Highway 15 to the Maryland-Virginia State line. The purpose of this filing is to eliminate the gateways of Phladelphia, and Lima, Pa.

No. MC–110525 (Sub-No. E857), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Liquid chemicals*, in bulk, in tank vehicles, from Morrisville, Pa., and points within 5 miles thereof, to points in that part of New Hampshire on and south of U.S. Highway 302 and on and east of U.S. Highway 3 (Stoneham, Mass.) *; (B) *Liquid chemicals*, as defined in *The Maxwell Co., Extension-Addyston*, 63 M.C.C. 677 (except bituminous products and materials), in bulk, in tank vehicles, from Morrisville, Pa., and points within 5 miles thereof, to points in Indiana (points in Virginia and Natrium, W. Va.) *; and (C) *Liquid chemicals* (except bituminous products and materials), in bulk, in tank vehicles, from Morrisville, Pa., and points within 5 miles thereof, to points in West Virginia (points in Virginia) *. The purpose of this filing is to eliminate the gateways indicated by the asterisks above.

No. MC–110525 (Sub-No. E858), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, in tank vehicles, from Oil City, Pa., (1) to points in Connecticut, Massachusetts, and Rhode Island (New Brunswick and Ft. Lee, N.J.) *, and (2) to points in that part of New Hampshire on and south of U.S. Highway 302 and on and east of U.S. Highway 3 (New Brunswick and Ft. Lee, N.J., and Stoneham, Mass.) *. The purpose of this filing is to eliminate the gateways indicated by the asterisks above.

No. MC–110525 (Sub-No. E859), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals* (except bituminous products and materials), in bulk, in tank vehicles, from points in that part of Ohio on and east of a line beginning at the West Virginia-Ohio State line, thence along Interstate Highway 77 to junction U.S. Highway 250, thence along U.S. Highway 250 to junction Ohio Highway 21, thence along Ohio Highway 21 to Lake Erie, to points in that part of Tennessee on and east of U.S. Highway 27. The purpose of this filing is to eliminate the gateway of S. Charleston, W. Va.

No. MC–110525 (Sub-No. E860), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals* (except fertilizer, fertilizer materials, lime, and limestone), in bulk, from Fredericksburg, Va., (1) to points in Massachusetts, Connecticut, and Rhode Island (Baltimore, Md., Morrisville, Pa., and Ft. Lee, N.J.) *, (2) to points in New Hampshire, Vermont, and Maine (except points in Aroostook County) (Baltimore, Md., Morrisville, Pa., Ft. Lee, N.J., and Springfield, Mass.) *, and (3) to points in Bergen, Hudson, Middlesex, Morris, Passaic, Somerset, Union, and Warren Counties, N.J. (Baltimore, Md., and Morrisville, Pa.) *. The purpose of this filing is to eliminate the gateways indicated by the asterisks above.

No. MC 110525 (Sub-No. E861), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, in tank or hopper-type vehicles, from Willow Island, W. Va., (1) to points in Vermont, New Hampshire, and Maine (except points in Aroostook County) (Springfield, Mass.) *, (2) to points in Kentucky (Ironton, Ohio) *, and (2) to points in Michigan (points in Delaware County, Ohio) *, restricted in (3) above against the transportation of traffic in hopper-type vehicles. The purpose of this filing is to eliminate the gateways indicated by the asterisks above.

No. MC 110525 (Sub-No. E862), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals* (except soda ash, in bulk, in tank or hopper-type vehicles, from the plant site of Monsanto Chemical Company at or near Trenton, Mich., (1) to points in Virginia (Ironton, Ohio) *, (2) to points in West Virginia (Riverview, Ohio) *, and (3) to points in New Hampshire, Vermont, and Maine (except points in Aroostook County) (Springfield, Mass.) *. The purpose of this filing is to eliminate the gateways indicated by the asterisks above.

No. MC 110525 (Sub-No. E863), filed May 20, 1974. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Liquid chemicals*, in bulk, in tank vehicles, from Henry, Ill., (1) to points in Maine and New Hampshire (Syracuse, N.Y.) *, and (2) to points in Massachusetts, Rhode Island, and Connecticut (Ft. Lee, N.J.) *; (B) *Liquid chemicals* (except liquid hydrogen, liquid oxygen, and liquid nitrogen), in bulk, in tank vehicles, from Henry, Ill., to points in Vermont (Syracuse, N.Y.) *; (C) *Liquid chemicals* (except bituminous products and materials), from Henry, Ill., to points in North Carolina, South Carolina, and Georgia (points in Virginia) *; and (D) *Liquid chemicals* (except bituminous products and materials, hydrofluosilic acid, such naval stores as are chemicals, crude tall oil, sulphate, black liquor skimmings, and liquid alum), in bulk, in tank vehicles, from Henry, Ill., to points in Florida (points in Virginia and Atlanta, Ga) *. The purpose of this filing is to eliminate the gateways indicated by the asterisks above.

No. MC 113843 (Sub-No. E707), filed May 30, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Lakewood, N.J.,

to (1) points in that part of New York on, west, and south of a line beginning at the New York-Pennsylvania State line and extending along U.S. Highway 15 to junction New York Highway 17, thence along New York Highway 17, to Lake Erie; and (2) points in that part of New York on, north, and west of a line beginning at Oswego at Lake Erie and extending along New York Highway 104 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction New York Highway 68, thence along New York Highway 68 to the St. Lawrence River. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E708), filed May 30, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Allentown, Chambersburg, Moosic, Philadelphia, Pittston, and King of Prussia, Pa., and Carteret, Lakewood, North Brunswick, Seabrook, Thorofare, and Vineland, N.J., to Sioux Falls, S. Dak., and Grand Forks, N. Dak. The purpose of this filing is to eliminate the gateway of Dundee, N.Y.

No. MC 113843 (Sub-No. E709), filed May 30, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer St., Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Lakewood, N.J., to points in that part of Ohio on, west, and north of a line beginning at the Pennsylvania State line and extending along U.S. Highway 20 to junction Ohio Highway 91, thence along Ohio Highway 91 to junction U.S. Highway 224, thence along U.S. Highway 224 to junction Ohio Highway 4, thence along Ohio Highway 4 to Marion, thence along U.S. Highway 30S to Lima, thence along Ohio Highway 81 to the Ohio-Indiana State line. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E710), filed May 30, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Carteret, N.J., to points in Kansas. The purpose of this filing is to eliminate the gateway of Dundee, N.Y.

No. MC 113843 (Sub-No. E711), filed May 30, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Carteret, N.J., to points in Colorado. The purpose of this filing is to eliminate the gateway of Dundee, N.Y.

No. MC 113843 (Sub-No. E712), filed May 30, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Carteret, N.J., to points in Arkansas (except points in Crittendon and St. Francis Counties, Ark.). The purpose of this filing is to eliminate the gateway of Dundee, N.Y.

No. MC 113843 (Sub-No. E713), filed May 30, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from points in Massachusetts to points in Iowa. The purpose of this filing is to eliminate the gateway of Brockport, N.Y.

No. MC 113843 (Sub-No. E714), filed May 30, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Allentown, Pa., to points in Missouri. The purpose of this filing is to eliminate the gateway of Elmira, N.Y.

No. MC 113843 (Sub-No. E715), filed May 30, 1974. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: Lawrence T. Sheils (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fozen meats, meat products, and edible meat by-products*, as defined by the Commission, from Columbus, Ohio, to points in that part of Pennsylvania on, east, and north of a line beginning at the Pennsylvania-New York State line and extending along U.S. Highway 220 to junction U.S. Highway 6, and thence along U.S. Highway 6 to the Pennsylvania-New Jersey State line. The purpose of this filing is to eliminate the gateway of Buffalo, N.Y.

No. MC 119774 (Sub-No. E2), filed May 20, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies*, used in, or in connection with, the discovery, development, production, refining manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies*, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and *earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or holes sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Florida, on the one hand, and, on the other, points in Utah. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC 119774 (Sub-No. E3), filed May 20, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies*, used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies*, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and *earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Florida, on the one hand, and, on the other, points in Oklahoma. The purpose of this filing is to eliminate the gateway of points in Arkansas.

No. MC 119774 (Sub-No. E11), filed May 20, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe* as described in *Mercer Extension Oilfield Commodities*, 74 M.C.C. 459, and *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities re-

sulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, from points in New Mexico to points in Ohio. The purpose of this filing is to eliminate the gateways of Van Buren, Ark., and Moffett, Okla.

No. MC 119774 (Sub-No. E12), filed May 20, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe* as described in *Mercer Extension—Oilfield Commodities*, 74 M.C.C. 459, and *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operation at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, from points in New Mexico, to points in South Carolina. The purpose of this filing is to eliminate the gateways of Van Buren, Ark., and Moffett, Okla.

No. MC 119774 (Sub-No. E13), filed May 20, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe*, as described in *Mercer Extension—Oilfield Commodities*, 74 M.C.C. 459, and *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, from points in New Mexico to points in Virginia. The purpose of this filing is to eliminate the gateways of Van Buren, Ark., and Moffett, Okla.

No. MC 119774 (Sub-No. E14), filed May 20, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe* as described in *Mercer Extension—Oilfield Commodities*, 74 M.C.C. 459, and *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, from points in New Mexico to points in Pennsylvania. The purpose of this filing is to eliminate the gateways of Van Buren, Ark., and Moffett, Okla.

No. MC–119774 (Sub-No. E15), filed May 20, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe*, as described in *Mercer Extension-Oilfield Commodities*, 74 M.C.C. 459, and *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, from points in New Mexico to points in North Carolina. The purpose of this filing is to eliminate the gateways of Van Buren, Ark., and Moffett, Okla.

No. MC–119774 (Sub-No. E16), filed May 20, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies*, used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, and *machinery, equipment, materials, and supplies*, used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and *earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells between points in Wyoming, on the one hand, and, on the other, points in Tennessee. The purpose of this filing is to eliminate the gateways of points in Oklahoma and Arkansas.

No. MC–119774 (Sub-No. E19), filed May 20, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies*, used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies*, used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and *earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery, and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Kansas, on and south of a line from the Kansas-Missouri State line along Interstate Highway 70 to the junction of U.S. Highway 156, thence along U.S. Highway 156 to the junction of U.S. Highway 56, thence along U.S. Highway 56 to the Kansas-Oklahoma State line, on the one hand, and, on the other, points in Utah. The purpose of this filing is to eliminate the gateway of Dalhart, Tex.

No. MC–119774 (Sub-No. E20), filed May 20, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 741, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies*, used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies*, used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and *earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, stor-

age, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Kansas on and south of a line from the Kansas-Missouri State line along U.S. Highway 54 to the junction of U.S. Highway 154, thence along U.S. Highway 154 to the junction of U.S. Highway 50, thence along U.S. Highway 50 to the Kansas-Colorado State line, on the one hand, and, on the other, points in Montana. The purpose of this filing is to eliminate the gateway of Dalhart, Tex.

No. MC–119774 (Sub-No. E21), filed May 20, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies*, used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products, and by-products, and *machinery, equipment, materials, and supplies*, used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and *earth-drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission, of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in Kansas, on the one hand, and, on the other, points in Nevada. The purpose of this filing is to eliminate the gateway of points in Colorado.

No. MC–119774 (Sub-No. E22), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies*, used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies*, used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and *earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Illinois. The purpose of this filing is to eliminate the gateways of points in Colorado, Oklahoma, and Arkansas.

No. MC–119774 (Sub-No. E23), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies*, used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies*, used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and *earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Nevada, on the one hand, and, on the other, points in Indiana. The purpose of this filing is to eliminate the gateways of points in Colorado, Oklahoma, and Arkansas.

No. MC–119774 (Sub-No. E31), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies*, used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies*, used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and *earth drilling machinery and equipment*, and *machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in New Mexico on the one hand, and, on the other points in Indiana. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC 119774 (Sub-No. E32), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies*, used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery equipment, materials, and supplies*, used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in Utah on the one hand, and, on the other, points in Kentucky. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC 110774 (Sub-No. E35), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies*, used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies*, used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up

thereof, *Earth drilling machinery, and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in Utah on the one hand, and, on the other, points in Illinois. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC-119774 (Sub-No. E36), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies*, used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies*, used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and *earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Georgia, on the one hand, and, on the other, points in Indiana. The purpose of this filing is to eliminate the gateway of points in Alabama.

No. MC-119774 (Sub-No. E37), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies*, used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies*, used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and *earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Georgia, on the one hand, and, on the other, points in Illinois. The purpose of this filing is to eliminate the gateway of points in Alabama.

No. MC-119774 (Sub-No. E39), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

(1) *Machinery, equipment, materials, and supplies*, used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies*, used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; and

(2) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Georgia, on the one hand, and, on the other, points in Colorado. The purpose of this filing is to eliminate the gateways of points in Arkansas and Oklahoma.

No. MC-119774 (Sub-No. E40), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

(1) *Machinery, equipment, materials, and supplies*, used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies*, used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; and

(2) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operation at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Georgia, on the one hand, and, on the other, points in Utah. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC-119774 (Sub-No. E41), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

(1) *Machinery, equipment, materials, and supplies*, used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products, and by-products, and *machinery, equipment, materials, and supplies*, used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; and

(2) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and, (d) the injection or removal of commodities into or from holes or wells, between points in Georgia, on the one hand, and, on the other, points in Montana. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC-119774 (Sub-No. E42), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

(1) *Machinery, equipment, materials, and supplies*, used in or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum

and their products, and by-products, and *machinery, equipment, materials, and supplies,* used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; and

(2) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Georgia, on the one hand, and, on the other, points in Wyoming. The purpose of this filing is to eliminate the gateways of points in Arkansas and points in Oklahoma.

No. MC–119774 (Sub-No. E43), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75622. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting:

(1) *Machinery, equipment, materials, and supplies,* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies,* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; and

(2) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Georgia, on the one hand, and, on the other, Oklahoma. The purpose of this filing is to eliminate the gateway of points in Arkansas.

No. MC–119774 (Sub-No. E44), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting:

(1) *Machinery, equipment, materials, and supplies,* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products, and by-products, and *machinery, equipment, materials, and supplies,* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; and

(2) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Georgia, on the one hand, and, on the other, points in New Mexico. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC–119774 (Sub-No. E45), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Texas 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies,* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies,* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and (2) *Earth drilling machinery and equipment,* and *machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells between points in Georgia on the one hand, and, on the other, points in Nevada. The purpose of this filing is to eliminate the gateways of points in Louisiana and New Mexico.

No. MC–119774 (Sub-No. E46), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Texas 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies,* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies,* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and (2) *Earth drilling machinery and equipment,* and *machinery, equipment, materials, supplies and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells between points in Oklahoma on the one hand, and, on the other, points in Mississippi. The purpose of this filing is to eliminate the gateway of points in Arkansas.

No. MC–119774 (Sub-No. E47), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Texas 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies,* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies,* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and (2) *Earth drilling machinery and equipment,* and *machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells between points in Oklahoma on the one hand, and, on the other, points in Indiana. The purpose of this filing is to eliminate the gateway of points in Arkansas.

No. MC–119774 (Sub-No. E48), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Texas 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies,* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their

products and by-products, and *machinery, equipment, materials, and supplies,* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and (2) *Earth drilling machinery and equipment,* and *machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in Oklahoma on the one hand, and, on the other, points in Illinois. The purpose of this filing is to eliminate the gateway of points in Arkansas.

No. MC–119774 (Sub-No. E49), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Texas 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies,* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies,* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and (2) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Oklahoma on the one hand, and, on the other, points in Kentucky. The purpose of this filing is to eliminate the gateway of points in Arkansas.

No. MC 119774 (Sub-No. E63), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr., (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies,* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies,* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and (2) *Earth Drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in Mississippi on the one hand, and, on the other, points in Kansas.

No. MC 119774 (Sub-No. E64), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies,* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies,* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and (2) *Earth drilling machinery, equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in Mississippi on the one hand, and, on the other points in Wyoming. The purpose of this filing is eliminate the gateways of points in Oklahoma and Arkansas.

No. MC 119774 (Sub-No. E65), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular route, transporting: (1) *Machinery, equipment, and supplies,* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies,* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and (2) *Earth drilling machinery and equipment,* and *machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in Mississippi on the one hand, and, on the other points in New Mexico. The purpose of this filing is to eliminate the gateway points in Texas.

No. MC 119774 (Sub-No. E66), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies,* used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products and *machinery, equipment, materials, and supplies,* used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and (2) *Earth drilling machinery, and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery, and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in Mississippi on the one hand, and, on the other points in Oklahoma. The purpose of this filing is to eliminate the gateway of points in Arkansas.

No. MC–119774 (Sub-No. E71), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting:

(1) *Machinery, equipment, materials, and supplies,* used in, or in connection with, the discovery, development, production, refining, manufacturing, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and*

supplies used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; and

(2) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Louisiana, on the one hand, and on the other, points in Montana. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC–119774 (Sub-No. E72), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr., (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

(1) *Machinery, equipment, materials, and supplies*, used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products, and by-products, and *machinery, equipment, materials, and supplies*, used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; and

(2) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Arkansas, on the one hand, and, on the other, points in Nevada. The purpose of this filing is to eliminate the gateways of points in New Mexico and Louisiana.

No. MC–119774 (Sub-No. E74), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting:

(1) *Machinery, equipment, materials, and supplies*, used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products, and by-products, and *machinery, equipment, materials, and supplies*, used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; and

(2) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or holes sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Alabama, on the one hand, and, on the other, points in Utah. The purpose of this filing is to eliminate the gateway of Texas.

No. MC 119774 (Sub-No. E75), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies*, used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products, and by-products, and *machinery, equipment, materials, and supplies*, used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; and (2) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe*, incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Alabama, on the one hand, and, on the other, points in Wyoming. The purpose of this filing is to eliminate the gateway of points in Arkansas and Oklahoma.

No. MC 119774 (Sub-No. E76), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies*, used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies*, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; and (2) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Alabama, on the one hand, and, on the other, points in Montana. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC 119774 (Sub-No. E77), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies*, used in, or in connection with, the discovery development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies*, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; and (2) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Alabama on the one hand, and, on the other, points in Oklahoma. The purpose of this filing is to eliminate the gateway of points in Arkansas.

No. MC 119774 (Sub-No. E81), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's represenative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies*, used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of

natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies,* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and (2) *Earth drilling machinery and equipment,* and *machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells between points in Florida on the one hand, and, on the other, points in Nevada. The purpose of this filing is to eliminate the gateways of points in Louisiana and New Mexico.

No. MC 119774 (Sub-No. E82), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Texas 75662. Applicant's representative: Noland Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies,* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies,* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, and (2) *Earth drilling machinery and equipment,* and *machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells between points in Florida on the one hand, and, on the other, points in New Mexico. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC 119774 (Sub-No. E83), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Texas 75662. Applicant's representative: Noland Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Conduit* (except as described in *Mercer Extension—Oilfield Commodities,* 74 M.C.C. 459), from Lone Star, Tex., to points in Missouri on and west of a line from the Arkansas-Missouri State line along U.S. Highway 65 to the junction of Missouri Highway 32, thence along Missouri Highway 32 to the junction of Missouri Highway 73, thence along Missouri Highway 73 to the junction of U.S. Highway 54, thence along U.S. Highway 54 to the Missouri-Illinois State line. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Cement Asbestos Products Company at Van Buren, Ark.

No. MC 119774 (Sub-No. E84), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Texas 75662. Applicant's representative: Noland Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Conduit* (except that described in *Mercer Extension—Oilfield Commodities,* 74 M.C.C. 459) from Lone Star, Tex., to points in Nebraska, South Dakota, Pennsylvania, New Jersey, Ohio, West Virginia, Michigan, Maryland, Delaware, Virginia, North Dakota, Wisconsin, Minnesota, and Iowa. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Cement Asbestos Products Company at Van Buren, Ark.

No. MC 119774 (Sub-No. E85), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Texas 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Conduit,* as described in *Mercer Extension—Oilfield Commodities,* 74 M.C.C. 459, and (2) *Conduit* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, from points in Nevada to points in New Jersey. The purpose of this filing is to eliminate the gateways of points in Oklahoma and Colorado and the plant site and storage facilities of Cement Asbestos Products Company at Van Buren, Ark.

No. MC 119774 (Sub-No. E92), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Texas 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Conduit,* as described in *Mercer Extension—Oilfield Commodities,* 74 M.C.C. 459, and (2) *Conduit* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells from points in Nevada to points in West Virginia. The purpose of this filing is to eliminate the gateways of points in Colorado and Oklahoma and the plant site and storage facilities of Cement Asbestos Products Company at Van Buren, Ark.

No. MC 119774 (Sub-No. E94), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies,* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, equipment, materials, and supplies,* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof; and (2) *Earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, between points in Colorado, on the one hand, and, on the other, points in Tennessee. The purpose of this filing is to eliminate the gateway of points in Oklahoma and Arkansas.

No. MC 119774 (Sub-No. E95), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products, and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way, between points in Georgia, on the one hand, and, on the other, points in Oklahoma. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC 119774 (Sub-No. E96), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471,

Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies*, used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products, and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way; and (2) *Machinery, equipment, materials, and supplies*, used in, or in connection with, the drilling of water wells, between points in Georgia, on the one hand, and, on the other, points in Colorado, The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC 119774 (Sub-No. E97), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies*, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products, and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way; and (2) *Machinery, equipment, materials, and supplies*, used in, or in connection with, the drilling of water wells, between points in Georgia, on the one hand, and, on the other, points in Utah. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC 119774 (Sub-No. E98), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies*, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products, and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way; and (2) *Machinery, equipment, materials, and supplies*, used in, or in connection with, the drilling of water wells, between points in Georgia, on the one hand, and, on the other, points in Montana. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC 119774 (Sub-No. E99), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies*, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products, and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way; and (2) *Machinery, equipment, materials, and supplies*, used in, or in connection with, the drilling of water wells, between points in Georgia, on the one hand, and, on the other, points in Wyoming. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC 119774 (Sub-No. E100), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies*, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products, and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way; and (2) *Machinery, equipment, materials, and supplies*, used in, or in connection with, the drilling of water wells, between points in Mississippi, on the one hand, and, on the other, points in Colorado. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC 119774 (Sub-No. E101), filed May 30, 1974. Applicat: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies*, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products, and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way, and (2) *Machinery, equipment, materials, and supplies*, used in, or in connection with, the drilling of water wells, between points in Mississippi, on the one hand, and, on the other, points in Montana. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC 119774 (Sub-No. E108), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Texas 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewage, restricted to the transportation of shipments moving to or from pipeline rights of way between points in Louisiana on the one hand and, on the other, points in Oklahoma. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC 119774 (Sub-No. E110), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Texas 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewage, restricted to the transportation of shipments moving to or from pipelines rights of way between points in Louisiana on the one hand, and, on the other, points in Kansas. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC 119774 (Sub-No. E111), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Texas 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewage, restricted to the transportion of shipments moving to or from pipeline rights of way; and (2) *Machinery, equipment, materials, and supplies*, used in, or in connection with, the drilling of water wells between points in Louisiana on the one hand, and, on the other, points in Montana. The purpose of this filing is to eliminate the gateway of points in Texas.

No. MC 119774 (Sub-No. E112), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Texas 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conduit*, as described in *Mercer Extension—Oilfield Commodities 74 M.C.C. 459*, and *Conduit*, incidental to, used in, or in

connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operation at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, from points in Florida to points in Arizona. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Cement Asbestos Products Company at Van Buren, Ark.

No. MC 119774 (Sub-No. E113), filed May 30, 1974. Applicant: EAGLE TRUCKING CO., P.O. Box 471, Kilgore, Texas 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Conduit*, as described in *Mercer Extension—Oilfield Commodities 74 M.C.C. 459*, and (2) *Conduit*, incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells from points in Louisiana to points in Arizona. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Cement Asbestos Products Company at Van Buren, Ark.

No. MC 119774 (Sub-No. E114), filed May 30, 1974. Applicant: EAGLE TRUCKING CO., P.O. Box 471, Kilgore, Texas 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Conduit* as described in *Mercer Extension—Oilfield Commodities 74 M.C.C. 459*, and (2) *Conduit*, incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection of or removal of commodities into or from holes or wells from points in Illinois to points in Arizona. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Cement Asbestos Products Company.

No. MC 119774 (Sub-Nos. E115, 116, 117, 118, 119, 120, 121, 122), filed May 30, 1974. Applicant: EAGLE TRUCKING CO., P.O. Box 471, Kilgore, Texas 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Conduit*, as described in *Mercer Extension—Oilfield Commodities 74 M.C.C. 459;* and (2) *Conduit*, incidental to, used in, or in connection with, the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operation at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells from points in Alabama, Georgia, Mississippi, Arkansas, Kentucky, Tennessee, and Indiana to points in Arizona. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of the Cement Asbestos Products Company at Van Buren, Ark.

No. MC 119774 (Sub-No. E124), filed May 30, 1974. Applicant: EAGLE TRUCKING CO., P.O. Box 471, Kilgore, Texas 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conduit* from the plant site and storage facilities of Cement Asbestos Products Company at Van Buren, Ark., to points in Florida. The purpose of this filing is to eliminate the gateway of Lone Star, Texas.

No. MC 119774 (Sub-No. E123, 125, 126, 127), filed May 30, 1974. Applicant: EAGLE TRUCKING CO., P.O. Box 471, Kilgore, Texas 75662. Applicant's representative : Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic conduit* from the plant site and storage facilities of Cement Asbestos Products Company at Van Buren, Ark., to points in Washington, Oregon, California, and Idaho. The purpose of this filing is to eliminate the gateway of Burns Flat, Okla.

No. MC 119774 (Sub-No. E128), filed May 30, 1974. Applicant: EAGLE TRUCKING CO., P.O. Box 471, Kilgore, Texas 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Conduit*, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewage, restricted to the transportation of shipments moving to or from pipeline rights of way, (2) *Conduit*, described in *Mercer Extension—Oilfield Commodities*, 74 M.C.C. 459; (3) Conduit incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, and (4) *Conduit*, uesd in or in connection with, the drilling of water wells, from points in Texas on and east of a line from the Oklahoma-Texas State line along U.S. Highway 75 to the junction of Interstate Highway 45, thence along Interstate Highway 45 to Galveston, to points in Nebraska. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of Cement Asbestos Products Company at Van Buren, Arkansas.

No. MC 119774 (Sub-No. E129, 130), filed May 30, 1974. Applicant: EAGLE TRUCKING CO., P.O. Box 471, Kilgore, Texas 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conduit* as described in *Mercer Extension—Oilfield Commodities, 74 M.C.C. 459*, (2) *Conduit*, incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, (3) *Conduit*, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewage, restricted to the transportation of shipments moving to or from pipeline rights of way; and (4) *Conduit*, used in, or in connection with, the drilling of water wells, from points in Texas on and east of a line from the Oklahoma-Texas State line along Interstate Highway 35 to the junction of Interstate Highway 45 thence along Interstate Highway 45 to Galveston to points in South Dakota, Pennsylvania, New Jersey, Ohio, West Virginia, Michigan, Maryland, Delaware, Virginia, North Dakota, Wisconsin, Minnesota, and Iowa, and points in Missouri on and west of a line from the Arkansas-Missouri State line along U.S. Highway 65 to the junction of Missouri Highway 32, thence along Missouri Highway 32 to the junction of Missouri Highway 73, thence along Missouri Highway 73 to the junction of U.S. Highway 54 thence along U.S. Highway 54 to the Missouri-Illinois State line. The purpose of this filing is to eliminate the gateway of the plantsite and storage facilities of the Cement Asbestos Products Company at Van Buren, Ark.

No. MC 119774 (Sub-No. E131, 132, 133), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Texas 75662. Applicant's representative: Nolan Killings-

worth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conduit* as described in *Mercer Extension—Oilfield Commodities* 74 M.C.C. 459, and *Conduit*, incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells from points in Wyoming to points in Virginia, South Carolina, and North Carolina. The purpose of this filing is to eliminate the gateway of the plant site and storage facilities of the Cement Asbestos Products Company at or near Van Buren, Ark., and points in Oklahoma.

No. MC 119774 (Sub-No. E234), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 741, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies*, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products, and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way; and (2) *Machinery, equipment, materials, and supplies*, used in, or in connection with, the drilling of water wells, between points in Alabama, on the one hand, and, on the other, points in Utah. The purpose fo this filing is to eliminate the gateway of points in Texas.

No. MC 119774 (Sub-No. E235), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies*, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products, and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way, between points in Alabama, on the one hand, and, on the other, points in Oklahoma. The purpose of this filing is to eliminate the gateway of Texarkana, Tex.

No. MC 119774 (Sub-No. E236), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies*, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way; and (2) *Machinery, equipment, materials, and supplies*, used in, or in connection with, the drilling of water wells, between points in Alabama, on the one hand, and, on the other, points in Colorado. The purpose of this filing is to eliminate the gateway of Texarkana, Tex.

No. MC 119774 (Sub-No. E237), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies*, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products, and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way; and (2) *Machinery, equipment, materials, and supplies*, used in, or in connection with, the drilling of water wells, between points in Alabama, on the one hand, and, on the other, points in Wyoming. The purpose of this filing is to eliminate the gateway of Texarkana, Tex.

No. MC 119774 (Sub-No. E238), filed May 30, 1974. Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, Tex. 75662. Applicant's representative: Nolan Killingsworth, Jr. (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials, and supplies*, used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products, and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights of way; and (2) *Machinery, equipment, materials, and supplies*, used in, or in connection with, the drilling of water wells, between points in Alabama, on the one hand, and, on the other, points in Montana. The purpose of this filing is to eliminate the gateway of Texarkana, Tex.

No. MC 123407 (Sub-No. E47), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials*, from points in Illinois (except Rock Island, Mercer, Henderson, Hancock, McDonough, Adams, Schuyler, Brown, Pike, and Calhoun Counties to points in Minnesota and South Dakota. The purpose of this filing is to eliminate the gateway of Warren, Ill.

No. MC 123407 (Sub-No. E48), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board* used as a building material (except in bulk, lumber, chemicals, and commodities the transportation of which because of size or weight require the use of special equipment) from Dubuque, Iowa, to points in South Carolina and that part of Georgia in and east of Hart, Elbert, Wilkes, Warren, Glascock, Jefferson, Emanuel, Treutlen, Montgomery, Toombs, Appling, Bacon, Pierce, Brantley, and Charlton Counties. The purpose of this filing is to eliminate the gateway of Brookville, Ind., and the plant and warehouse sites of the Abitibi Corporation at Roaring River, N.C.

No. MC–123407 (Sub-No. E49), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass* used as a building material from Carleton, Mich., to Cherokee, Clay, Macon, Graham, Swain, Jackson, Haywood, Transylvania, Henderson, Buncombe, Madison, Yancey, McDowell, Rutherford, Polk, Burke, Cleveland, Catawba, Lincoln, Concord, Gaston, and Mitchell Counties. The purpose of this filing is to eliminate the gateway of Brookville, Ind.

No. MC–123407 (Sub-No. E50), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* used in the manufacture and distribution of windows, doors, and building woodwork from Tulsa, Okla., to points in Michigan, that part of Indiana on and north of U.S. Highway 6, that part of Ohio on and north of Interstate Highway 80, and that part of Pennsylvania in and east of Crawford, Warren, Forest, Elk, Cameron, Clinton, Centre, Union, Snyder, Northumberland, Schuylkill, Lebanon, Berks, and Chester Counties, restricted against the transportation of commodities which because of size or weight require the use of special equipment or special handling and further restricted against the transportation of lumber, iron, and steel, and iron and steel articles. The purpose of

this filing is to eliminate the gateway of Dubuque, Iowa and Warren, Ill.

No. MC–123407 (Sub-No. E51), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials* from Chicago, Ill., to points in Minnesota, South Dakota, Nebraska, Kansas, and points in Gogebic and Ontonagon Counties, Mich. The purpose of this filing is to eliminate the gateway of points in Wisconsin within the Warren, Ill., Commercial Zone.

No. MC–123407 (Sub-No. E52), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* used in the manufacture and distribution of windows, doors, and building woodwork (except commodities the transportation of which because of size or weight require the use of special equipment from points in North Carolina; South Carolina; Alabama; Tennessee; Kentucky; points in Posey, Vanderburgh, Warrick, Perry, Crawford, Harrison, Floyd, Clark, Dubois, Orange, Washington, Scott, Jefferson, Ohio, and Switzerland Counties, Indiana; and points in Mississippi (except points in Coahoma, Bolivar, Sunflower, Washington, Humphreys, Sharkey, Yazoo, Issaquena, Warren, Hinds, Claiborne, Copiah, Lincoln, Jefferson, Adams, Franklin, Wilkinson, and Amite Counties) to points in Minnesota. The purpose of this filing is to eliminate the gateway of Dubuque, Iowa and Warren, Ill.

No. MC–123407 (Sub-No. E53), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials*, used in the manufacture and distribution of windows, doors, and building woodwork from points in Ohio, Pennsylvania, West Virginia, Virginia, Maryland, Delaware, New York, Vermont, New Hampshire, Massachusetts, Connecticut, Rhode Island, Maine, and the District of Columbia to points in Minnesota and South Dakota, restricted against the transportation of commodities which, because of size or weight, require the use of special equipment or special handling. The purpose of this filing is to eliminate the gateway of Dubuque, Iowa and Warren, Ill.

No. MC–123407 (Sub-No. E54), filed June 4, 1974. Applicant: SAWYER TRANSPORT, INC., South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Robert W. Sawyer (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* used in that manufacture and distribution of Windows, doors, and building woodwork except commodities in bulk, lumber, and chemicals) from points in Lawrence, Butt, Custer, Fall River, and Mede Counties, S. Dak., to points in Virginia, West Virginia, North Carolina, Kentucky (except points in Fulton, Hickman, Carlisle, Ballard, Graves, Cracken, Calloway, Marshall, Livinston, Tripp, Lyon, Caldwell, Crittenden, Hopkins, Webster, Union, and Henderson Counties), and Tennessee (except points in Shelby, Fayette, Hardeman, McNairy, Hardin, Tipton, Haywood, Madison, Chester, Henderson, Decautre, Lauderdale, Crockett, Dyer, Gibson, Carroll, Benton, Obion, Weakley, Henry, and Stewart Counties) restricted against the transportation of commodities which because of size or weight, require the use of special equipment or special handling. The purpose of this filing is to eliminate the gateway of Dubuque, Iowa, Warren, Ill., and Broodville, Ind.

No. MC–128548 (Sub-No. E1), filed May 13, 1974. Applicant: MIDWEST TRANSPORT, INC., Hubbell Building, Des Moines, Iowa 50309. Applicant's representative: Larry D. Knox (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Such merchandise as is dealt in by wholesale grocery houses*, (1) from Clinton, Iowa and those points in Illinois and Indiana on and north of a line beginning at the Wisconsin-Illinois State line and extending southerly along Illinois Highway 84 to its intersection with Interstate Highway 74, thence along Interstate Highway 74 to its junction with U.S. Highway 6, thence east over U.S. Highway 6 to Joliet, thence east over U.S. Highway 30 to Schererville, Ind., thence north over U.S. Highway 41 to Whiting, Ind. to points in Indiana on, east, and north of a line commencing at Michigan City, thence south over U.S. Highway 421 to Reynolds, thence south over Indiana Highway 43 to junction U.S. Highway 231, thence south over U.S. Highway 231 to Crawfordsville, Ind., thence southeast over U.S. Highway 136 to junction U.S. Highway 40, and thence east over U.S. Highway 40 to the Indiana-Ohio State line, (2) from Clinton, Iowa, and those points in Illinois and Indiana on and north of a line beginning at the Wisconsin-Illinois State line and extending southerly along Illinois Highway 84 to its intersection with Interstate Highway 74, thence along Interstate Highway 74 to Peoria, thence east over U.S. Highway 24 to junction U.S. Highway 66, thence north over U.S. Highway 66 to junction Illinois Highway 53, thence north over Illinois Highway 53 to junction U.S. Highway 30, thence east over U.S. Highway 30 to Schererville, Ind., thence north over U.S. Highway 41 to Whiting, Ind., to points in Indiana, on, east, and north of a line commencing at Michigan City, thence south over U.S. Highway 421 to junction U.S. Highway 30, thence east of U.S. Highway 30 to the Indiana-Ohio State line and that part of Michigan south of a line beginning at the Indiana-Michigan State line and extending along U.S. Highway 12 to junction unnumbered highway, at or near New Buffalo, thence along unnumbered highway through Union Pier and Harbert, Mich., to junction Interstate Highway 94, thence along Interstate Highway 94 to junction Business Route Interstate Highway 94, thence along Business Route Interstate Highway 94 to Benton Harbor, thence along unnumbered highway through Coloma, Paw Paw, and Oshtemo, to Kalamazoo, and west of a line beginning at Kalamazoo, and extending along Michigan Highway 131, at or near Schoolcraft, to junction U.S. Highway 12, thence along U.S. Highway 12, to junction Michigan Highway 103, thence along Michigan Highway 103 to the Michigan-Indiana State line.

(3) from Clinton, Iowa and those points in Illinois and Indiana on and north of a line beginning at the Wisconsin-Illinois State line extending southerly along Illinois Highway 84 to its junction with U.S. Highway 30, thence east over U.S. Highway 30 to Schererville, Ind., thence north over U.S. Highway 41 to Whiting, Ind. to points in Indiana on, west, and north of a line commencing at Michigan City, thence south over U.S. Highway 421 to Reynolds, thence south over Indiana Highway 43 to junction U.S. Highway 231, thence south over U.S. Highway 231 to junction U.S. Highway 40, and thence west over U.S. Highway 40 to the Illinois-Indiana State line. Restriction: Parts (1), (2), (3) restricted against shipments from points in Bureau, Carroll, Whiteside, and Rock Island Counties, Ill., to Chicago, Ill., and points in its commercial zone and restricted to movements from, to, or between wholesale grocery houses, their warehouses, and retail outlets. The purpose of this filing is to eliminate the Chicago, Ill. gateway.

(B) *Canned fruits and vegetables*, (1) from points in Indiana on, east, and north of a line commencing at Michigan City, thence south over U.S. Highway 421 to junction U.S. Highway 30, and thence east over U.S. Highway 30 to the Indiana-Ohio State line (except those points north of U.S. Highway 20 and west of Indiana Highway 15 and La Porte), and those points in in that part of Michigan south of a line beginning at the Indiana-Michigan State line and extending along U.S. Highway 12 to junction unnumbered highway, at or near New Buffalo, thence along unnumbered highway through Union Pier and Harbert, to junction Interstate Highway 94, thence along Interstate Highway 94 to junction Business Routes Interstate Highway 94, thence along Business Routes Interstate Highway 94 to Benton, Harbor, thence along unnumbered highway through Coloma, Paw Paw, and Oshtemo, Mich., to Kalamazoo, and west of a line beginning at Kalamazoo, and extending along unnumbered highway through Portage, to junction U.S. Highway 121 at or near Schoolcraft, thence

along U.S. Highway 131 to junction U.S. Highway 12, thence along U.S. Highway 12 to junction Michigan Highway 103, thence along Michigan Highway 103 to the Michigan-Indiana State line (except Kalamazoo), to Clinton, Iowa and those points in Illinois and Indiana as described in the origin portion of (A)(2) (except to points in Carroll, Bureau, Whiteside, and Rock Island Counties, Ill.).

(2) from points in Indiana on, east, and north of a line commencing at Michigan City, thence south over U.S. Highway 421 to Reynolds, thence south over Indiana Highway 43 to junction U.S. Highway 231, thence south over U.S. Highway 231 to junction U.S. Highway 136, thence east over U.S. Highway 136 to junction U.S. Highway 40, and thence east over U.S. Highway 40 to the Indiana-Ohio State line (except those points north of U.S. Highway 20 and west of Indiana Highway 15 and La Porte to Clinton, Iowa, and those points in Illinois and Indiana as described in the origin portion of (A)(1) (except to points in Carroll, Bureau, Whiteside, and Rock Island Counties, Ill.). (3) from points in Indiana on, east, and north of a line commencing at Michigan City, thence south over U.S. Highway 421 to Reynolds, thence south over Indiana Highway 43 to junction U.S. Highway 231, thence south over U.S. Highway 231 to Crawfordsville, thence southeast over U.S. Highway 136 to junction U.S. Highway 40, and thence east over U.S. Highway 40 to the Indiana-Ohio State line (except points in Lake and Porter Counties), to Clinton, Iowa, and those points in Illinois and Indiana as described in the origin portion of (A)(3) (except to points in Carroll, Bureau, Whiteside, and Rock Island Counties, Ill.). The purpose of this filing is to eliminate the Chicago, Ill. gateway.

No. MC 133689 (Sub-No. E1) (Correction), filed May 28, 1974, published in the FEDERAL REGISTER August 6, 1974. Applicant: OVERLAND EXPRESS, INC., 651 First St. SW., New Brighton, Minn. 55112. Applicant's representative: Daniel C. Sullivan, 327 South LaSalle St. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses (except foodstuffs), and in connection therewith, *materials and supplies* used in the conduct of such business * * *. The purpose of this filing is to eliminate the gateway of the facilities of World-Wide, Inc., and Erickson Petroleum Co., at Minneapolis-St. Paul, Minn. The purpose of this partial correction is to set forth the gateway.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

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